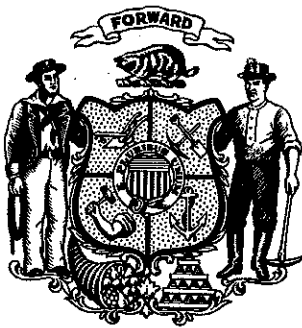


# Comparative Summary of Budget Recommendations

2007 Act 20

Volume I



**2007-09 Wisconsin State Budget**

Legislative Fiscal Bureau  
March, 2008

**2007-09 WISCONSIN STATE BUDGET**

**Comparative Summary of Budget Provisions**

**Enacted as 2007 Act 20**

**Volume I**

**LEGISLATIVE FISCAL BUREAU**

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## INTRODUCTION

This two-volume document, prepared by Wisconsin's Legislative Fiscal Bureau, is the final edition of the cumulative summary of executive and legislative action on the 2007-09 Wisconsin state biennial budget. The budget was enacted into law as 2007 Wisconsin Act 20 on October 26, 2007. This document describes each of the provisions of Act 20, including all fiscal and policy modifications recommended by the Governor, Joint Committee on Finance and Legislature.

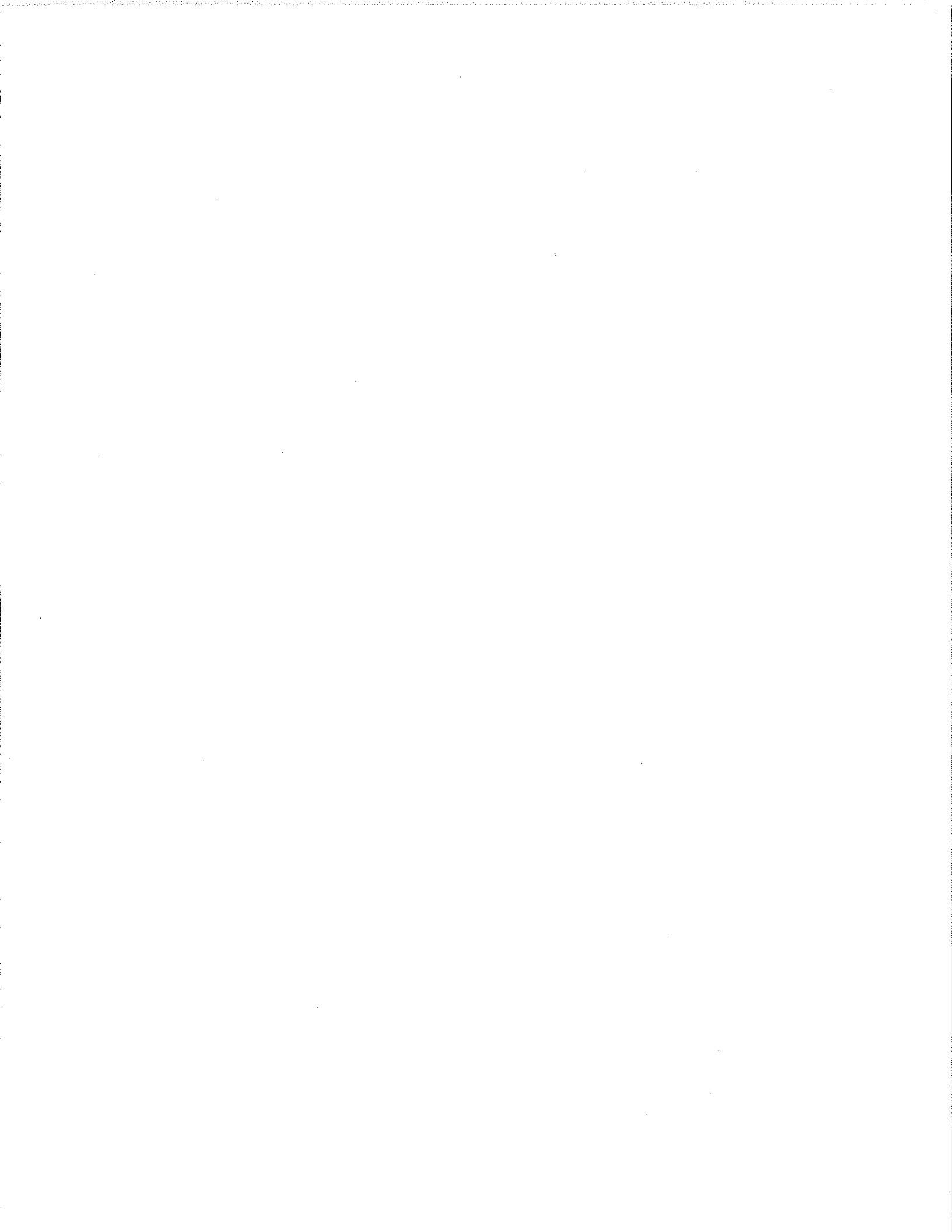
The document is organized into five basic sections, the first of which contains a Table of Contents, History of the 2007-09 Budget, Brief Chronology of the 2007-09 Budget, Key to Abbreviations, and a User's Guide.

This is followed by an "overview" section which provides a series of summary tables and charts which display 2007-09 revenues, appropriations, and authorized position levels. Information is presented for all fund sources, the general fund, transportation fund, and the state's lottery program.

The next section contains budget and policy summaries for each state agency and program. The agencies appear in alphabetical order. For each agency, comparative tables are presented which depict funding and authorized position levels. This is followed by a narrative description and fiscal effect, if any, of each budget change item. In this section, the author of each change is identified. Volume I contains the sections identified above and the summaries of the Department of Administration (beginning on page 45) through the Department of Health and Family Services. Volume II begins with the Health Insurance Risk-Sharing Plan Authority on page 595.

The fourth section of the document lists the various reports and studies which are required in 2007 Act 20. This begins on page 1135 of Volume II.

The final section lists the 2007-09 biennial budget issue papers prepared by the Legislative Fiscal Bureau. This begins on page 1141 of Volume II.



# TABLE OF CONTENTS

## Volume I

History of the 2007-09 Biennial Budget .....	1
Brief Chronology of the 2007-09 Budget.....	6
Key to Abbreviations .....	8
User's Guide.....	10

### OVERVIEW

#### **All Funds Budget and Position Summaries**

• Table 1 -- Appropriations and Authorizations .....	13
• Table 2 -- Comparative Summary of Appropriations and Authorizations.....	15
• Table 3 -- Total All Funds Appropriations by Agency.....	16
• Figure 1 -- All Funds Appropriations by Functional Area .....	18
• Figure 2 -- All Funds Appropriations by Purpose.....	19
• Table 4 -- All Funds FTE Positions by Agency .....	20
• Table 5 -- Comparative Summary of FTE Positions .....	22

#### **General Fund Budget and Position Summaries**

• Table 6 -- General Fund Condition Statement.....	23
• Table 7 -- Estimated General Fund Taxes .....	24
• Table 8 -- Estimated Departmental Revenues .....	25
• Figure 3 -- Estimated General Fund Revenues .....	26
• Figure 4 -- Use of General Fund Revenues.....	27
• Table 9 -- General Fund Appropriations by Agency .....	28
• Figure 5 -- General Fund Appropriations by Functional Area .....	30
• Figure 6 -- General Fund Appropriations by Purpose.....	31
• Figure 7 -- General Fund Appropriations -- Local Assistance .....	32
• Figure 8 -- General Fund Appropriations -- State Operations.....	33
• Figure 9 -- General Fund Appropriations -- Aids to Individuals and Organizations .....	34
• Table 10 -- Distribution of 2007-09 General Fund Appropriations .....	35
• Table 11 -- Ten Largest General Fund Programs .....	36
• Table 12 -- General Fund FTE Positions by Agency.....	37



**Transportation Fund Budget**

• Table 13 -- Transportation Fund Condition Statement.....39  
• Figure 10 -- Estimated Transportation Fund Revenues.....40  
• Figure 11 -- Transportation Fund Appropriations by Category.....41

**Lottery Fund Budget**

• Table 14 -- Lottery Fund Condition Statement.....43  
• Figure 12 -- Lottery Fund Expenditures.....44

**STATE AGENCY BUDGET SUMMARIES**

Administration..... 45  
• General Agency Provisions ..... 45  
• Transfers to the Department..... 60  
• Information Technology..... 64  
• Office of Justice Assistance ..... 73  
• Division of Gaming..... 86  
Agriculture, Trade and Consumer Protection..... 96  
Arts Board ..... 114  
  
Board for People with Developmental Disabilities ..... 116  
Board of Commissioners of Public Lands ..... 119  
Board on Aging and Long-Term Care ..... 121  
Bonding Authorization..... 126  
Budget Management and Compensation Reserves ..... 129  
Building Commission ..... 134  
Building Program ..... 143  
  
Child Abuse and Neglect Prevention Board ..... 163  
Children and Families..... 166  
Circuit Courts ..... 172  
Commerce..... 175  
• Economic Development ..... 175  
• Housing, Buildings, and Environmental Regulation..... 200  
Corrections..... 214  
• Departmentwide..... 214  
• Adult Corrections ..... 219  
• Community Corrections..... 230  
• Juvenile Corrections..... 237  
Court of Appeals..... 247  
  
District Attorneys ..... 248  
  
Educational Communications Board..... 252

Elections Board.....	254
Employee Trust Funds.....	259
Employment Relations Commission.....	273
Environmental Improvement Fund.....	281
Ethics Board.....	285
Financial Institutions.....	287
Fox River Navigational System Authority.....	290
General Fund Taxes.....	291
• Individual and Corporate Income Tax.....	293
• General Sales and Use Tax.....	343
• Excise Taxes and Regulation of Tobacco and Alcohol.....	369
• Miscellaneous Taxes.....	413
• Tax Administration.....	415
General Provisions.....	424
Government Accountability Board.....	440
Governor.....	445
Health and Family Services.....	447
• Departmentwide.....	447
• Health Care Quality Fund.....	455
• Medical Assistance -- General.....	464
• Medical Assistance - Long-Term Care.....	500
• Medical Assistance -- Administration and FoodShare.....	526
• Health.....	542
• Children and Families.....	560
• Disability and Elder Services.....	576
• Institutions.....	585

## Volume II

Health Insurance Risk-Sharing Plan Authority.....	595
Healthy Wisconsin Authority.....	598
Healthy Wisconsin Authority and Healthy Wisconsin Plan.....	602
Higher Educational Aids Board.....	621
Historical Society.....	632
Insurance.....	635
Investment Board.....	645

Judicial Commission .....	647
Judicial Council.....	649
Justice .....	651
Legislature.....	669
Lieutenant Governor.....	675
Lower Fox River Remediation Authority.....	676
Lower Wisconsin State Riverway Board .....	687
Medical College of Wisconsin .....	688
Military Affairs.....	689
Miscellaneous Appropriations.....	694
Natural Resources.....	702
• Departmentwide.....	702
• Stewardship Program .....	714
• Fish, Wildlife, and Recreation .....	728
• Forestry and Parks.....	750
• Water Quality .....	759
• Air, Waste, and Contaminated Land .....	774
Office of State Employment Relations .....	786
Permanent Endowment Fund and Tobacco Financing .....	804
Program Supplements .....	806
Public Defender .....	810
Public Instruction.....	815
• General School Aids and Revenue Limits.....	815
• Categorical Aids.....	824
• Choice and Charter .....	838
• Administrative and Other Funding .....	844
Public Service Commission.....	857
• Departmentwide.....	857
• Office of the Commissioner of Railroads .....	863
Regulation and Licensing.....	864
Revenue .....	881
• Tax Administration .....	881
• Lottery Administration.....	890

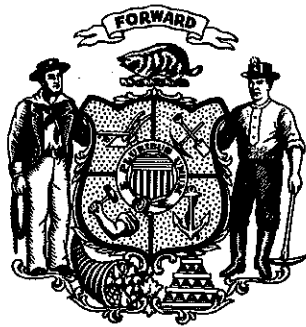
Secretary of State.....	896
Shared Revenue and Tax Relief .....	898
• Direct Aid Payments.....	899
• Property Tax Credits.....	911
• Property Taxation.....	919
• Local Revenue Options.....	930
• Other Credits.....	931
State Fair Park.....	932
State Treasurer.....	936
Supreme Court.....	938
Tourism .....	942
Transportation.....	945
• Transportation Finance.....	945
• Local Transportation Aids .....	961
• Local Transportation Assistance.....	964
• State Highway Program.....	977
• Motor Vehicles .....	991
• State Patrol.....	1018
• Departmentwide.....	1019
University of Wisconsin Hospitals and Clinics Authority.....	1022
University of Wisconsin Hospitals and Clinics Board.....	1024
University of Wisconsin System .....	1025
Veterans Affairs .....	1047
• General Agency Provisions .....	1047
• Aids to Veterans and Veterans Organizations.....	1054
• Homes and Facilities for Veterans.....	1060
Wisconsin Health and Educational Facilities Authority.....	1065
Wisconsin Housing and Economic Development Authority.....	1066
Wisconsin Technical College System.....	1068
Workforce Development.....	1077
• Departmentwide.....	1077
• Employment, Training, and Vocational Rehabilitation Programs .....	1083
• Economic Support and Child Care.....	1100
• Child Support.....	1126
<b>REPORTS AND STUDIES.....</b>	<b>1135</b>
<b>LEGISLATIVE FISCAL BUREAU BUDGET ISSUE PAPERS .....</b>	<b>1141</b>



# Comparative Summary of Budget Recommendations

2007 Act 20

Volume I



**2007-09 Wisconsin State Budget**

**Legislative Fiscal Bureau  
February, 2008**

## HISTORY OF THE 2007-09 BIENNIAL BUDGET

This section provides a narrative history of the 2007-09 biennial budget. Although the formal legislative history of the biennial state budget commenced with the introduction of a bill comprising the Governor's budget recommendations, the actual process of assembling the budget began several months prior to its introduction. This history starts at that point.

On May 26, 2006, the Department of Administration (DOA) released the Governor's major budget policies and technical budget instructions for each state agency to follow in preparing their 2007-09 biennial budget requests. Included in these policy directives were instructions that state agencies prepare their 2007-09 biennial budget assuming zero growth in overall state general purpose revenue (GPR) appropriations, except for K-12 equalization aids, required cost-to-continue needs for the state's institutions (in the Department of Corrections and the Department of Health and Family Services), entitlement and related assistance programs in the Department of Health and Family Services and in the Department of Workforce Development's Division of Vocational Rehabilitation, the University of Wisconsin System instruction and research activities focused on economic growth, standard budget adjustments, fuel and utilities, and debt service. This directive also applied to segregated (SEG) funded administrative operations appropriations of the Department of Transportation, Department of Natural Resources, and the lottery. For other types of appropriations and funding sources, the directive instructed that funding requests should be limited to revenue availability and prioritized programmatic needs.

Beginning in the 2003-05 biennium, one-third of all state agencies are required by statute to complete a base budget review. On August 23, 2006, the Department of Administration released the list of the remaining one-third of agencies to complete a base budget review as part of the 2007-09 biennial budget process. These agencies were:

- Department of Administration
- Board on Aging and Long-Term Care
- Department of Corrections
- District Attorneys
- Educational Communications Board
- Elections Board
- Employment Relations Commission
- Environmental Improvement Program
- Historical Society
- Investment Board
- Lower Wisconsin State Riverway Board
- Public Defender Board
- Board of Commissioners of Public Lands
- Public Service Commission
- State Treasurer

By statute, executive branch agencies are required to submit their formal budget requests to the Department of Administration and the Legislative Fiscal Bureau by September 15, 2006. The Division of Executive Budget and Finance (within DOA) began reviewing agency funding requests as they were submitted. On November 20, 2006, as required by statute, the Division distributed to Governor James E. Doyle, Jr., and the Legislature, a compilation of state agencies' 2007-09 biennial budget requests. This summary indicated that agencies were seeking total 2007-

09 funding of \$57.14 billion (all funds), of which \$28.77 billion was requested from general purpose revenue. Also included in the summary was the statutorily required estimate of tax revenues for fiscal year 2006-07 and the 2007-09 biennium, as developed by the Department of Revenue. Total general fund tax collections for the 2007-09 biennium were projected at \$26.4 billion.

Every January, the Legislative Fiscal Bureau prepares general fund expenditure and revenue projections for the Legislature as it begins to consider the state's budget and other legislation. Based on updated tax collection data and other information, on January 30, 2007, the Bureau estimated that the state's general fund would realize a total of \$12.8 million less in the period from 2006-07 through 2008-09 than was reflected in the report from the Departments of Administration and Revenue. [On June 4, 2007, the Fiscal Bureau revised its general fund tax estimates, indicating that general fund tax revenues would exceed the January 30 estimates by approximately \$49.0 million in 2006-07.]

The Governor, with the assistance of the Department of Administration, continued to review agency funding and policy change requests during this time to develop specific gubernatorial budget recommendations for each agency. Also during this period, the Governor made decisions on individual funding and policy initiatives to be included in the biennial budget bill.

By statute, the Governor is required to submit the budget message and the executive budget bill (or bills) to the Legislature on or before the last Tuesday in January of each odd-numbered year unless a different date is authorized by the Legislature. Under 2007 Senate Joint Resolution 1, adopted by the Senate on January 3, 2007, and concurred in by the Assembly on the same day, the deadline for the submission of the Governor's budget message and the executive budget bill (or bills) was extended, at the request of the Governor, to February 13, 2007. Governor Doyle officially delivered his 2007-09 biennial budget message and recommendations to a joint convention of the Legislature on February 13, 2007.

On February 14, 2007, the Joint Committee on Finance, at the request of the Governor, introduced the biennial budget bill in the Senate. The bill, formally introduced as Senate Bill 40 (SB 40) was read for the first time and referred to the Joint Committee on Finance. The recommendations of the State Building Commission constituting the capital budget and the state building programs were submitted to the Joint Committee on Finance on April 12. These recommendations were taken up by the Joint Committee on Finance as modifications to the budget bill.

On February 15, reports were requested from the Joint Survey Committee on Retirement Systems and the Joint Survey Committee on Tax Exemptions on the provisions of SB 40. On June 20, the Joint Survey Committee on Tax Exemptions submitted a report to the Legislature addressing provisions in SB 40 that affect existing statutes or create new statutes relating to the exemption of property or persons from state or local taxes. The provisions included: (a) updates to the internal revenue code; (b) changes to tax statutes related to the income of non-residents and part-year residents; (c) an oil company assessment; (d) a phased-in individual income tax deduction for persons whose employers pay for a portion of their health insurance; (e) increasing



the maximum college tuition deduction amount; (f) an income tax deduction for employment-related child or depend care expenses; (g) income and property tax exemptions for veterans service organizations; (h) sales tax exemptions for biotechnology businesses and veterans home exchanges; (i) changes to sales tax exemptions for purchasing and printing catalogs and for motion picture film or tape; and (j) changes to various state sales and use tax statutes to conform with the terms of the multi-state streamlined sales and use tax agreement. The Joint Survey Committee on Tax Exemptions found that, while there were no questions of legality involved in the provisions, a constitutional concern may exist concerning the provisions relating to the oil company assessment. The report made no recommendation regarding the public policy of the bill.

The Joint Committee on Finance also held agency informational briefings on the biennial budget bill on March 12, 14, 15, 16, and 22. During these briefings, agency representatives testified before the Committee on the executive budget recommendations affecting their respective agencies. The agencies selected to appear before the Committee included: Department of Administration, Department of Transportation, Department of Workforce Development, Employment Relations Commission, Elections Board, Department of Revenue, Department of Natural Resources, Department of Commerce, Department of Tourism, the Supreme Court, Department of Corrections, Department of Health and Family Services, Office of the Commissioner of Insurance, Office of the Commissioner of Railroads, Department of Justice, Department of Public Instruction, Wisconsin Technical College System, Higher Educational Aids Board, and the University of Wisconsin System.

While the Joint Committee on Finance was conducting its informational briefings and public hearings, many of the committees in each house of the Legislature also held hearings on those aspects of the executive budget bill that fell under their subject matter jurisdiction.

The Joint Committee on Finance held six public hearings on the biennial budget bill to solicit public testimony on the proposals. Public hearings were held in Milwaukee on March 20, De Forest on March 21, Chippewa Falls on March 27, Prairie du Chien on April 4, Rhinelander on April 11, and Green Bay on April 12. In addition, the Committee held an informational briefing on April 18 by Department of Administration staff on the 2007-09 building program.

On April 20, 2007, Senator Russ Decker (D-Schofield), the Senate Chair of the Joint Committee on Finance, and Representative Kitty Rhoades (R-Hudson), the Assembly Chair of the Joint Committee on Finance, issued a memorandum identifying a total of 48 non-fiscal policy items in SB 40 that would not be addressed as part of the Joint Committee on Finance's budget deliberations.

The Joint Committee on Finance held a total of 14 executive sessions on the biennial budget bill. The first executive session was held on April 26, and the last was held on June 8. At the Committee's final executive session (June 8), the Committee adopted a substitute amendment (SSA 1 to SB 40) incorporating all of its previous actions modifying the biennial budget. The vote to recommend SB 40 for passage, as amended, received eight aye and eight nay votes. The

Committee's version of the budget bill, SSA 1 to SB 40, was formally reported to the Senate on June 20.

The Senate began consideration of the 2007-09 state budget on June 26, 2007. During the Senate's deliberations, 17 amendments to SSA 1 were offered. Two Senate amendments to SSA 1 were adopted – SA 1 and SA 2. The Senate substitute amendment (SSA 1), as amended, was adopted, and the bill, as amended, was passed on a vote of 18-15. The bill was ordered immediately messaged to the Assembly.

The Assembly began consideration of the 2007-09 state budget on July 6, 2007, by introducing Assembly substitute amendment 1 (the version of the budget bill that was adopted by the Joint Committee on Finance). A total of two amendments to the Assembly substitute amendment (ASA 1) were offered. Assembly amendment 1 to ASA 1 was adopted. The Assembly then voted concurrence 51-44.

Both during and after the Senate and Assembly deliberations on the budget, the Legislative Fiscal Bureau conducted briefings with the caucuses in both houses on the major provisions of the various versions of the budget, including those proposed by the Governor, the Joint Committee on Finance, Senate, and Assembly.

Pursuant to Assembly Joint Resolution 59 (AJR 59), a Committee of Conference (Conference Committee) was created to reconcile the differences between the Senate and Assembly and to present its report on the bill to the two houses. AJR 59 specified that the Conference Committee would consist of four members from each house, with three members from each house representing the majority party in that house and one member from each house representing the minority party in that house. The Senate members of the Conference Committee, representing the majority party, included Senators Judy Robson (D-Beloit), Russ Decker (D-Schofield), and Robert Jauch (D-Poplar). The Senate member representing the minority party was Senator Scott Fitzgerald (R-Juneau). The Assembly members of the Conference Committee, representing the majority party, included Representatives Michael Huebsch (R-West Salem), Jeff Fitzgerald (R-Horicon), and Kitty Rhoades (R-Hudson). The Assembly member representing the minority party was Representative James Kreuser (D-Kenosha). Senator Robson and Representative Huebsch served as Co-chairs of the Conference Committee.

The Conference Committee began deliberations on July 25, 2007. On August 1, the Conference Committee agreed to a list of 571 items, which were included in all the versions of the budget adopted by the Joint Committee on Finance, the Senate, and the Assembly. However, the Conference Committee agreed that the 571 items could be revisited, if required by other Committee action. Deliberations continued on the remaining budget issues. The Conference Committee met 16 times until September 21, 2007, without resolution of the remaining budget issues.

On September 14, 2007, Assembly Bill 506 (AB 506) was introduced to provide funding for the 2007-09 biennium related to state finances and appropriations for state school aids, school district revenue limits, school safety grants, the pupil transportation reimbursement rate, the school breakfast reimbursement rate, county and municipal aid, and the school levy property tax

credit. The Assembly also introduced on the same day, 2007 Assembly Bill 507 (AB 507), to modify and extend local levy limits for cities, villages, towns, and counties, and create a levy limit for technical college districts. On September 18, both bills were referred to, and then withdrawn from, the Joint Committee on Finance and taken up by the Assembly. AB 506 passed on a vote of 70-27 and AB 507 passed on a vote of 52-45. The bills were messaged to the Senate and, on September 21, were referred to the Committee on Senate Organization available for scheduling. Neither bill, however, was taken up by the Senate.

To resolve the remaining budget differences between the houses, the Speaker of the Assembly, Michael Huebsch (R-West Salem), the Senate Majority Leader, Judy Robson (D-Beloit), and Governor James E. Doyle, Jr began to meet privately to negotiate. On September 24-28 and October 1-2, the parties met to work on the budget. On October 9, 2007, the Governor announced he would call the full Legislature into Special Session on a new compromise budget bill. 2007 October Special Session Bill 1 (SS SB 1) was introduced by the Committee on Senate Organization on October 15. SS SB 1 did not include budget provisions related to the Department of Transportation, which were addressed in a separate bill, 2007 October Special Session Bill 2 (SS SB 2), also introduced on October 15.

SS SB 1 and SS SB 2 were referred to, and then withdrawn from, the Joint Committee on Finance to be taken up by the Senate. For SS SB 1, a Senate substitute amendment was offered, but tabled on a vote of 18-14. One amendment to SS SB 1 was offered and adopted. The Senate then passed SS SB 1, as amended, on a vote of 18-14. For SS SB 2, the Senate offered and adopted one amendment, then passed the bill, as amended, on a vote of 18-14. The bills were ordered immediately messaged to the Assembly. On October 15, the Assembly suspended its rules and took up SS SB 1. The Assembly refused concurrence 44-53. The Assembly did not take up SS SB 2.

Pursuant to Joint Rule 81(2)(a), an extraordinary session may be authorized by the joint petition of a majority of the members elected to each house submitted to the Senate Chief Clerk and Assembly Chief Clerk. On October 15, 52 members of the Assembly Republican Caucus signed a petition for an extraordinary session on AB 506 and AB 507. However, the petition was not signed by a majority of members from the Senate.

Negotiations between the Speaker of the Assembly, the Senate Majority Leader, and the Governor resumed on October 16. On October 22, 2007, the Conference Committee met and voted 7-1 for approval of Conference Substitute Amendment 1 to SB 40. On October 23, 2007, the Legislative Fiscal Bureau briefed the caucuses of the two houses on the provisions of Conference Substitute Amendment 1. On October 23, the Conference Committee report was approved by the Assembly on a vote of 60-39 and then by the Senate on a 18-15 vote. Enrolled SB 40 was presented to the Governor on October 25. He approved the bill, in part, on October 26 and had it deposited to the Office of the Secretary of State as 2007 Wisconsin Act 20. The Governor indicated in his message to the Senate that he had exercised his authority to make 33 partial vetoes to the bill, as passed by the Legislature. Act 20 was published on October 26, and except as otherwise specifically provided, became effective the following day.

## BRIEF CHRONOLOGY OF THE 2007-09 BUDGET

### GOVERNOR/ADMINISTRATION

- May 26, 2006 Department of Administration issued major budget policies and technical budget instructions
- August 23 Department of Administration released list of agencies subject to base budget review
- September 15 Agency deadline for submission of budget requests
- November 20 Executive Budget Office submitted a compilation of agency budget requests and a Department of Revenue estimate of tax revenues
- February 13, 2007 Governor Doyle delivered budget message and recommendations to the Legislature
- April 12 Recommendations of the State Building Commission for the capital budget and state building program submitted to the Joint Committee on Finance
- October 15 Governor Doyle calls a special session on a budget bill

### JOINT COMMITTEE ON FINANCE

- January 30 Legislative Fiscal Bureau releases general fund expenditure and revenue projections
- February 14 Introduced the executive budget bill as 2007 Senate Bill 40
- March 12-March 22 Budget bill briefings by agency officials
- March 20-April 18 Public hearings and state building program briefing
- April 12 Received recommendations of the State Building Commission for the capital budget and authorized state building program
- April 20 Nonfiscal items removed from budget bill
- April 26-June 8 Executive sessions
- June 9 Adopted Senate Substitute Amendment 1 (SSA 1) to SB 40 and considered the bill for passage on a 8-8 vote
- June 20 SSA 1 to SB 40, as recommended by the Joint Committee on Finance, reported to the Senate

### LEGISLATURE

- June 26 Senate adopted Senate Substitute Amendment 1 to SB 40 and the bill as amended on a vote of 18-15
- July 6 Assembly adopted Assembly Substitute Amendment 1 to SB 40 and the bill as amended on a vote of 51-44
- July 25 Conference Committee deliberations began
- September 14 Assembly passed 2007 Assembly Bill 506 (education and municipal funding) and 2007 Assembly Bill 507 (levy limits)

- September 24-  
October 2 Speaker of the Assembly, Senate Majority Leader, and the Governor met to negotiate on the budget
- October 15 Special Session Senate Bills 1 and 2 introduced; Senate passed the bills, as amended, 18-14; Assembly refused concurrence on SS SB 1 on a vote of 44-53, and did not take up SS SB 2
- October 22 Conference Committee approves Conference Committee Substitute Amendment 1 to SB 40 on a vote of 7-1
- October 23 Conference Committee report passed by the Assembly, 60-39, and by the Senate, 18-15.

## ENACTMENT

- October 25 Enrolled SB 40 presented to Governor
- October 26 Governor approved bill, with partial vetoes, as 2007 Wisconsin Act 20
- October 26 Act 20 published
- October 27 Act 20 became generally effective

## KEY TO ABBREVIATIONS

### REVENUES

BR Bond revenues which are available from the contracting of public debt (general obligation bonding) or from the contracting of debt which is to be repaid from project revenues and does not constitute debt of the state (revenue bonding).

GPR-Earned Departmental revenues which are collected by individual state agencies and deposited in the general fund.

REV Revenue

### APPROPRIATIONS

GPR Appropriations financed from general purpose revenues available in the state's general fund.

FED Appropriations financed from federal revenues.

PR Appropriations financed from program revenues, such as user fees or product sales.

PR-S Program Revenue-Service. Appropriations financed from funds transferred between or within state agencies for the purpose of reimbursement for services or materials.

SEG Appropriations financed from segregated revenues.

SEG-Local Appropriations financed from local revenues which are administered through a state segregated fund.

SEG-S Segregated Revenue-Service. Segregated appropriations financed from funds transferred between or within state agencies for the purpose of reimbursement for services or materials.

## OTHER

2005 Wisconsin Act 25	The 2005-07 biennial budget act.
2007 Wisconsin Act 5	The 2005-07 budget adjustment act.
SB 40	2007 Senate Bill 40, the Governor's 2007-09 budget recommendations.
SSA 1 and ASA 1 to SB 40	Senate Substitute Amendment 1 and Assembly Substitute Amendment 1 to Senate Bill 40, the 2007-09 budget recommendations of the Joint Committee on Finance.
CY	Calendar year.
FY	Fiscal year.
FTE	Full-time equivalent position.
LTE	Limited-term employment position for which employment is limited to 1,044 hours per appointment in a 12-month period.
2006-07 Base	The 2006-07 authorized funding level for an agency or program. It is this base that serves as the beginning point for calculating budget changes for 2007-09.
2006-07 Base Year Doubled	The 2006-07 base multiplied by two. This produces the biennial base level against which 2007-09 budget levels may be compared.
Lapse	Budgeted amounts that are unspent at the end of a fiscal period which revert back to the fund from which they were appropriated.
PECFA	Petroleum Environmental Cleanup Fund Award Program
TANF	Temporary Assistance to Needy Families
W-2	Wisconsin Works Program

## USER'S GUIDE

The following explanation of entries is keyed to the accompany sample entry (page 11).

- ① Name of agency.
- ② The funding source for the amounts shown in columns 3 through 5. Only the funding sources which are included in the agency's budget are shown.
- ③ The 2006-07 base represents authorized appropriation and position levels for 2006-07. The base is doubled in the budget column to provide a two-year to two-year comparison.
- ④ Appropriation and position levels recommended by the Governor, Joint Committee on Finance, Legislature, and as authorized by 2007 Wisconsin Act 20 (includes the impact of any gubernatorial vetoes).
- ⑤ These columns indicate the change of the budget level contained in 2007 Wisconsin Act 20 to the 2006-07 base year doubled. For positions, the increase or decrease is based on the 2008-09 authorized level compared to the 2006-07 level.
- ⑥ Title of the budget change item. Immediately following the title, if applicable, "[ ]" shows the number of the Legislative Fiscal Bureau issue paper prepared on this item. In this example, paper [206] pertains to Circuit Court support payments. A complete listing of all Fiscal Bureau issue papers begins on page 1141 of this document.
- ⑦ Funding and position change to the agency's base budget. If the entry is entitled, "GOVERNOR/LEGISLATURE," the recommendations proposed by the Governor were adopted by the Joint Committee on Finance and the Legislature. For those budget items where the recommendations of the Governor, Joint Finance Committee or Legislature differ, the fiscal and position effect shown at each step is the change to the previous recommendation.
- ⑧ Narrative description of the various budget change items, for each entry, as recommended by the Governor, Joint Committee on Finance, Senate, Assembly, Conference Committee, and Legislature.
- ⑨ Narrative description of partial vetoes by the Governor. At the beginning of the veto entry in the "[ ]" is the number (in this example C-2) of the veto from the Governor's veto message (October 26, 2007).
- ⑩ Bill sections relating to the budget change item. "Act 20 Sections" lists the sections which remain in the act. "Act 20 Vetoes Sections" lists those sections which were partially or entirely vetoed.



# CIRCUIT COURTS ①

<b>Budget Summary</b>							
②	③	④	④	④	④	⑤	
Fund	2006-07 Base Year Doubled	2007-09 Governor	2007-09 Jt. Finance	2007-09 Legislature	2007-09 Act 20	Act 20 Change Over Base Year Doubled Amount	Percent
GPR	\$167,157,400	\$177,650,500	\$177,650,500	\$177,880,700	\$177,880,700	\$10,723,300	6.4%
SEG	0	19,115,500	19,115,500	0	0	0	0.0
<b>TOTAL</b>	<b>\$167,157,400</b>	<b>\$196,766,000</b>	<b>\$196,766,000</b>	<b>\$177,880,700</b>	<b>\$177,880,700</b>	<b>\$10,723,300</b>	<b>6.4%</b>

<b>FTE Position Summary</b>						
②	③	④	④	④	④	⑤
Fund	2006-07 Base	2008-09 Governor	2008-09 Jt. Finance	2008-09 Legislature	2008-09 Act 20	Act 20 Change Over 2006-07 Base
GPR	511.00	511.00	511.00	513.00	513.00	2.00

## Budget Change Items

### ⑥ 1. CIRCUIT COURT SUPPORT PAYMENTS FUNDING [LFB Paper 206]

	Governor (Chg. to Base)	Legislature (Chg. to JFC)	Net Change
SEG	\$19,115,500	-\$19,115,800	\$0

⑦

**Governor:** Create a segregated appropriation under the circuit courts and provide \$9,103,000 in 2007-08 and \$10,012,500 in 2008-09 for increased circuit court payments to counties.

⑧ **Joint Finance:** Include the Governor's recommendation. In addition, modify the circuit court support payments distribution method to be based on: (a) the amount determined by dividing the number of circuit court branches in the county by the total number of ...

**Assembly/Legislature:** Delete provision.

### 2. NEW KENOSHA COUNTY CIRCUIT COURT BRANCH

**Senate/Legislature:** Create a new circuit court branch for Kenosha County. Provide 1.0 GPR circuit court judge position and 1.0 GPR court reporter position for Kenosha County. The initial election for the new circuit court branch will occur at the spring election of 2008 for a term commencing on August 1, 2009, and ending on ...

⑨ **Veto by Governor [C-2]:** Delete reference to 2008 for the spring election in order to establish the initial election date in the spring of 2009.

[Act 20 Sections: 3706g and 9107(1j),(1k)&(1L)]

⑩ [Act 20 Vetoed Section: 9107(1j)]



## **OVERVIEW**

### **ALL FUNDS BUDGET AND POSITION SUMMARIES**



**TABLE 1****Summary of 2007-09 Appropriations,  
Compensation Reserves, and Authorizations**

<u>Fund Source</u>	<u>2007-08</u>	<u>2008-09</u>	<u>Total</u>	<u>% of Total</u>
<b>General Purpose Revenue (GPR)</b>	<b>\$13,886,722,800</b>	<b>\$14,368,716,900</b>	<b>\$28,255,439,700</b>	<b>47.1%</b>
Appropriations	13,823,963,200	14,212,099,000	28,036,062,200	
Compensation Reserves	62,759,600	156,617,900	219,377,500	
<b>Federal Revenue (FED)</b>	<b>7,093,560,700</b>	<b>7,367,715,700</b>	<b>14,461,276,400</b>	<b>24.1</b>
Appropriations	7,060,363,000	7,284,707,600	14,345,070,600	
Compensation Reserves	33,197,700	83,008,100	116,205,800	
<b>Program Revenue (PR)</b>	<b>4,041,842,100</b>	<b>4,184,801,700</b>	<b>8,226,643,800</b>	<b>13.7</b>
Appropriations	4,023,325,400	4,138,376,600	8,161,702,000	
Compensation Reserves	18,516,700	46,425,100	64,941,800	
<b>Segregated Revenue (SEG)</b>	<b>3,069,609,700</b>	<b>3,221,027,600</b>	<b>6,290,637,300</b>	<b>10.5</b>
Appropriations	3,052,886,200	3,179,051,900	6,231,938,100	
Compensation Reserves	<u>16,723,500</u>	<u>41,975,700</u>	<u>58,699,200</u>	
<b>Subtotal</b>	<b>\$28,091,735,300</b>	<b>\$29,142,261,900</b>	<b>\$57,233,997,200</b>	<b>95.4%</b>
Appropriations	27,960,537,800	28,814,235,100	56,774,772,900	
Compensation Reserves	131,197,500	328,026,800	459,224,300	
<b>Bond Revenue</b>			<b>\$2,764,315,900</b>	<b>4.6</b>
General Obligation Bonding			2,061,283,800	
Revenue Bonding			<u>703,032,100</u>	
<b>TOTAL</b>			<b>\$59,998,313,100</b>	<b>100.0%</b>



**TABLE 2**

**2007-09 Comparative Summary of Appropriations and Authorizations**

<u>Fund Source</u>	<u>Governor</u>	<u>Jt. Finance</u>	<u>Senate</u>	<u>Assembly</u>	<u>Conf Comm/Leg</u>	<u>Act 20</u>
General Purpose Revenue	\$27,482,862,900	\$27,508,230,200	\$27,646,436,700	\$27,855,866,700	\$28,255,139,700	\$28,255,439,700
Federal Revenue	14,885,331,500	14,932,052,800	14,950,131,600	14,368,394,400	14,461,276,400	14,461,276,400
Program Revenue	8,333,892,900	8,207,144,400	8,241,641,800	8,155,599,600	8,226,643,800	8,226,643,800
Segregated Revenue	<u>7,534,419,000</u>	<u>7,466,444,000</u>	<u>15,268,458,800</u>	<u>5,921,829,700</u>	<u>6,290,637,300</u>	<u>6,290,637,300</u>
Subtotal	\$58,236,506,300	\$58,113,871,400	\$66,106,668,900	\$56,301,690,400	\$57,233,697,200	\$57,233,997,200
Bonding						
General Obligation	\$2,413,080,500	\$2,032,040,200	\$2,378,260,800	\$927,097,200	\$2,061,283,800	\$2,061,283,800
Revenue	<u>752,108,100</u>	<u>703,032,100</u>	<u>663,352,600</u>	<u>663,352,600</u>	<u>703,032,100</u>	<u>703,032,100</u>
Subtotal	\$3,165,188,600*	\$2,735,072,300	\$3,041,613,400	\$1,590,449,800	\$2,764,315,900	\$2,764,315,900
TOTAL	\$61,401,694,900	\$60,848,943,700	\$69,148,282,300	\$57,892,140,200	\$59,998,013,100	\$59,998,313,100

\*Includes Building Commission's recommendations.

**TABLE 3**

**Summary of Total All Funds Appropriations by Agency**

<u>Agency</u>	<u>2006-07 Adjusted Base Doubled</u>	<u>2007-09 Governor</u>	<u>2007-09 Jt. Finance</u>	<u>2007-09 Senate</u>	<u>2007-09 Assembly</u>	<u>2007-09 Conf Comm Legislature</u>	<u>2007-09 Act 20</u>	<u>2007-09 Act 20 Change Over Base Amount</u>	<u>%</u>
Administration	\$1,531,487,200	\$1,579,078,300	\$1,536,287,400	\$1,571,442,800	\$1,404,389,800	\$1,553,822,200	\$1,553,822,200	\$22,335,000	1.5%
Agriculture, Trade & Consumer Protection	156,091,400	192,401,400	189,571,800	187,078,600	185,415,600	189,166,400	189,166,400	33,075,000	21.2
Arts Board	7,172,800	7,259,600	7,299,600	7,299,600	6,370,000	7,299,600	7,299,600	126,800	1.8
Board for People with Developmental Disabilities	0	0	0	2,566,400	0	2,566,400	2,566,400	2,566,400	N.A.
Board of Commissioners of Public Lands	2,923,000	3,314,200	3,114,200	3,114,200	3,114,200	3,114,200	3,114,200	191,200	6.5
Board on Aging and Long-Term Care	4,019,600	4,812,200	4,812,200	4,812,200	4,334,000	4,812,200	4,812,200	792,600	19.7
Building Commission	69,687,600	97,011,200	87,759,900	87,759,900	87,759,900	87,759,900	87,759,900	18,072,300	25.9
Child Abuse and Neglect Prevention Board	5,938,800	7,272,800	7,272,800	7,272,800	5,973,300	7,272,800	7,272,800	1,334,000	22.5
Children and Families	0	1,113,300,300	1,107,480,500	1,107,091,000	0	1,105,565,200	1,105,565,200	1,105,565,200	N.A.
Circuit Courts	167,157,400	196,766,000	196,766,000	196,766,000	177,620,800	177,880,700	177,880,700	10,723,300	6.4
Commerce	407,652,000	413,690,700	366,203,400	396,112,100	351,996,100	387,061,200	387,061,200	- 20,590,800	- 5.1
Compensation Reserves	---	509,739,300	509,739,300	509,739,300	309,920,700	459,224,300	459,224,300	459,224,300	N.A.
Corrections	2,142,321,400	2,463,964,500	2,457,051,100	2,456,586,200	2,381,401,700	2,453,251,100	2,453,251,100	310,929,700	14.5
Court of Appeals	17,634,200	19,054,000	19,054,000	19,054,000	19,054,000	19,054,000	19,054,000	1,419,800	8.1
District Attorneys	86,094,800	91,741,600	91,792,000	92,020,700	91,947,400	92,240,900	92,240,900	6,146,100	7.1
Educational Communications Board	35,491,800	36,325,700	36,325,700	36,325,700	31,474,300	36,325,700	36,325,700	833,900	2.3
Elections Board	3,946,000	8,884,700	0	0	0	0	0	- 3,946,000	- 100.0
Employee Trust Funds	46,692,400	54,813,400	54,719,100	54,719,100	54,149,900	54,869,100	54,869,100	8,176,700	17.5
Employment Relations Commission	5,986,200	6,564,100	6,331,300	6,331,300	6,331,300	6,331,300	6,331,300	345,100	5.8
Environmental Improvement Fund	104,092,400	106,583,300	106,583,300	106,583,300	106,583,300	106,583,300	106,583,300	2,490,900	2.4
Ethics Board	1,391,000	1,489,000	0	0	0	0	0	- 1,391,000	- 100.0
Financial Institutions	33,400,600	33,939,800	33,939,800	33,939,800	33,939,800	33,939,800	33,939,800	539,200	1.6
Fox River Navigational System Authority	253,400	253,400	253,400	253,400	253,400	253,400	253,400	0	0.0
Government Accountability Board	0	0	10,560,000	10,560,000	10,560,000	10,560,000	10,560,000	10,560,000	N.A.
Governor	7,733,200	8,806,200	8,806,200	8,806,200	8,087,000	8,095,600	8,095,600	362,400	4.7
Health and Family Services	13,350,806,400	14,509,989,100	14,495,165,700	14,548,027,100	13,934,370,300	13,634,133,000	13,634,133,000	283,326,600	2.1
Healthy Wisconsin Authority	0	1,000,000	0	0	0	0	0	0	0.0
Higher Educational Aids Board	204,290,800	247,379,500	247,409,500	247,409,500	206,685,800	247,409,500	247,409,500	43,118,700	21.1
Historical Society	38,861,200	44,674,800	44,551,600	44,551,600	43,954,800	44,551,600	44,551,600	5,690,400	14.6
Insurance	212,677,800	207,943,300	207,901,900	207,901,900	207,529,500	207,901,900	207,901,900	- 4,775,900	- 2.2



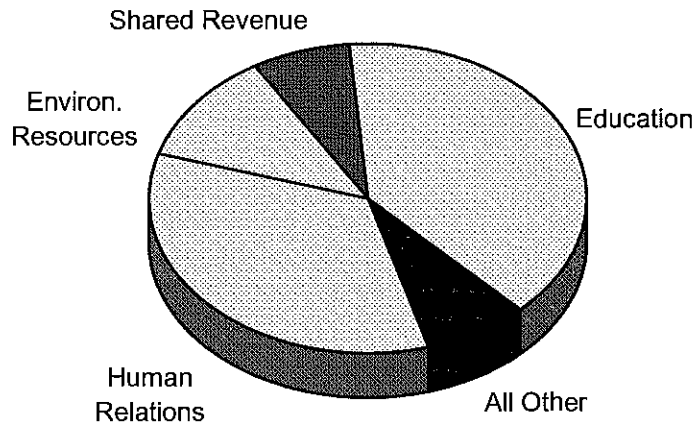
**TABLE 3 (continued)**

**Summary of Total All Funds Appropriations by Agency**

<u>Agency</u>	<u>2006-07 Adjusted Base Doubled</u>	<u>2007-09 Governor</u>	<u>2007-09 Jt. Finance</u>	<u>2007-09 Senate</u>	<u>2007-09 Assembly</u>	<u>2007-09 Conf Comm Legislature</u>	<u>2007-09 Act 20</u>	<u>2007-09 Act 20 Change Over Base</u>	
								<u>Amount</u>	<u>%</u>
Investment Board	\$44,949,400	\$44,949,400	\$44,949,400	\$44,949,400	\$44,949,400	\$44,949,400	\$44,949,400	\$0	0.0%
Judicial Commission	489,200	501,800	478,200	478,200	478,200	478,200	478,200	- 11,000	- 2.2
Judicial Council	0	0	201,200	201,200	201,200	201,200	201,200	201,200	N.A.
Justice	163,841,800	178,523,300	181,887,300	181,887,300	229,422,500	181,887,300	181,887,300	18,045,500	11.0
Legislature	137,575,000	142,028,300	141,448,800	141,448,800	141,103,100	141,448,800	141,448,800	3,873,800	2.8
Lieutenant Governor	805,400	816,400	816,400	816,400	816,400	816,400	816,400	11,000	1.4
Lower Fox River Remediation Authority	0	0	100,000	100,000	100,000	100,000	100,000	100,000	N.A.
Lower-WI State Riverway Board	341,000	373,800	373,800	373,800	373,800	373,800	373,800	32,800	9.6
Medical College of Wisconsin	15,472,800	18,014,100	15,514,100	15,514,100	15,514,100	15,514,100	15,514,100	41,300	0.3
Military Affairs	151,952,000	152,810,700	151,684,200	151,684,200	224,635,300	151,684,200	151,684,200	- 267,800	- 0.2
Miscellaneous Appropriations	283,958,000	353,998,500	341,478,300	7,944,861,300	346,897,800	357,579,300	357,579,300	73,621,300	25.9
Natural Resources	1,078,478,000	1,138,429,700	1,131,346,300	1,183,134,900	1,118,610,900	1,152,534,900	1,152,534,900	74,056,900	6.9
Office of State Employment Relations	11,881,600	12,735,400	12,735,400	12,735,400	12,607,400	12,735,400	12,735,400	853,800	7.2
Program Supplements	59,242,600	20,048,700	75,609,700	77,962,500	67,009,700	70,612,500	70,612,500	11,369,900	19.2
Public Defender	154,685,000	160,276,200	161,804,100	161,804,100	161,457,600	161,804,100	161,804,100	7,119,100	4.6
Public Instruction	12,236,723,400	12,720,522,300	12,717,321,600	12,755,937,200	12,627,843,700	12,578,631,100	12,578,631,100	341,907,700	2.8
Public Service Commission	52,843,400	54,824,200	54,923,200	54,923,200	54,824,200	54,824,200	54,824,200	1,980,800	3.7
Regulation and Licensing	23,586,000	25,257,600	25,458,200	25,257,600	25,458,200	25,458,200	25,458,200	1,872,200	7.9
Revenue	331,036,200	358,165,300	356,458,100	356,409,800	350,100,900	353,400,600	353,400,600	22,364,400	6.8
Secretary of State	1,595,400	1,526,800	1,526,800	1,526,800	1,526,800	1,526,800	1,526,800	- 68,600	- 4.3
Shared Revenue and Tax Relief	3,619,538,400	4,061,506,100	4,089,220,500	4,089,220,500	3,893,735,300	4,122,170,500	4,122,470,500	502,932,100	13.9
State Fair Park	38,920,200	40,917,900	40,917,900	40,917,900	40,917,900	40,917,900	40,917,900	1,997,700	5.1
State Treasurer	4,992,800	5,458,200	12,523,600	12,523,600	12,523,600	12,523,600	12,523,600	7,530,800	150.8
Supreme Court	53,430,800	58,769,200	58,769,200	58,769,200	58,056,600	58,803,600	58,803,600	5,372,800	10.1
Tourism	31,789,800	32,041,400	31,955,400	31,955,400	32,014,200	32,031,800	32,031,800	242,000	0.8
Transportation	4,932,569,600	5,347,900,800	5,311,250,200	5,487,971,600	5,321,346,600	5,404,288,200	5,404,288,200	471,718,600	9.6
University of Wisconsin System	8,645,801,600	9,052,233,300	9,044,255,100	9,045,793,100	8,904,035,600	9,042,993,100	9,042,993,100	397,191,500	4.6
UW Hospitals and Clinics Board	235,836,000	287,701,000	287,701,000	287,701,000	287,701,000	287,701,000	287,701,000	51,865,000	22.0
Veterans Affairs	263,510,600	295,473,900	289,010,000	289,962,200	289,045,000	289,210,000	289,210,000	25,699,400	9.8
Wisconsin Technical College System	363,443,800	370,899,200	367,993,800	367,993,800	350,558,600	367,993,800	367,993,800	4,550,000	1.3
Workforce Development	<u>2,090,267,000</u>	<u>1,331,750,400</u>	<u>1,327,407,900</u>	<u>1,327,729,700</u>	<u>2,014,607,900</u>	<u>1,327,457,900</u>	<u>1,327,457,900</u>	<u>- 762,809,100</u>	<u>- 36.5</u>
<b>TOTAL</b>	<b>\$53,673,360,200</b>	<b>\$58,236,506,300</b>	<b>\$58,113,871,400</b>	<b>\$66,106,668,900</b>	<b>\$56,301,690,400</b>	<b>\$57,233,697,200</b>	<b>\$57,233,997,200</b>	<b>\$3,560,637,000</b>	<b>6.6%</b>

**FIGURE 1**

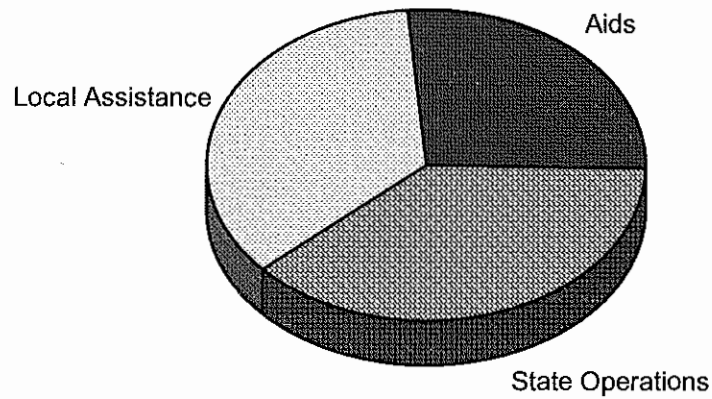
**2007-09 All Funds Appropriations  
By Functional Area**



<u>Functional Area</u>	<u>Amount</u>	<u>Percent of Total</u>
Education	\$22,340,718,500	39.0%
Human Relations and Resources	19,544,113,300	34.1
Environmental Resources	6,696,165,400	11.7
Shared Revenue and Tax Relief	4,122,470,500	7.2
All Other		
General Executive	2,218,217,400	3.9
Commerce	939,269,600	1.6
General Appropriations	515,951,700	0.9
Compensation Reserves	459,224,300	0.8
Judicial	256,417,700	0.4
Legislative	<u>141,448,800</u>	<u>0.2</u>
<b>TOTAL</b>	<b>\$57,233,997,200</b>	<b>100.0%</b>

**FIGURE 2**

**2007-09 All Funds Appropriations  
By Purpose**



<u>Purpose</u>	<u>Amount</u>	<u>Percent of Total</u>
Local Assistance	\$20,203,112,700	35.3%
State Operations	(21,741,565,400)	(38.0)
UW System	8,433,396,200	14.7
Other Programs	12,848,944,900	22.5
Compensation Reserves	459,224,300	0.8
Aids to Individuals and Organizations	<u>15,289,319,100</u>	<u>26.7</u>
TOTAL	\$57,233,997,200	100.0%



	2006-07 <u>Base</u>	2008-09 <u>Governor</u>	2008-09 <u>Jt. Finance</u>	2008-09 <u>Senate</u>	2008-09 <u>Assembly</u>	2008-09 <u>Legislature</u>	2008-09 <u>Act 20</u>	Act 20 Change to Base
Lieutenant Governor	4.00	4.00	4.00	4.00	4.00	4.00	4.00	0.00
Lower-WI State Riverway Board	2.00	2.00	2.00	2.00	2.00	2.00	2.00	0.00
Military Affairs	377.91	378.91	377.91	377.91	373.67	377.91	377.91	0.00
Natural Resources	2,717.18	2,697.28	2,713.53	2,697.03	2,687.73	2,713.53	2,713.53	- 3.65
Office of State Employment Relations	54.50	54.50	55.50	54.50	54.50	55.50	55.50	1.00
Public Defender	522.45	523.45	535.45	535.45	533.95	535.45	535.45	13.00
Public Instruction	625.01	628.01	630.01	630.01	626.26	629.01	629.01	4.00
Public Service Commission	158.00	162.00	163.00	163.00	162.00	162.00	162.00	4.00
Regulation and Licensing	112.32	85.32	114.32	85.32	114.32	114.32	114.32	2.00
Revenue	1,108.78	1,102.58	1,121.83	1,106.08	1,113.58	1,118.83	1,118.83	10.05
Secretary of State	8.50	7.50	7.50	7.50	7.50	7.50	7.50	- 1.00
State Fair Park Board	28.40	29.40	29.40	29.40	29.40	29.40	29.40	1.00
State Treasurer	10.70	14.70	14.70	14.70	14.70	14.70	14.70	4.00
Supreme Court	216.75	219.75	219.75	219.75	216.75	219.75	219.75	3.00
Tourism	42.40	41.40	41.40	41.40	41.20	41.40	41.40	- 1.00
Transportation	3,425.93	3,460.38	3,467.78	3,457.78	3,442.78	3,442.78	3,442.78	16.85
University of Wisconsin System	31,452.22	31,456.22	31,456.22	31,456.22	31,439.22	31,456.22	31,456.22	4.00
UW Hospitals and Clinics Board	2,371.46	2,462.49	2,462.49	2,462.49	2,462.49	2,462.49	2,462.49	91.03
Veterans Affairs	1,099.40	1,129.60	1,106.90	1,104.90	1,106.90	1,106.90	1,106.90	7.50
Wisconsin Technical College System	81.30	81.30	81.30	81.30	79.80	81.30	81.30	0.00
Workforce Development	<u>1,902.15</u>	<u>1,720.09</u>	<u>1,720.64</u>	<u>1,720.09</u>	<u>1,884.22</u>	<u>1,720.64</u>	<u>1,720.64</u>	- 181.51
<b>TOTAL</b>	<b>67,539.03</b>	<b>68,085.00</b>	<b>68,060.57</b>	<b>68,079.61</b>	<b>67,760.60</b>	<b>68,029.46</b>	<b>68,029.46</b>	<b>490.43</b>

### Full-Time Equivalent Positions Summary by Funding Source

	2006-07 <u>Base</u>	2008-09 <u>Governor</u>	2008-09 <u>Jt. Finance</u>	2008-09 <u>Senate</u>	2008-09 <u>Assembly</u>	2008-09 <u>Legislature</u>	2008-09 <u>Act 20</u>	Act 20 Change to Base
GPR	34,678.86	35,030.60	35,080.66	35,039.27	34,836.45	35,077.41	35,077.41	398.55
FED	9,654.36	9,518.89	9,552.40	9,536.79	9,573.11	9,539.40	9,539.40	- 114.96
PR	18,051.39	18,325.17	18,206.45	18,305.59	18,171.96	18,212.34	18,212.34	160.95
SEG	<u>5,154.42</u>	<u>5,210.34</u>	<u>5,221.06</u>	<u>5,197.96</u>	<u>5,179.08</u>	<u>5,200.31</u>	<u>5,200.31</u>	<u>45.89</u>
<b>TOTAL</b>	<b>67,539.03</b>	<b>68,085.00</b>	<b>68,060.57</b>	<b>68,079.61</b>	<b>67,760.60</b>	<b>68,029.46</b>	<b>68,029.46</b>	<b>490.43</b>

## TABLE 5

### Comparative Summary of Full-Time Equivalent Positions

#### All Funds Comparison

	<u>2006-07</u> <u>Base</u>	<u>2008-09</u> <u>Governor</u>	<u>2008-09</u> <u>Jt. Finance</u>	<u>2008-09</u> <u>Senate</u>	<u>2008-09</u> <u>Assembly</u>	<u>2008-09</u> <u>Conf. Comm</u>	<u>2008-09</u> <u>Act 20</u>
Authorized Positions	67,539.03	68,085.00	68,060.57	68,079.61	67,760.60	68,029.46	68,029.46
Change to Base		545.97	521.54	540.58	221.57	490.43	490.43
Change to Governor			- 24.43	- 5.39	- 324.40	- 55.54	- 55.54
Change to Jt. Finance				19.04	- 299.97	- 31.11	- 31.11
Change to Senate					- 319.01	- 50.15	- 50.15
Change to Assembly						268.86	268.86
Change to Conference Committee							0.00

#### General Fund Comparison

	<u>2006-07</u> <u>Base</u>	<u>2008-09</u> <u>Governor</u>	<u>2008-09</u> <u>Jt. Finance</u>	<u>2008-09</u> <u>Senate</u>	<u>2008-09</u> <u>Assembly</u>	<u>2008-09</u> <u>Conf. Comm</u>	<u>2008-09</u> <u>Act 20</u>
Authorized Positions	34,678.86	35,030.60	35,080.66	35,039.27	34,836.45	35,077.41	35,077.41
Change to Base		351.74	401.80	360.41	157.59	398.55	398.55
Change to Governor			50.06	8.67	- 194.15	46.81	46.81
Change to Jt. Finance				- 41.39	- 244.21	- 3.25	- 3.25
Change to Senate					- 202.82	38.14	38.14
Change to Assembly						240.96	240.96
Change to Conference Committee							0.00

## **OVERVIEW**

### **GENERAL FUND BUDGET AND POSITION SUMMARIES**





## TABLE 6

### 2007-09 General Fund Condition Statement

	<u>2007-08</u>	<u>2008-09</u>
<b>Revenues</b>		
Opening Balance, July 1	\$66,288,000 *	\$66,986,400
Estimated Taxes	13,100,075,000	13,626,200,000
Departmental Revenues		
Tribal Gaming Revenues	96,731,600	46,250,700
Other	<u>428,177,700</u>	<u>434,968,800</u>
Total Available	\$13,691,272,300	\$14,174,405,900
<b>Appropriations and Reserves</b>		
Gross Appropriations	\$13,823,963,200	\$14,212,099,000
Compensation Reserves	62,759,600	156,617,900
Less Lapses	<u>-262,436,900</u>	<u>-262,022,300</u>
Net Appropriations	\$13,624,285,900	\$14,106,694,600
<b>Balances</b>		
Gross Balance	\$66,986,400	\$67,711,300
Less Required Statutory Balance	<u>-65,000,000</u>	<u>-65,000,000</u>
Net Balance, June 30	\$1,986,400	\$2,711,300

\*In addition, \$55.6 million of the 2006-07 ending balance has been transferred to the budget stabilization fund pursuant to s. 16.518 of the statutes.

**TABLE 7****Estimated 2007-09 General Fund Taxes**

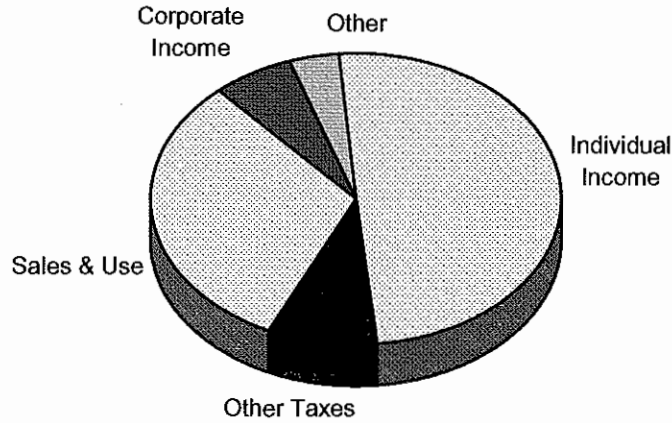
<u>Tax Source</u>	<u>2007-08</u>	<u>2008-09</u>	<u>2007-09</u>	<u>% of Total</u>
Individual Income	\$6,758,800,000	\$7,105,500,000	\$13,864,300,000	51.9%
Sales and Use	4,310,000,000	4,479,400,000	8,789,400,000	32.9
Corporate Income and Franchise	887,775,000	860,300,000	1,748,075,000	6.5
Public Utility	297,200,000	314,400,000	611,600,000	2.3
Excise				
Cigarette	456,500,000	531,000,000	987,500,000	3.7
Liquor and Wine	42,500,000	43,000,000	85,500,000	0.3
Tobacco Products	28,900,000	41,200,000	70,100,000	0.3
Beer	9,400,000	9,400,000	18,800,000	0.1
Insurance Company	141,000,000	144,000,000	285,000,000	1.1
Estate	95,000,000	25,000,000	120,000,000	0.4
Miscellaneous	<u>73,000,000</u>	<u>73,000,000</u>	<u>146,000,000</u>	<u>0.5</u>
<b>TOTAL</b>	<b>\$13,100,075,000</b>	<b>\$13,626,200,000</b>	<b>\$26,726,275,000</b>	<b>100.0%</b>

**TABLE 8****Estimated 2007-09 Departmental Revenues**

	<u>2007-08</u>	<u>2008-09</u>	<u>2007-09</u>
Administration	\$244,649,300	\$211,359,600	\$456,008,900
Agriculture, Trade and Consumer Protection	120,800	120,800	241,600
Circuit Courts	48,000,000	48,000,000	96,000,000
Commerce	322,900	42,200	365,100
Corrections	4,195,300	4,245,300	8,440,600
Court of Appeals	233,000	233,000	466,000
Educational Communications Board	10,000	10,000	20,000
Financial Institutions	6,318,400	46,069,200	52,387,600
Health and Family Services	24,264,600	24,164,600	48,429,200
Higher Educational Aids Board	42,000	42,000	84,000
Insurance	1,915,800	1,915,800	3,831,600
Interest Earnings	36,800,000	38,200,000	75,000,000
Justice	1,083,600	1,083,600	2,167,200
Miscellaneous Appropriations	5,600,000	5,600,000	11,200,000
Natural Resources	6,991,000	6,891,000	13,882,000
Public Instruction	2,109,400	2,201,800	4,311,200
Public Service Commission	1,660,800	1,660,900	3,321,700
Regulation and Licensing	4,756,000	2,494,500	7,250,500
Revenue	17,702,300	19,255,700	36,958,000
Secretary of State	113,400	89,700	203,100
Shared Revenue and Tax Relief	10,341,400	10,341,400	20,682,800
Supreme Court	58,600	58,600	117,200
Tribal Gaming	96,731,600	46,250,700	142,982,300
UW System	10,099,600	10,099,600	20,199,200
Veterans Affairs	470,000	470,000	940,000
Wisconsin Technical College System	56,600	56,600	113,200
Workforce Development	<u>262,900</u>	<u>262,900</u>	<u>525,800</u>
<b>TOTAL</b>	<b>\$524,909,300</b>	<b>\$481,219,500</b>	<b>\$1,006,128,800</b>

**FIGURE 3**

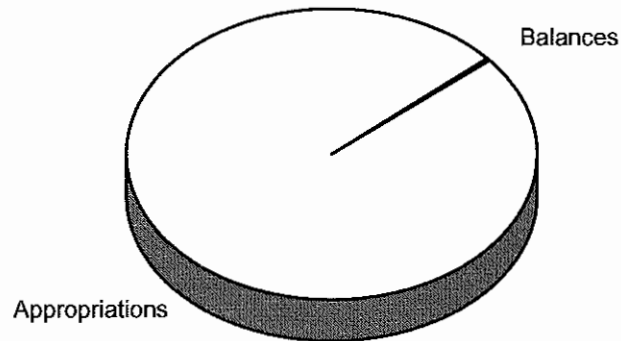
**Estimated 2007-09 General Fund Revenues**



<u>Tax Source</u>	<u>Amount</u>	<u>Percent of Total</u>
Individual Income	\$13,864,300,000	49.9%
Sales and Use	8,789,400,000	31.6
Corporate Income and Franchise	1,748,075,000	6.3
Public Utility	611,600,000	2.2
Excise		
Cigarette	987,500,000	3.5
Liquor and Wine	85,500,000	0.3
Tobacco Products	70,100,000	0.3
Beer	18,800,000	0.1
Insurance	285,000,000	1.0
Estate	120,000,000	0.4
Miscellaneous	146,000,000	0.5
Total--Taxes	<u>\$26,726,275,000</u>	<u>96.1%</u>
<u>Other</u>		
Opening Balance, July 1, 2007	\$66,288,000	0.3%
Departmental Revenues	<u>1,006,128,800</u>	<u>3.6</u>
Total--Other	<u>\$1,072,416,800</u>	<u>3.9%</u>
<b>GRAND TOTAL</b>	<b>\$27,798,691,800</b>	<b>100.0%</b>

## FIGURE 4

### Use of 2007-09 General Fund Revenues



<u>Use</u>	<u>Amount</u>	<u>Percent of Total</u>
Appropriations	(\$28,255,439,700)	(99.8%)
Gross Appropriations	28,036,062,200	99.0
Compensation Reserves	219,377,500	0.8
Balances	(\$67,711,300)	(0.2%)
Statutory Balance	65,000,000	0.2
Net Balance	<u>2,711,300</u>	<u>&lt; 0.1</u>
<b>GROSS TOTAL</b>	<b>\$28,323,151,000</b>	<b>100.0%</b>
Less Lapses	<u>-524,459,200</u>	
<b>NET TOTAL</b>	<b>\$27,798,691,800</b>	

**TABLE 9**

**Summary of General Fund Appropriations by Agency**

<u>Agency</u>	<u>2006-07 Adjusted Base Doubled</u>	<u>2007-09 Governor</u>	<u>2007-09 Jt. Finance</u>	<u>2007-09 Senate</u>	<u>2007-09 Assembly</u>	<u>2007-09 Conf Comm Legislature</u>	<u>2007-09 Act 20</u>	<u>2007-09 Act 20 Change Over Base</u>	
								<u>Amount</u>	<u>%</u>
Administration	\$421,058,200	\$433,032,100	\$433,318,000	\$433,558,000	\$424,247,800	\$431,205,600	\$431,205,600	\$10,147,400	2.4%
Agriculture, Trade & Consumer Prot.	55,708,400	60,779,800	59,286,400	59,993,200	55,334,800	60,081,000	60,081,000	4,372,600	7.8
Arts Board	4,863,600	4,940,400	4,980,400	4,980,400	4,940,400	4,980,400	4,980,400	116,800	2.4
Board for People with Developmental Disabilities	0	0	0	30,000	0	30,000	30,000	30,000	N.A.
Board on Aging and Long-Term Care	1,800,200	2,106,600	2,106,600	2,106,600	1,752,600	2,106,600	2,106,600	306,400	17.0
Building Commission	67,639,200	94,962,800	85,711,500	85,711,500	85,711,500	85,711,500	85,711,500	18,072,300	26.7
Child Abuse and Neglect Prevention Bd.	680,000	680,000	2,120,100	2,120,100	680,000	2,120,100	2,120,100	1,440,100	211.8
Children and Families	0	313,349,700	308,939,200	309,817,900	0	307,887,600	307,887,600	307,887,600	N.A.
Circuit Courts	167,157,400	177,650,500	177,650,500	177,650,500	177,620,800	177,880,700	177,880,700	10,723,300	6.4
Commerce	45,088,600	46,276,400	47,134,000	46,909,000	38,466,100	46,909,000	46,909,000	1,820,400	4.0
Compensation Reserves	---	240,331,200	240,331,200	240,331,200	146,141,600	219,377,500	219,377,500	219,377,500	N.A.
Corrections	1,872,798,800	2,161,081,400	2,154,424,300	2,153,959,400	2,093,339,300	2,167,424,300	2,167,424,300	294,625,500	15.7
Court of Appeals	17,634,200	19,054,000	19,054,000	19,054,000	19,054,000	19,054,000	19,054,000	1,419,800	8.1
District Attorneys	82,424,600	85,220,400	85,270,800	85,499,500	85,295,600	85,589,100	85,589,100	3,164,500	3.8
Educational Communications Board	15,436,000	16,136,500	16,136,500	16,136,500	11,285,100	16,136,500	16,136,500	700,500	4.5
Elections Board	1,921,200	4,056,200	0	0	0	0	0	-1,921,200	-100.0
Employee Trust Funds	3,665,200	2,896,800	2,869,100	2,869,100	2,149,900	2,869,100	2,869,100	-796,100	-21.7
Employment Relations Commission	4,880,200	5,408,000	5,175,200	5,175,200	5,175,200	5,175,200	5,175,200	295,000	6.0
Environmental Improvement Fund	92,092,400	94,583,300	94,583,300	94,583,300	94,583,300	94,583,300	94,583,300	2,490,900	2.7
Ethics Board	572,000	636,600	0	0	0	0	0	-572,000	-100.0
Government Accountability Board	0	0	4,879,100	4,879,100	4,879,100	4,879,100	4,879,100	4,879,100	N.A.
Governor	7,733,200	8,806,200	8,806,200	8,806,200	8,087,000	8,095,600	8,095,600	362,400	4.7
Health and Family Services	5,426,421,000	4,639,747,200	4,638,954,800	4,642,534,300	5,479,826,800	5,126,546,100	5,126,546,100	-299,874,900	-5.5
Higher Educational Aids Board	198,489,800	242,285,300	242,285,300	242,285,300	201,591,600	242,285,300	242,285,300	43,795,500	22.1
Historical Society	24,018,800	28,699,800	28,636,900	28,636,900	28,040,100	28,636,900	28,636,900	4,618,100	19.2
Judicial Commission	489,200	501,800	478,200	478,200	478,200	478,200	478,200	-11,000	-2.2
Judicial Council	0	0	201,200	201,200	201,200	201,200	201,200	201,200	N.A.
Justice	69,550,000	77,378,000	81,519,300	81,519,300	83,380,700	81,519,300	81,519,300	11,969,300	17.2
Legislature	133,937,000	138,121,800	137,542,300	137,542,300	137,196,600	137,542,300	137,542,300	3,605,300	2.7
Lieutenant Governor	805,400	816,400	816,400	816,400	816,400	816,400	816,400	11,000	1.4

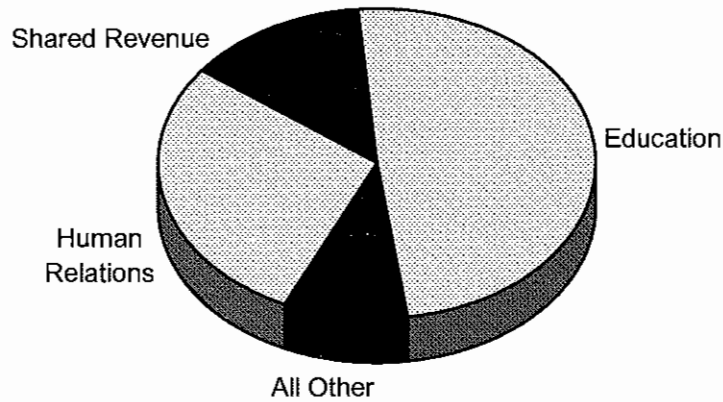
**TABLE 9 (continued)**

**Summary of General Fund Appropriations by Agency**

<u>Agency</u>	<u>2006-07 Adjusted Base Doubled</u>	<u>2007-09 Governor</u>	<u>2007-09 Jt. Finance</u>	<u>2007-09 Senate</u>	<u>2007-09 Assembly</u>	<u>2007-09 Conf Comm Legislature</u>	<u>2007-09 Act 20</u>	<u>2007-09 Act 20 Change Over Base</u>	
								<u>Amount</u>	<u>%</u>
Lower Fox River Remediation Authority	\$0	\$0	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	N.A.
Medical College of Wisconsin	14,972,800	17,514,100	15,014,100	15,014,100	15,014,100	15,014,100	15,014,100	41,300	0.3%
Military Affairs	41,130,400	39,538,300	38,411,800	40,363,700	41,954,400	42,315,600	42,315,600	1,185,200	2.9
Miscellaneous Appropriations	228,566,600	261,800,100	261,696,300	275,369,300	290,168,800	286,850,300	286,850,300	58,283,700	25.5
Natural Resources	297,572,400	309,820,100	309,154,300	310,083,800	303,352,900	310,984,300	310,984,300	13,411,900	4.5
Office of State Employment Relations	9,842,400	10,476,000	10,476,000	10,476,000	10,476,000	10,476,000	10,476,000	633,600	6.4
Program Supplements	57,612,000	18,418,100	38,603,300	38,603,300	29,353,300	30,603,300	30,603,300	- 27,008,700	- 46.9
Public Defender	152,033,600	157,463,400	158,984,200	158,984,200	158,637,700	158,984,200	158,984,200	6,950,600	4.6
Public Instruction	10,873,551,800	11,202,347,900	11,189,938,900	11,256,117,000	11,156,240,900	11,106,778,300	11,106,778,300	233,226,500	2.1
Revenue	167,412,000	180,959,600	180,803,600	180,803,600	174,713,600	178,103,600	178,103,600	10,691,600	6.4
Shared Revenue and Tax Relief	3,231,007,200	3,502,993,400	3,546,661,200	3,546,661,200	3,522,952,300	3,804,753,200	3,805,053,200	574,046,000	17.8
State Fair Park Board	4,927,600	4,953,100	4,953,100	4,953,100	4,953,100	4,953,100	4,953,100	25,500	0.5
Supreme Court	25,417,000	27,952,400	27,952,400	27,952,400	27,601,600	27,954,600	27,954,600	2,537,600	10.0
Tourism	6,818,600	7,182,600	7,151,600	7,151,600	7,134,000	7,151,600	7,151,600	333,000	4.9
Transportation	137,319,800	106,005,100	106,005,100	149,305,100	175,905,100	175,905,100	175,905,100	38,585,300	28.1
University of Wisconsin System	2,054,135,400	2,236,805,600	2,235,205,600	2,240,870,400	2,116,452,100	2,237,870,400	2,237,870,400	183,735,000	8.9
Veterans Affairs	4,214,400	5,394,900	4,906,700	5,071,700	4,906,700	5,071,700	5,071,700	857,300	20.3
Wisconsin Technical College System	281,811,600	287,305,800	284,308,000	284,806,500	267,869,800	285,305,000	285,305,000	3,493,400	1.2
Workforce Development	<u>356,873,600</u>	<u>206,393,200</u>	<u>204,693,200</u>	<u>205,565,100</u>	<u>357,804,600</u>	<u>205,843,400</u>	<u>205,843,400</u>	<u>- 151,030,200</u>	<u>- 42.3</u>
<b>TOTAL</b>	<b>\$26,662,083,800</b>	<b>\$27,482,862,900</b>	<b>\$27,508,230,200</b>	<b>\$27,646,436,700</b>	<b>\$27,855,866,700</b>	<b>\$28,255,139,700</b>	<b>\$28,255,439,700</b>	<b>\$1,593,355,900</b>	<b>6.0%</b>

**FIGURE 5**

**2007-09 General Fund Appropriations  
By Functional Area**

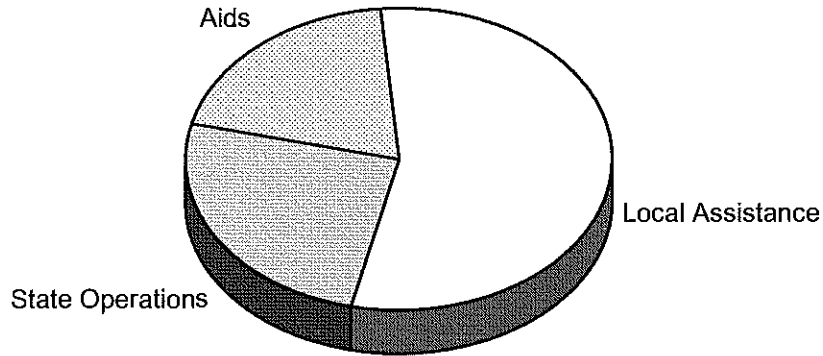


<u>Functional Area</u>	<u>Amount</u>	<u>Percent of Total</u>
Education	\$13,937,006,900	49.3%
Human Relations and Resources	8,031,629,000	28.4
Shared Revenue and Tax Relief	3,805,053,200	13.5
All Other		
General Executive	795,429,600	2.8
Environmental Resources	588,724,300	2.1
General Appropriations	403,165,100	1.4
Compensation Reserves	219,377,500	0.8
Judicial	225,568,700	0.8
Legislative	137,542,300	0.5
Commerce	<u>111,943,100</u>	<u>0.4</u>
<b>TOTAL</b>	<b>\$28,255,439,700</b>	<b>100.0%</b>



**FIGURE 6**

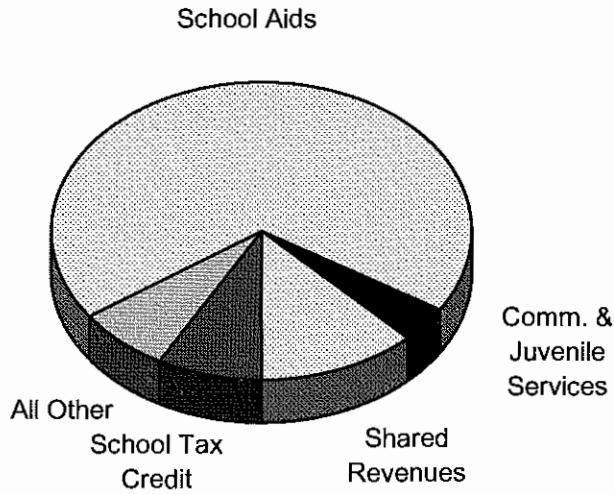
**2007-09 General Fund Appropriations  
By Purpose**



<u>Purpose</u>	<u>Amount</u>	<u>Percent of Total</u>
Local Assistance	\$15,574,608,100	55.1%
State Operations	(7,077,167,800)	(25.1)
UW System	2,203,350,900	7.8
Other Programs	4,654,439,400	16.5
Compensation Reserves	219,377,500	0.8
Aids to Individuals and Organizations	<u>5,603,663,800</u>	<u>19.8</u>
TOTAL	\$28,255,439,700	100.0%

**FIGURE 7**

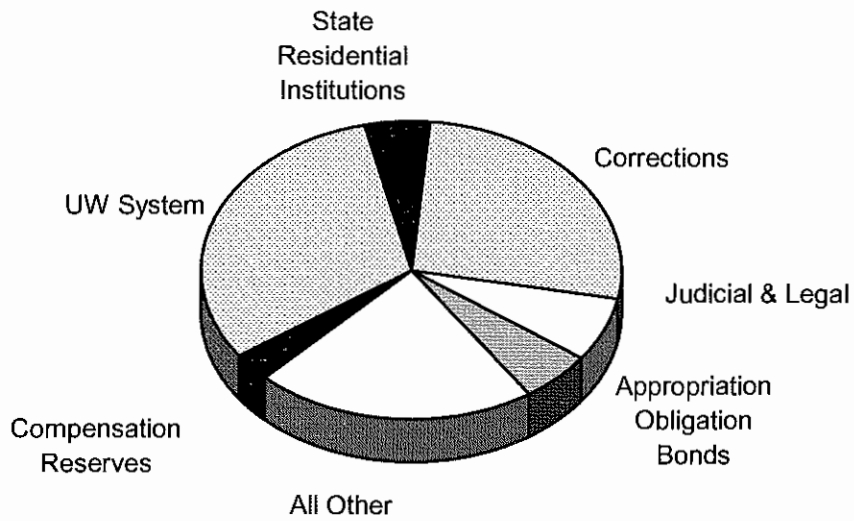
**2007-09 General Fund Appropriations  
Local Assistance**



<u>Program</u>	<u>Amount</u>	<u>Percent of Total</u>
Elementary & Secondary School Aids	\$10,699,940,600	68.7%
Shared Revenues	1,904,482,600	12.2
School Levy Tax Credit	1,265,450,000	8.1
Community & Juvenile Correctional Services	592,370,400	3.8
Technical College System Aids	272,458,400	1.8
Environmental Aid	254,220,900	1.6
Long-Term Care Programs	188,642,400	1.2
Other	<u>397,042,800</u>	<u>2.6</u>
<b>TOTAL</b>	<b>\$15,574,608,100</b>	<b>100.0%</b>

**FIGURE 8**

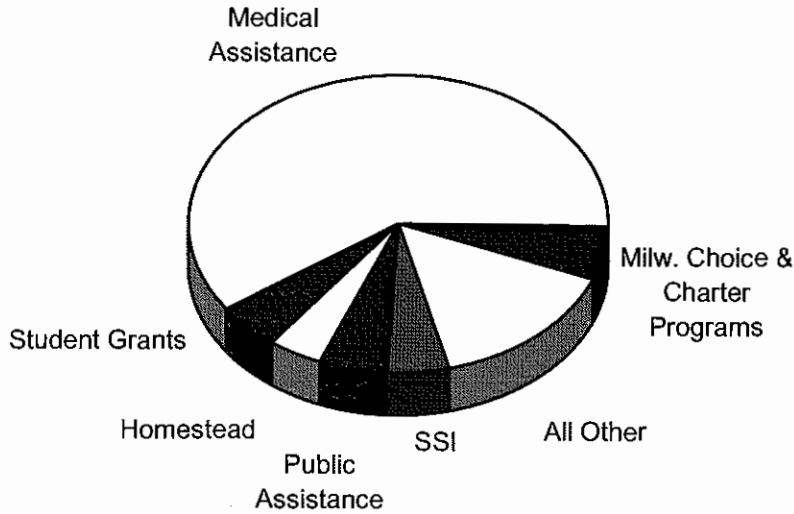
**2007-09 General Fund Appropriations  
State Operations**



<u>Program</u>	<u>Amount</u>	<u>Percent of Total</u>
UW System	\$2,203,350,900	31.1%
Correctional Operations	1,895,276,700	26.8
Judicial and Legal Services	496,659,000	7.0
Appropriation Obligation Bonds	391,462,400	5.5
State Residential Institutions	347,615,100	4.9
Compensation Reserves	219,377,500	3.1
H&FS/Workforce Development	201,408,000	2.9
Tax Administration	178,103,600	2.5
Transportation Debt Service	175,905,100	2.5
Natural Resources	161,456,500	2.3
Legislature	137,542,300	1.9
Other	<u>669,010,700</u>	<u>9.5</u>
<b>TOTAL</b>	<b>\$7,077,167,800</b>	<b>100.0%</b>

**FIGURE 9**

**2007-09 General Fund Appropriations  
Aids to Individuals and Organizations**



<u>Program</u>	<u>Amount</u>	<u>Percent of Total</u>
Medical Assistance	\$3,357,265,100	59.9%
Milw. Parental Choice & Charter School Programs	334,280,500	6.0
Public Assistance	300,217,200	5.3
Student Grants and Aids	284,301,900	5.1
Supplemental Security Income	269,572,100	4.8
Homestead Tax Credit	222,100,000	4.0
Other Individual Tax Credits	189,010,400	3.4
Prescription Drugs Assistance for Elderly	116,055,700	2.1
Foster Care and Adoptions Services	98,468,500	1.7
Milwaukee Child Welfare	24,837,400	0.4
Other	<u>407,555,000</u>	<u>7.3</u>
<b>TOTAL</b>	<b>\$5,603,663,800</b>	<b>100.0%</b>

**TABLE 10**

**Distribution of 2007-09 General Fund Appropriations**

	2007-08			2008-09			Total		
	Amount	% of Category	% of Total	Amount	% of Category	% of Total	Amount	% of Category	% of Total
<b>LOCAL ASSISTANCE</b>									
Elementary & Secondary School Aids	\$5,291,218,500	69.0%	38.1%	\$5,408,722,100	68.4%	37.6%	\$10,699,940,600	68.7%	37.9%
Shared Revenues	951,991,300	12.4	6.8	952,491,300	12.1	6.6	1,904,482,600	12.2	6.7
School Levy Tax Credit	593,050,000	7.7	4.3	672,400,000	8.5	4.7	1,265,450,000	8.1	4.5
Community & Juvenile Correctional Services	300,116,200	3.9	2.2	292,254,200	3.7	2.0	592,370,400	3.8	2.1
Technical College System Aids	136,229,200	1.8	1.0	136,229,200	1.7	1.0	272,458,400	1.8	0.9
Environmental Aids	125,149,300	1.6	0.9	129,071,600	1.6	0.9	254,220,900	1.6	0.9
Long-Term Care Programs	94,321,200	1.2	0.7	94,321,200	1.2	0.7	188,642,400	1.2	0.7
Other	179,189,700	2.4	1.3	217,853,100	2.8	1.5	397,042,800	2.6	1.4
<b>TOTAL--LOCAL ASSISTANCE</b>	<b>\$7,671,265,400</b>	<b>100.0%</b>	<b>55.3%</b>	<b>\$7,903,342,700</b>	<b>100.0%</b>	<b>55.0%</b>	<b>\$15,574,608,100</b>	<b>100.0%</b>	<b>55.1%</b>
<b>STATE OPERATIONS</b>									
UW System	\$1,081,737,400	31.4%	7.8%	\$1,121,613,500	30.9%	7.8%	\$2,203,350,900	31.1%	7.8%
Correctional Operations	947,562,600	27.5	6.8	947,714,100	26.1	6.6	1,895,276,700	26.8	6.7
Judicial and Legal Services	248,825,800	7.2	1.8	247,833,200	6.8	1.7	496,659,000	7.0	1.7
Appropriation Obligation Bonds	190,833,100	5.5	1.4	200,629,300	5.5	1.4	391,462,400	5.5	1.4
State Residential Institutions	171,533,400	5.0	1.2	176,081,700	4.9	1.2	347,615,100	4.9	1.3
Compensation Reserves	62,759,600	1.8	0.5	156,617,900	4.3	1.1	219,377,500	3.1	0.8
H&FS/Workforce Development	113,423,800	3.3	0.8	87,984,200	2.4	0.6	201,408,000	2.9	0.7
Tax Administration	87,701,800	2.5	0.6	90,401,800	2.5	0.6	178,103,600	2.5	0.6
Transportation Debt Service	85,490,700	2.5	0.6	90,414,400	2.5	0.6	175,905,100	2.5	0.6
Natural Resources	77,799,300	2.3	0.6	83,657,200	2.3	0.6	161,456,500	2.3	0.6
Legislature	69,177,300	2.0	0.5	68,365,000	1.9	0.5	137,542,300	1.9	0.5
Other	308,576,000	9.0	2.2	360,434,700	9.9	2.5	669,010,700	9.5	2.4
<b>TOTAL--STATE OPERATIONS</b>	<b>\$3,445,420,800</b>	<b>100.0%</b>	<b>24.8%</b>	<b>\$3,631,747,000</b>	<b>100.0%</b>	<b>25.2%</b>	<b>\$7,077,167,800</b>	<b>100.0%</b>	<b>25.1%</b>
<b>AIDS TO INDIVIDUALS AND ORGANIZATIONS</b>									
Medical Assistance	\$1,682,533,200	60.7%	12.1%	\$1,674,731,900	59.1%	11.7%	\$3,357,265,100	59.9%	11.9%
Milw. Parental Choice & Charter School Programs	160,597,500	5.8	1.2	173,683,000	6.1	1.2	334,280,500	6.0	1.2
Public Assistance	150,108,600	5.4	1.1	150,108,600	5.3	1.1	300,217,200	5.3	1.1
Student Grants and Aids	137,935,200	5.0	1.0	146,366,700	5.2	1.0	284,301,900	5.1	1.0
Supplemental Security Income	133,684,900	4.8	1.0	135,887,200	4.8	0.9	269,572,100	4.8	0.9
Homestead Tax Credit	113,300,000	4.1	0.8	108,800,000	3.8	0.8	222,100,000	4.0	0.8
Other Individual Tax Credits	84,574,600	3.1	0.6	104,435,800	3.7	0.7	189,010,400	3.4	0.7
Prescription Drugs Assistance for Elderly	54,229,100	2.0	0.3	61,826,600	2.2	0.4	116,055,700	2.1	0.4
Foster Care and Adoption Assistance	48,059,700	1.7	0.3	50,408,800	1.8	0.4	98,468,500	1.7	0.3
Milwaukee Child Welfare	12,418,700	0.4	0.1	12,418,700	0.4	0.1	24,837,400	0.4	0.1
Other	192,595,100	7.0	1.4	214,959,900	7.6	1.5	407,555,000	7.3	1.4
<b>TOTAL--AIDS</b>	<b>\$2,770,036,600</b>	<b>100.0%</b>	<b>19.9%</b>	<b>\$2,833,627,200</b>	<b>100.0%</b>	<b>19.8%</b>	<b>\$5,603,663,800</b>	<b>100.0%</b>	<b>19.8%</b>
<b>GRAND TOTAL</b>	<b>\$13,886,722,800</b>		<b>100.0%</b>	<b>\$14,368,716,900</b>		<b>100.0%</b>	<b>\$28,255,439,700</b>		<b>100.0%</b>

**TABLE 11**

**Ten Largest General Fund Programs for 2007-09**

	2007-08			2008-09			Total		
	Amount	% of Total	Cumulative % of Total	Amount	% of Total	Cumulative % of Total	Amount	% of Total	Cumulative % of Total
Elementary & Secondary School Aids	\$5,291,218,500	38.1%	38.1%	\$5,408,722,100	37.6%	37.6%	\$10,699,940,600	37.9%	37.9%
Medical Assistance	1,682,533,200	12.1	50.2	1,674,731,900	11.7	49.3	3,357,265,100	11.9	49.8
UW System	1,081,737,400	7.8	58.0	1,121,613,500	7.8	57.1	2,203,350,900	7.8	57.6
Shared Revenues	951,991,300	6.8	64.9	952,491,300	6.6	63.7	1,904,482,600	6.7	64.3
Correctional Operations	947,562,600	6.8	71.7	947,714,100	6.6	70.3	1,895,276,700	6.7	71.0
School Levy Tax Credit	593,050,000	4.3	76.0	672,400,000	4.7	75.0	1,265,450,000	4.5	75.5
Community & Juvenile Correctional Services	300,116,200	2.2	78.1	292,254,200	2.0	77.0	592,370,400	2.1	77.6
Judicial and Legal Services	248,825,800	1.8	79.9	247,833,200	1.7	78.8	496,659,000	1.7	79.3
Appropriation Obligation Bonds	190,833,100	1.4	81.3	200,629,300	1.4	80.2	391,462,400	1.4	80.7
State Residential Institutions	171,533,400	1.2	82.5	176,081,700	1.2	81.4	347,615,100	1.2	81.9
Subtotal	\$11,459,401,500	82.5%		\$11,694,471,300	81.4%		\$23,153,872,800	81.9%	
All Other Programs	2,427,321,300	17.5	100.0	2,674,245,600	18.6	100.0	5,101,566,900	18.1	100.0
GRAND TOTAL	\$13,886,722,800	100.0%		\$14,368,716,900	100.0%		\$28,255,439,700	100.0%	

**TABLE 12**

**Summary of General Fund Full-Time Equivalent Positions by Agency**

	2006-07 <u>Base</u>	2008-09 <u>Governor</u>	2008-09 <u>Jt. Finance</u>	2008-09 <u>Senate</u>	2008-09 <u>Assembly</u>	2008-09 <u>Legislature</u>	2008-09 <u>Act 20</u>	Act 20 Change to Base
Administration	93.86	99.39	99.86	97.86	84.44	91.86	91.86	- 2.00
Agriculture, Trade & Consumer Protection	219.90	215.40	220.90	217.40	219.40	222.40	222.40	2.50
Arts Board	4.00	4.00	4.00	4.00	4.00	4.00	4.00	0.00
Board on Aging and Long-Term Care	12.53	15.53	15.53	15.53	11.83	15.53	15.53	3.00
Child Abuse and Neglect Prevention Board	0.00	0.00	1.00	1.00	0.00	1.00	1.00	1.00
Children and Families	0.00	165.67	168.30	165.67	0.00	168.30	168.30	168.30
Circuit Courts	511.00	511.00	511.00	511.00	513.00	513.00	513.00	2.00
Commerce	61.80	63.80	61.80	61.80	55.50	61.80	61.80	0.00
Corrections	9,249.62	9,493.87	9,494.22	9,487.72	9,307.89	9,494.22	9,494.22	244.60
Court of Appeals	75.50	75.50	75.50	75.50	75.50	75.50	75.50	0.00
District Attorneys	376.40	376.40	376.40	378.80	376.50	380.90	380.90	4.50
Educational Communications Board	37.44	37.44	37.44	37.44	37.44	37.44	37.44	0.00
Elections Board	11.00	11.00	0.00	0.00	0.00	0.00	0.00	- 11.00
Employee Trust Funds	3.50	0.00	0.00	0.00	0.00	0.00	0.00	- 3.50
Employment Relations Commission	18.50	21.00	19.00	19.00	19.00	19.00	19.00	0.50
Ethics Board	2.30	2.30	0.00	0.00	0.00	0.00	0.00	- 2.30
Government Accountability Board	0.00	0.00	14.30	14.30	14.30	14.30	14.30	14.30
Governor	37.25	41.25	41.25	41.25	37.12	37.25	37.25	0.00
Health and Family Services	2,150.57	2,104.13	2,113.69	2,104.13	2,295.88	2,113.69	2,113.69	- 36.88
Higher Educational Aids Board	11.86	10.50	10.50	10.50	9.50	10.50	10.50	- 1.36
Historical Society	106.15	106.15	106.15	106.15	101.09	106.15	106.15	0.00
Judicial Commission	2.00	2.00	2.00	2.00	2.00	2.00	2.00	0.00
Judicial Council	0.00	0.00	1.00	1.00	1.00	1.00	1.00	1.00
Justice	339.08	344.58	358.08	358.08	357.08	358.08	358.08	19.00
Legislature	768.17	768.17	758.17	758.17	758.17	758.17	758.17	- 10.00
Lieutenant Governor	4.00	4.00	4.00	4.00	4.00	4.00	4.00	0.00
Military Affairs	88.82	88.82	88.82	88.82	84.58	88.82	88.82	0.00
Natural Resources	296.85	293.10	296.10	293.10	283.10	296.85	296.85	0.00
Office of State Employment Relations	50.00	49.00	50.00	49.00	50.00	50.00	50.00	0.00
Public Defender	518.45	518.45	530.45	530.45	528.95	530.45	530.45	12.00
Public Instruction	261.47	260.82	261.47	261.47	258.72	261.47	261.47	0.00
Revenue	891.38	882.33	896.38	881.33	890.13	896.38	896.38	5.00
Supreme Court	112.50	115.50	115.50	115.50	112.50	115.50	115.50	3.00
Tourism	38.40	38.40	38.40	38.40	38.20	38.40	38.40	0.00
University of Wisconsin System	18,133.58	18,133.58	18,133.58	18,133.58	18,116.58	18,133.58	18,133.58	0.00
Veterans Affairs	0.00	2.20	0.00	0.00	0.00	0.00	0.00	0.00
Wisconsin Technical College System	30.25	30.25	30.25	30.25	28.75	30.25	30.25	0.00
Workforce Development	<u>160.73</u>	<u>145.07</u>	<u>145.62</u>	<u>145.07</u>	<u>160.30</u>	<u>145.62</u>	<u>145.62</u>	- 15.11
<b>TOTAL</b>	<b>34,678.86</b>	<b>35,030.60</b>	<b>35,080.66</b>	<b>35,039.27</b>	<b>34,836.45</b>	<b>35,077.41</b>	<b>35,077.41</b>	<b>398.55</b>





**OVERVIEW**

**TRANSPORTATION FUND BUDGET**



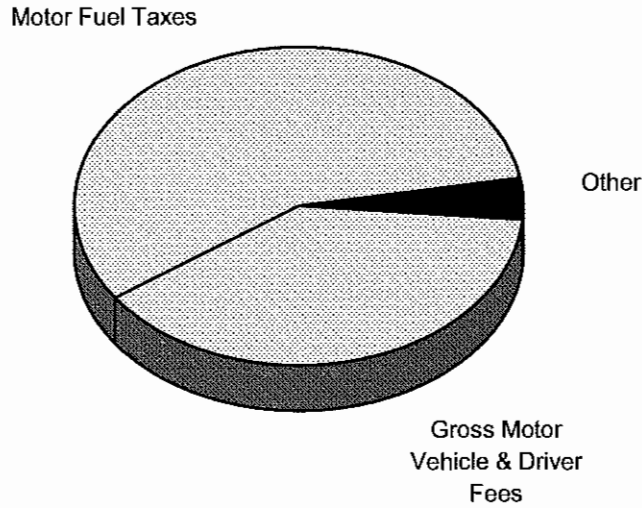
**TABLE 13****2007-09 Transportation Fund Condition Statement**

	<u>2007-08</u>	<u>2008-09</u>
Unappropriated Balance, July 1	\$13,713,000	\$1,911,500
<b>Revenues</b>		
Motor Fuel Tax	\$995,800,000	\$995,800,000
Vehicle Registration Fees	557,883,400	670,750,100
Less Revenue Bond Debt Service	-174,227,500	-180,403,000
Driver's License Fees	38,609,400	46,369,800
Miscellaneous Motor Vehicle Fees	24,300,500	24,408,500
Aeronautical Fees and Taxes	9,636,500	9,720,400
Railroad Property Taxes	19,037,200	19,418,000
Motor Carrier Fees	834,100	834,100
Investment Earnings	13,451,700	13,421,500
Miscellaneous Departmental Revenues	<u>33,662,000</u>	<u>19,870,800</u>
Total Annual Revenues	\$1,518,987,300	\$1,620,190,200
Total Available	\$1,532,700,300	\$1,622,101,700
<b>Appropriations and Reserves</b>		
DOT Appropriations	\$1,488,529,000	\$1,558,521,200
Other Agency Appropriations*	35,842,300	49,865,900
Less Estimated Lapses	-1,000,000	-1,000,000
Compensation and Other Reserves	<u>7,417,500</u>	<u>13,790,400</u>
Net Appropriations and Reserves	\$1,530,788,800	\$1,621,177,500
Unappropriated Balance, June 30	\$1,911,500	\$924,200

\*Includes \$10,605,300 in 2007-08 and \$24,328,200 in 2008-09 that was placed in the Joint Committee on Finance's supplemental appropriation.

**FIGURE 10**

**Estimated 2007-09 Transportation Fund Revenues**



<u>Source</u>	<u>Amount</u>	<u>Percent of Total</u>
Motor Fuel Taxes	\$1,991,600,000	57.0%
Gross Motor Vehicle and Driver Fees*	1,363,989,900	39.0
Railroad Taxes	38,455,200	1.1
Aeronautics Taxes and Fees	19,356,900	0.6
Miscellaneous Revenues**	<u>80,406,000</u>	<u>2.3</u>
<b>TOTAL</b>	<b>\$3,493,808,000</b>	<b>100.0%</b>

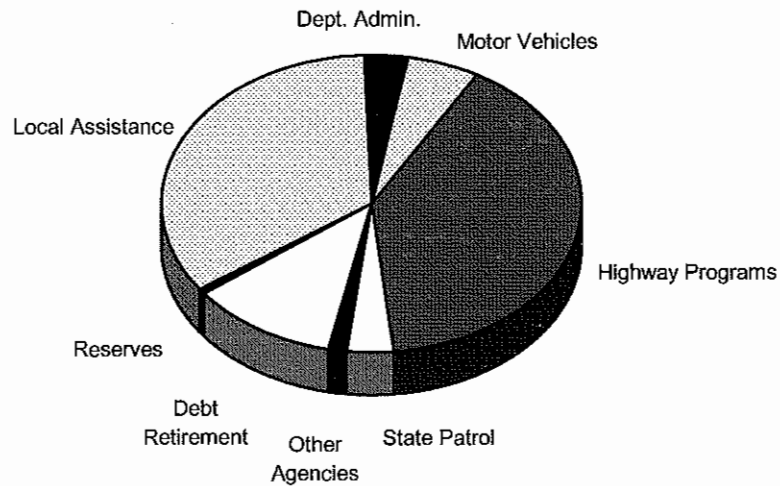
\*Total motor vehicle fees before revenue bond debt service is subtracted and deposited to a separate debt service trust fund.

\*\*Includes \$14,000,000 transferred from the petroleum inspection fund.

Note: The July 1, 2007, unappropriated balance of the transportation fund was \$13,713,000. Therefore, the total amount available in the transportation fund for the 2007-09 biennium is estimated to be \$3,507,521,000.

**FIGURE 11**

**2007-09 Transportation Fund Appropriations  
By Category**

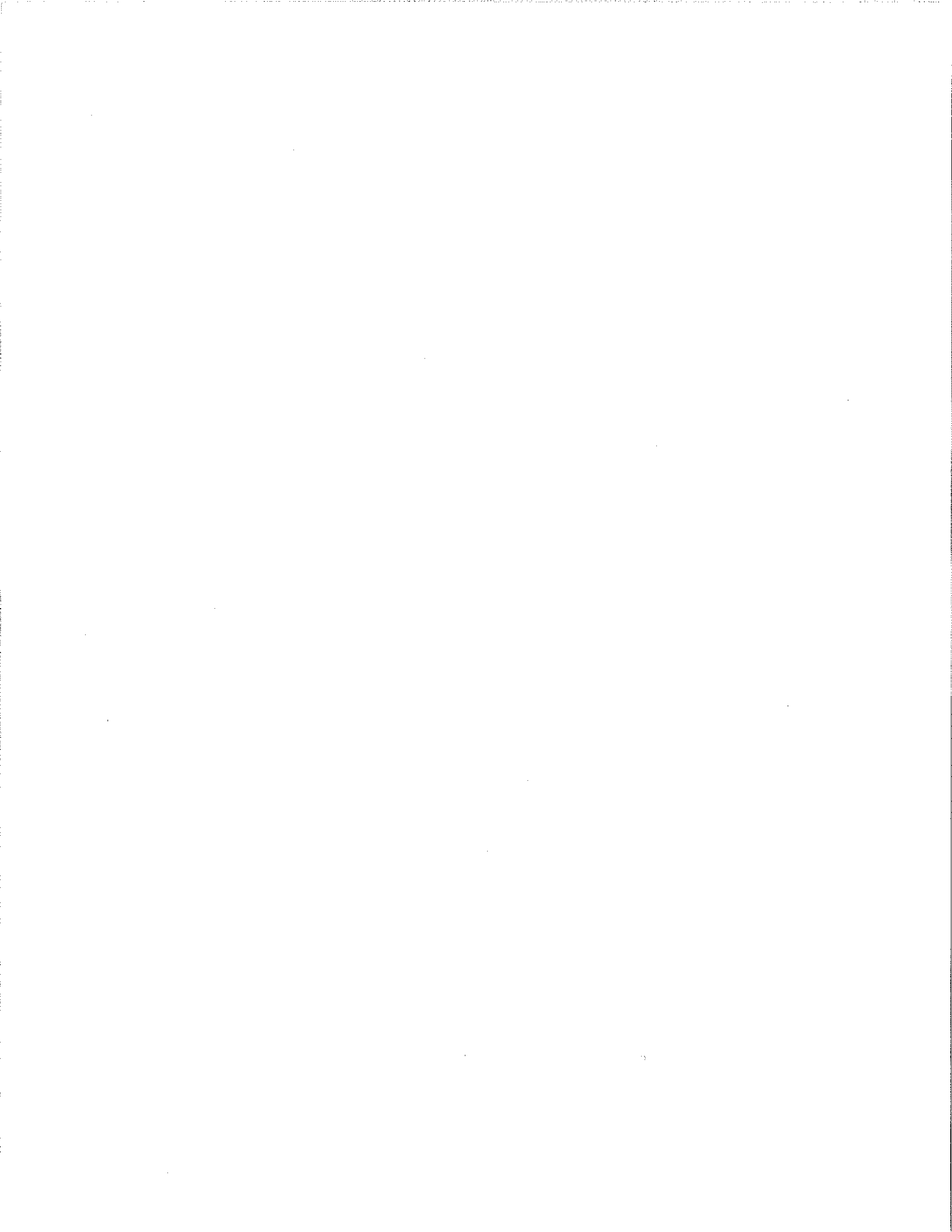


<u>Category</u>	<u>Amount</u>	<u>Percent of Total</u>
Highway Programs	\$1,406,355,900	40.1%
Local Assistance	1,191,756,300	34.0
Debt Retirement*	400,808,400	11.4
Division of Motor Vehicles	189,435,600	5.4
Departmental Administration	124,298,400	3.5
Division of State Patrol	123,959,600	3.5
Other Agencies**	50,774,700	1.4
Reserves	<u>21,207,900</u>	<u>0.6</u>
<b>TOTAL</b>	<b>\$3,508,596,800</b>	<b>100.0%</b>

\*Includes debt service on revenue bonds, which is subtracted from vehicle registration revenues prior to deposit in the transportation fund.

\*\*Amounts placed in the Joint Committee on Finance's supplemental appropriation have been subtracted from the other agency category and allocated instead to the program areas from which the supplements were transferred.

NOTE: Lapses to the transportation fund from the appropriations above are estimated to be \$2,000,000 in 2007-09. Therefore, expenditures in the 2007-09 biennium are estimated to be \$3,506,596,800.



## **OVERVIEW**

### **LOTTERY FUND BUDGET**





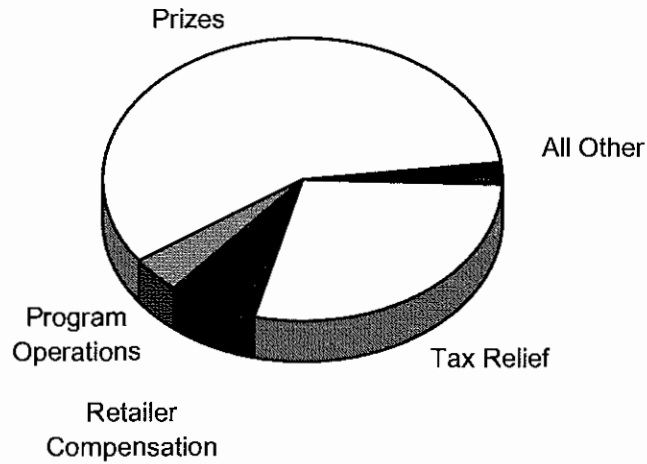
**TABLE 14****2007-09 Lottery Fund Condition Statement**

	<u>2007-08</u>	<u>2008-09</u>
Fiscal Year Opening Balance	\$9,796,700	\$10,095,700
<b>Operating Revenues</b>		
Ticket Sales	\$504,690,200	\$511,890,200
Retailer Fees and Miscellaneous	<u>96,600</u>	<u>96,600</u>
Gross Revenues	\$504,786,800	\$511,986,800
<b>Expenditures</b>		
Prizes	\$293,145,200	\$297,798,500
Retailer Compensation	35,531,700	36,053,700
Vendor Payments	12,819,100	13,002,000
General Program Operations	22,074,700	22,074,700
Appropriation for JFC Supplementation	0	235,000
Appropriation to DOJ	348,000	348,000
Appropriation to DOR	282,600	282,600
Program Reserves	<u>248,000</u>	<u>462,300</u>
Total Expenditures	\$364,449,300	\$370,256,800
<b>Net Proceeds</b>	\$140,337,500	\$141,730,000
Interest Earnings	\$3,668,500	\$3,668,500
Gaming-Related Revenue	\$333,100	\$333,100
Total Available for Tax Relief *	\$154,135,800	\$155,827,300
<b>Appropriations for Tax Relief</b>		
Lottery and Gaming Tax Credit	\$128,799,400	\$130,346,900
Farmland Tax Relief Credit	15,000,000	15,000,000
Lottery and Gaming Credit: Late Applications	<u>240,700</u>	<u>240,700</u>
Total Appropriations for Tax Relief	\$144,040,100	\$145,587,600
Gross Closing Balance	\$10,095,700	\$10,239,700
Reserve (2% of Gross Revenues)	\$10,095,700	\$10,239,700
Net Closing Balance	\$0	\$0

\* Opening balance, net proceeds, interest earnings and gaming-related revenue.

**FIGURE 12**

**2007-09 Lottery Fund Expenditures**



	<u>Amount</u>	<u>Percent of Total</u>
Operating Expenditures	(\$734,706,100)	(71.7%)
Prizes	590,943,700	57.7
Retailer Compensation	71,585,400	7.0
General Program Operations	44,384,400	4.3
Vendor Payments	25,821,100	2.5
Appropriations to DOJ and DOR	1,261,200	0.1
Program Reserves	710,300	0.1
Appropriations for Tax Relief	(\$289,627,700)	(28.3%)
Lottery Property Tax Credit	259,627,700	25.3
Farmland Tax Relief Credit	<u>30,000,000</u>	<u>2.9</u>
<b>TOTAL</b>	<b>\$1,024,333,800</b>	<b>100.0%</b>

**STATE AGENCY BUDGET SUMMARIES**

**Administration Through Health and Family Services**

## ADMINISTRATION

<b>Budget Summary</b>							
Fund	2006-07 Base Year Doubled	2007-09 Governor	2007-09 Jt. Finance	2007-09 Legislature	2007-09 Act 20	Act 20 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$421,058,200	\$433,032,100	\$433,318,000	\$431,205,600	\$431,205,600	\$10,147,400	2.4%
FED	332,257,200	335,816,000	333,165,600	333,165,600	333,165,600	908,400	0.3
PR	642,005,200	707,317,000	666,890,600	686,537,800	686,537,800	44,532,600	6.9
SEG	<u>136,166,600</u>	<u>102,913,200</u>	<u>102,913,200</u>	<u>102,913,200</u>	<u>102,913,200</u>	<u>-33,253,400</u>	-24.4
<b>TOTAL</b>	<b>\$1,531,487,200</b>	<b>\$1,579,078,300</b>	<b>\$1,536,287,400</b>	<b>\$1,553,822,200</b>	<b>\$1,553,822,200</b>	<b>\$22,335,000</b>	<b>1.5%</b>

<b>FTE Position Summary</b>						
Fund	2006-07 Base	2008-09 Governor	2008-09 Jt. Finance	2008-09 Legislature	2008-09 Act 20	Act 20 Change
						Over 2006-07 Base
GPR	93.86	99.39	99.86	91.86	91.86	-2.00
FED	90.51	58.86	63.51	63.51	63.51	-27.00
PR	833.21	969.16	844.21	844.21	844.21	11.00
SEG	<u>15.10</u>	<u>24.95</u>	<u>13.60</u>	<u>13.60</u>	<u>13.60</u>	<u>-1.50</u>
<b>TOTAL</b>	<b>1,032.68</b>	<b>1,152.36</b>	<b>1,021.18</b>	<b>1,013.18</b>	<b>1,013.18</b>	<b>-19.50</b>

### Budget Change Items

### General Agency Provisions

#### 1. STANDARD BUDGET ADJUSTMENTS

**Governor/Legislature:** Provide standard budget adjustments totaling \$390,000 GPR, \$831,600 FED and -23.0 FED positions, \$3,708,600 PR, and \$36,200 SEG in 2007-08 and \$393,600 GPR, \$76,800 FED and -27.0 FED positions, \$3,708,600

PR, and \$36,200 SEG in 2008-09. Adjustments are for: (a) turnover reduction (-\$117,100 GPR and -\$1,031,500 PR annually); (b) removal of non-continuing elements from the base (-\$857,000 FED and -23.0 FED positions in 2007-08 and -\$1,611,800 FED and -27.0 FED positions in 2008-

	Funding	Positions
GPR	\$783,600	0.00
FED	908,400	-27.00
PR	7,417,200	0.00
SEG	<u>72,400</u>	<u>0.00</u>
<b>Total</b>	<b>\$9,181,600</b>	<b>-27.00</b>

09); (c) full funding of continuing salaries and fringe benefits (\$505,100 GPR, \$1,688,600 FED, \$4,142,200 PR, and \$36,200 SEG annually); (d) reclassifications (\$2,000 GPR and \$26,400 PR in 2007-08 and \$5,600 GPR and \$26,400 PR in 2008-09); (e) overtime (\$543,300 PR annually); (f) night and weekend differential (\$28,200 PR annually); and (g) minor offsetting transfers within the same appropriation.

**2. DEBT SERVICE REESTIMATE [LFB Paper 175]**

GPR	- \$4,006,400
PR	- 2,928,700
Total	- \$6,935,100

**Governor/Legislature:** Reestimate the agency's debt service costs by -\$2,009,000 GPR and -\$1,223,300 PR in 2007-08 and -\$1,997,400 GPR and -\$1,705,400 PR in 2008-09 for the following programs: (a) general fund supported principal and interest for educational technology infrastructure in schools (-\$2,122,400 GPR in 2007-08 and -\$2,125,100 GPR in 2008-09); (b) general fund supported principal and interest for the Black Point Estate in Lake Geneva (\$113,400 GPR in 2007-08 and \$127,700 GPR in 2008-09); (c) principal repayment and interest for buildings used to house state agencies (\$515,400 PR in 2007-08 and \$28,600 PR in 2008-09); (d) principal repayment and interest for parking in Madison (\$13,200 PR in 2007-08 and \$12,800 PR in 2008-09); (e) program revenue supported principal and interest for educational technology infrastructure in schools (-\$1,746,200 PR in 2007-08 and -\$1,741,100 PR in 2008-09); and (f) program revenue supported principal and interest for educational technology infrastructure for public library boards (-\$5,700 PR annually).

**3. APPROPRIATION OBLIGATION BOND DEBT SERVICE REESTIMATE**

GPR-REV	\$48,763,100
GPR	\$9,796,200
GPR-Lapse	\$191,160,300

**Governor/Legislature:** Provide \$9,796,200 in 2008-09 to meet the required debt service appropriation level associated with the appropriation obligation bonds issued to pay the state's Wisconsin Retirement System unfunded prior service liability as well as its accumulated sick leave conversion credit program liability. This required appropriation level must equal the maximum possible payment that could be made in a given year under the debt structure associated with these obligations and all ancillary agreements related to the obligations. The funding level that is required to be appropriated by Legislature to meet this requirement in the biennium would be \$190,833,100, the current base level amount, in 2007-08 and \$200,639,300 in 2008-09.

Estimate lapses to the general fund of \$93,707,200 in 2007-08 and \$97,453,100 in 2008-09 associated with the following: (a) lapses from agency general fund operations appropriations attributable to the GPR share of debt service on the obligation bonds; and (b) lower than budgeted debt service payments on the bonds. Increase base level GPR-Earned estimates under DOA by \$21,356,400 in 2007-08 and \$27,406,700 in 2008-09 attributable to payments by SEG and PR state agencies to offset a portion of this debt service. Total GPR-Earned from these sources would be \$97,125,900 in 2007-08 and \$103,176,200 in 2008-09.

4. REALIGNMENT OF THE DIVISION OF ENERGY AND CREATION OF AN OFFICE OF ENERGY INDEPENDENCE [LFB Papers 100 and 101]

	Governor (Chg. to Base)		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
FED	\$114,000	-12.40	-\$114,000	12.40	\$0	0.00
PR	-7,600	0.05	7,600	-0.05	0	0.00
SEG	<u>-33,000,000</u>	<u>12.35</u>	<u>0</u>	<u>-12.35</u>	<u>-33,000,000</u>	<u>0.00</u>
Total	-\$32,893,600	0.00	-\$106,400	0.00	-\$33,000,000	0.00

**Governor:** Provide \$57,000 FED and -12.40 FED positions, -\$3,800 PR and 0.05 PR positions, and -\$16,500,000 SEG and 12.35 SEG positions annually for the following: (a) realignment of Division of Energy staff within the Department; (b) reestimate of energy efficiency and renewable resource public benefits revenues; and (c) the creation of an Office of Energy Independence in the Department.

*Position Realignment.* Specify funding and position realignments as follows: (a) \$57,000 FED annually for salaries and fringe benefits for 0.7 FED position annually from oil overcharge restitution funds; (b) reallocate \$1,021,100 FED from salaries and fringe benefits to local assistance from federal aids funds related to the deletion of 13.1 FED positions; (c) provide \$67,300 PR annually for salaries and fringe benefits for 1.05 PR positions annually funded from weatherization assistance funding; (d) delete \$71,100 PR annually for salaries and fringe benefits related to the deletion of 1.0 PR position funded from services to non-state agencies (an appropriation that provides repurchasing services to non-state agencies and contracts for the dissemination of health care information of hospitals and ambulatory surgery centers); and (e) reallocate \$967,900 SEG annually from supplies and services to salary and fringe benefits for the addition of 12.35 SEG positions annually paid from public benefits revenues received for administrative expenses.

*Reestimate of Public Benefits Revenues.* Reduce the estimated public electric utility contributions for energy efficiency and renewable resource grants by \$16,500,000 SEG annually. Currently, funding is provided under a segregated sum sufficient appropriation that is estimated at \$16,500,000 annually. Under prior law, effective July 1, 2007, the Department is no longer responsible for administering the energy utility energy efficiency and renewable resource programs. Instead, the Public Service Commission (PSC) must require energy utilities to spend 1.2% of their annual operating revenues to collectively establish and fund the following: (a) a statewide energy efficiency and renewable resource program, developed and administered by a vendor that is collectively agreed upon by the energy utilities; and (b) their own program for large commercial, industrial, institutional, or agricultural programs (if they chose to operate their own program for these customers).

*Creation of an Office of Energy Independence.* The Executive Budget book indicates that the Governor recommends the creation of an Office of Energy Independence, which would "...coordinate the state's efforts to grow Wisconsin's bio and renewable economies." No statutory language related to the responsibilities of the Office or the employees of the Office are

included in the bill.

*Transfer of Positions to the Public Service Commission.* Provisions of the bill would provide \$376,400 PR and 5.0 PR positions annually under the PSC and would create an energy efficiency and renewable resource programs appropriation for the Commission's costs in oversight of energy utility energy efficiency programs. The bill would specify that, on the effective date of the bill, all incumbent employees that have responsibility for administering energy conservation and efficiency and renewable resource programs in the DOA's Division of Energy, as determined by the DOA Secretary, would be transferred to the Commission. The transferred employees would maintain their status and rights earned at DOA and they would not have to undergo a probationary period under the Commission.

The bill does not delete positions in DOA's Division of Energy associated with the transfer of incumbent employees and administrative duties to the Commission. Therefore, DOA retains position authority for these 5.0 positions. The Governor's Executive Budget book does not specify the new duties of the 5.0 positions that are currently authorized in the Department for energy efficiency programs.

**Joint Finance:** Create of an Office of Energy Independence within the Department. Specify that the Office would work on initiatives that would have the following goals: (a) advance Wisconsin's vision for energy independence by generating 25% of Wisconsin power and 25% of Wisconsin transportation fuels from renewable resources by 2025; (b) capture 10% of the emerging bio-industry and renewable energy market by 2030; and (c) become a national leader in groundbreaking research that will make alternative energies more affordable and create new, good-paying jobs in Wisconsin.

Specify that the Office be staffed by an executive director and sufficient staff to carry out the following initiatives: (a) ensure and facilitate the implementation of Wisconsin's energy; (b) serve as a single-point of contact to assist businesses, local units of government and nongovernmental organizations that are pursuing bio-development, energy efficiency and energy independence; (c) identify barriers to implementation of the Wisconsin's energy independence initiatives; (d) develop energy independence policy options for consideration by the Governor and state agencies; (e) identify federal funding opportunities and facilitate applications for funding by both state/local government and private entities; and (f) serve as the state energy office and perform duties necessary to maintain federal designation and federal funding.

Delete the position realignments within the Division of Energy.

**Assembly:** Delete the provision that would create an Office of Energy Independence as follows: (a) modify the Governor's recommendation by deleting 2.0 SEG positions supported from the public benefits fund and transfer \$138,900 SEG annually from salaries and fringe benefits to supplies and service for use in low-income heating assistance grants; (b) delete 6.0 FED administrative manager position from the Department's federal aid appropriation and transfer \$427,700 FED annually from salaries and fringe benefits to supplies and services for use

in low-income heating assistance grants; (c) delete 1.0 PR position from services to nonstate government services appropriation and transfer \$71,100 from salary and fringe benefits to supplies and services; and (d) delete the creation of the Office of Energy Independence and the duties of the staff and the goals of the Office.

**Conference Committee/Legislature:** Restore Joint Finance provision.

[Act 20 Sections: 25, 35m, 117m, 215, 217, 699, 2932, 2933, and 9101(2)]

**5. LIMIT ON ADMINISTRATIVE EXPENSES FOR LOW-INCOME ENERGY ASSISTANCE [LFB Paper 100]**

**Governor:** Delete the \$1,100,000 statutory limit on the amount federal funding that can be used for DOA's expenses for administering federal grants for the low-income energy assistance program. Specify that the Department's Secretary would establish the maximum amount that could be used for administrative expenses.

**Joint Finance/Legislature:** Delete provision.

**6. FUNDING AND POSITION TRANSFERS**

**Governor/Legislature:** Provide for position transfers totaling -2.0 GPR positions, \$804,400 PR and 3.5 PR positions, and -\$162,900 SEG and -1.5 SEG positions annually. The proposed annual changes are shown in the table below. The transfers would be related to the following: (a) transfers of purchasing agent positions into the procurement services appropriation; (b) transfer of positions responsible for accounting, budgeting, and personnel services for the public benefits program to the materials and services to state agencies appropriation; (c) transfer of positions from internal IT support to statewide agency IT support appropriations; (d) transfer of internal facilities management staff to the capital planning and building construction services appropriation; (e) transfer of a geographic information service employee to the Division of Enterprise Technology; and (f) other modifications aligning the funding of positions with staff reassignments.

	Funding	Positions
GPR	\$0	- 2.00
PR	1,608,800	3.50
SEG	<u>- 325,800</u>	<u>- 1.50</u>
Total	\$1,283,000	0.00



<u>Title</u>	<u>Fund Source</u>	<u>Salary and Fringe Benefits</u>	<u>Supplies and Services</u>	<u>Total</u>	<u>Positions</u>
General Program Operations; Supervision and Management	GPR	-\$187,200	\$187,200	\$0	-2.00
Land Information	PR	-\$112,600	\$0	-\$112,600	-1.00
Justice Information System	PR	-337,100	0	-337,100	-3.55
Telecommunications Systems	PR	-775,400	0	-775,400	-7.40
Printing, mail, communication and IT services	PR	1,411,200	0	1,411,200	13.35
Procurement Services	PR	382,300	0	382,300	5.00
Materials and Services to State Agencies	PR	-197,100	197,100	0	-1.65
Capital Planning	PR	188,700	0	188,700	3.00
Financial Services	PR	113,500	0	113,500	1.00
Risk Management	PR	-66,200	0	-66,200	-1.00
Facility Operations and Maintenance; Police and Protection	PR	<u>-257,400</u>	<u>257,400</u>	<u>0</u>	<u>-4.25</u>
PR Total		\$349,900	\$454,500	\$804,400	3.50
General Program Operations; Public Benefits	SEG	<u>-\$162,900</u>	<u>\$0</u>	<u>-\$162,900</u>	<u>-1.50</u>
Total		-\$200	\$641,700	\$641,500	0.00

7. RENTAL COSTS IN STATE-OWNED FACILITIES [LFB Paper 102]

PR	\$5,357,800
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**Governor:** Provide \$2,405,300 in 2007-08 and \$2,952,500 in 2008-09 for facility operations and maintenance and police protection functions, including the following: (a) \$1,862,900 in 2007-08 and \$2,410,100 in 2008-09 for fuel and utility increases; and (b) \$542,400 annually for the Continuity of Operations Plan and the Continuity of Government initiative, related to emergency operations space and supplies and services for disaster response and preparedness planning personnel. Under current law, the Department assesses rental fees to agencies for state-owned or operated facilities, including custodial and maintenance services, minor projects, fuel and utilities, supplemental costs for child care facilities, and police and protection services.

**Joint Finance/Legislature:** Delete funding from Department of Corrections' general program operations appropriation due to payments from the Department of Administration for a portion of the lease for the Continuity of Operations Plan and the Continuity of Government initiative and the integrated business information system. [see "Corrections -- Departmentwide."]

8. PARKING COSTS IN MADISON

PR	\$240,500
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**Governor/Legislature:** Provide \$105,600 in 2007-08 and \$134,900 in 2008-09 for financing the costs of parking in Madison. Under current law, the Department establishes fees for

individuals that use the state-owned parking facilities. The fees must cover the costs of land acquisition and construction, financing, administration, maintenance, and operation of the parking facilities.

**9. DIVISION OF HEARINGS AND APPEALS**

	Funding	Positions
GPR	\$20,000	0.00
PR	480,000	2.00
Total	\$500,000	2.00

**Governor/Legislature:** Provide \$10,000 GPR and \$240,000 PR and 2.0 PR positions annually for hearings and appeals related to the following: (a) \$200,000 PR and 2.0 PR positions annually for 2.0 attorney positions that would act as Administrative Law Judges (ALJ) for Department of Corrections cases; and (b) \$10,000 GPR and \$40,000 PR annually related to increased costs of fuel, contract transcription fees, language interpreters, postage, and fees charged by the Department for the procurement services. Funding related the ALJ's would include: (a) \$124,800 PR annually for salaries; (b) \$49,900 PR annually for fringe benefits; and (c) \$25,300 PR annually for supplies and services.

Under current law, the Division of Hearings and Appeals is authorized to hear cases of the Department of Corrections under the following circumstances: (a) upon the request of either party, in a parole violation case in which a revocation is under consideration; and (b) in review of a potential violation of a condition of extended supervision. Currently, the ALJ's that hear these cases are GPR-funded. The bill would provide PR-funding and position authority. Program revenue would be generated from assessments to the Department of Corrections.

**10. RISK MANAGEMENT PROGRAMS -- CLAIMS PAYMENTS ESTIMATE**

PR	-\$6,676,000
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**Governor/Legislature:** Provide adjustments for risk management claims payment costs of -\$3,882,000 in 2007-08 and -\$2,794,000 in 2008-09. The adjustments reflect the following individual risk management program changes: (a) \$91,000 in 2007-08 and \$229,000 in 2008-09 to increase total estimated property claims payments to \$4,142,000 in 2007-08 and \$4,280,000 in 2008-09; (b) -\$3,370,000 in 2007-08 and -\$3,170,000 in 2008-09 to decrease total estimated liability claims payments to \$5,450,000 in 2007-08 and \$5,650,000 in 2008-09; and (c) -\$603,000 in 2007-08 and \$147,000 in 2008-09 to modify total estimated worker's compensation claims payments to \$15,015,000 in 2007-08 and \$15,765,000 in 2008-09. The funding modifications associated with all of these requested risk management program claims payment changes would be reflected in charges assessed to state agencies for the operation of the state's self-funded risk management program.

**11. RISK MANAGEMENT APPROPRIATION FOR OFF-DUTY PEACE OFFICERS**

**Governor/Legislature:** Modify the *Costs and Judgments* appropriation under the risk management program for off-duty peace officer costs from an annual to a sum-sufficient

appropriation. Require that, no later than 30 days after the end of each calendar quarter, DOA submit a report to the Joint Committee on Finance detailing all expenditures and encumbrances from the appropriation during that quarter. Base funding for the appropriation is \$0. No increased expenditure estimates is provided under the bill.

Under current law, an off-duty police officer in Wisconsin acting outside of his or her jurisdiction is considered to be acting in an official capacity as an officer of the state, state employee, or as an agent of the state for the purposes of civil and criminal liability and worker's compensation benefits. The costs and judgments appropriation funds the state's costs for any civil and criminal liability and worker's compensation benefits.

[Act 20 Sections: 519 and 2921]

**12. VOLUNTEER FIREFIGHTER AND EMT SERVICE AWARD PROGRAM**

GPR	\$241,600
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**Governor/Legislature:** Reestimate expenditures from the sum-sufficient appropriation for the Volunteer Firefighter and Emergency Medical Technician (EMT) Service Award program by \$49,400 in 2007-08 and \$192,200 in 2008-09.

Under current law, the volunteer Firefighter and EMT Service Award program provides a cash benefit to volunteer firefighters and EMTs who have at least 10 years of service at retirement or who are killed in the line of duty. Any municipality that operates a volunteer fire department or contracts with a volunteer fire company and any municipality that authorizes volunteer EMTs to provide services are eligible to participate in the program. Municipalities contribute annual amounts toward the benefits directly to the plan provider, and the Board must match all such municipal contributions for current service, up to a maximum of \$283.65 per year per volunteer fire fighter or EMT. The amount of the state's contribution is subject to an annual adjustment for inflation.

The state's contribution is subject to a statutory annual expenditure cap of \$2,000,000 GPR and would be prorated, if the expenditure limit were exceeded. Base level expenditures are currently estimated at \$1,592,800 annually. Under the bill, funding would be estimated at \$1,641,800 in 2007-08 and \$1,785,000 in 2008-09.

**13. RECORDS MANAGEMENT POSITION [LFB Paper 103]**

	<b>Governor (Chg. to Base)</b>		<b>Jt. Finance/Leg. (Chg. to Gov)</b>		<b>Net Change</b>	
	<b>Funding</b>	<b>Positions</b>	<b>Funding</b>	<b>Positions</b>	<b>Funding</b>	<b>Positions</b>
PR	\$322,200	1.00	-\$180,400	0.00	\$141,800	1.00

**Governor:** Provide \$161,100 and 1.0 unclassified position annually for general support of records management, privacy protection, and contract management funded from assessments

against state agencies. Funding would include \$108,200 annually for salary, \$43,300 for fringe benefits and \$9,600 annually for supplies and services.

**Joint Finance:** Delete \$90,200 annually related to providing the 1.0 records manager position under classified rather than unclassified service.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore Joint Finance provision.

#### 14. RESTORE POWER PLANT POSITIONS [LFB Paper 104]

**Governor:** Restore 23.25 power plant and wastewater treatment facility positions in DOA at the Capitol Heat and Power Plant and the Hill Farms Heating Plant in Madison.

As part of deliberations on the 2005-07 biennial budget [2005 Wisconsin Act 25], the Legislature approved a proposal to require DOA to do one of the following with respect to each state-owned power plant and wastewater treatment facility by April 1, 2007: (a) sell the plant or facility; or (b) contract with a private entity for the operation of the plant or facility.

The proposal specified the deletion of 270.92 positions (all funds) in state agencies associated with the operation of these plants or facilities on April 1, 2007, as follows: (a) DOA: 23.25 PR positions; (b) DOC: 20.25 GPR and 24.0 PR positions; (c) DHFS: 41.0 PR positions; (d) DPI: 10.0 GPR positions; (e) DVA: 6.0 PR positions; and (f) UWS: 146.42 GPR positions.

The proposal would have also specified: (a) the way in which revenues from the sale of plants and facilities would be used in the repayment of state and federal debt; (b) that sale prices beyond debt owed would be deposited in the budget stabilization fund; (c) that any contract with a private vendor would include offers of employment to the employees of the affected plants and facilities; (d) the transfer of salary and fringe benefits associated with deleted positions would be transferred to unallotted reserves to fund agency costs related to the provision of utility services; (e) that the sale of a plant or facility to a regulated utility would not be subject to review or approval by the Public Service Commission; and (f) the deletion of various statutory references to the states operation of power plants and wastewater treatment facilities.

The Governor vetoed these provisions other than the April 1, 2007, elimination of 270.92 state agency positions associated with the operation of these plants or facilities. These positions could not be restored through the exercise of the Governor's veto authority. The bill would restore positions deleted under the 2005-07 biennial budget. Restoration of the power plant positions are summarized under each of the affected agencies.

**Joint Finance/Legislature:** Delete provision. The power plant positions that were recommended by the Governor were provided under 2007 Wisconsin Act 5. These position

counts (23.25 PR positions annually) will be reflected in the adjusted base position counts.

**15. OFFICE OF THE WISCONSIN COVENANT [LFB Paper 463]**

	<b>Funding</b>	<b>Positions</b>
GPR	\$360,400	2.00

**Governor:** Create an Office of the Wisconsin Covenant Scholars Program in the Department of Administration. Specify that the Secretary of DOA would appoint the Director of the Office. Increase the statutory limit on the number of unclassified division administrator positions under DOA by one to reflect the creation of the Director's position. Provide \$180,200 annually in a new appropriation and 1.0 unclassified position and 1.0 classified position beginning in 2007-08 for the purpose of promoting attendance at nonprofit postsecondary institutions in this state.

Require that the Department of Administration (DOA) serve as the state's liaison agency between the Higher Educational Aids Board (HEAB), the Department of Public Instruction (DPI), the University of Wisconsin System, the Wisconsin technical college system (WTCS), and other public and private organizations that are interested in promoting postsecondary education in this state. In addition, require DOA to coordinate the postsecondary education promotional activities of DOA, HEAB, DPI, the UW System, WTCS, other public and private organizations that are interested in promoting postsecondary education in this state, and the Wisconsin Covenant Foundation, Incorporated (WCFI), and prevent duplication of effort in conducting those activities. According to DOA staff, WCFI, which has not yet been established, will be organized as a nonprofit corporation.

Require that, if determined to be appropriate by the Secretary of DOA, DOA contract with the WCFI to establish and implement a campaign to promote attendance at nonprofit postsecondary institutions in this state. Provide that no funds from the new appropriation could be expended until WCFI submits a report to the Secretary of DOA showing the amount of private contributions received by WCFI since the date of the last such report. Specify that the Secretary of DOA may approve the expenditure of funds up to the amount of private contributions shown in the report, but not greater than the amount appropriated. Require WCFI expend the appropriated funds in adherence with state uniform travel schedule amounts and prohibit WCFI from expending the appropriated funds on entertainment, foreign travel, payments to persons not providing goods and services to WCFI, or for other purposes prohibited by contract between WCFI and DOA. Require DOA to submit a report to the Legislature on the postsecondary educational promotional activities conducted by WCFI using the appropriated funds annually on July 1 beginning in 2009.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

**Veto by Governor [A-1]:** Delete the provision that would have required that no funds from the appropriation for aid to the Wisconsin Covenant Foundation, Incorporated, (WCFI) could be expended until WCFI submits a report to the Secretary of DOA showing the amount of

private contributions received by WCFI since the date of the last such report. Delete the provision that would have specified that the Secretary of DOA may approve the expenditure of funds up to the amount of private contributions shown in the report, but not greater than the amount of the appropriation. Delete the provision that would have required WCFI to expend the appropriated funds in adherence with state uniform travel schedule amounts and prohibited from expending the appropriated funds on entertainment, foreign travel, payments to persons not providing goods and services to WCFI, or for other purposes prohibited by contract between WCFI and DOA.

Delete references to the Foundation and the specific purposes of the funding so that the related appropriation can be used for the expenses directly incurred by the Wisconsin Covenant.

[Act 20 Sections: 25, 26, 35p, 78, 520, and 3006]

[Act 20 Vetoes Sections: 78, 177 (as it relates to s. 20.505(4)(bm)), and 520]

**16. CHARACTER EDUCATION TEACHER TRAINING [LFB Paper 463]**

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$500,000	-\$500,000	\$0

**Governor:** Provide \$250,000 annually in a new appropriation. Require DOA to distribute not more than \$250,000 in each fiscal year as grants to school districts for reimbursement of teachers and administrators for costs incurred in participating in training relating to character education.

**Joint Finance/Legislature:** Delete provision.

**17. SENTENCING COMMISSION DELETION [LFB Paper 120]**

	Funding	Positions
GPR	-\$538,600	- 2.00

**Governor/Legislature:** Delete \$269,300 and 2.0 positions annually associated with the Sentencing Commission. Delete statutory provisions related to the Sentencing Commission. The Sentencing Commission was created in 2001 Act 109 and is attached to DOA. Prior law provided that the Sentencing Commission would sunset on December 31, 2007. Under the act, the Commission is deleted on July 1, 2007. [See "Administration -- Office of Justice Assistance" for related provisions on the creation of a Bureau of Criminal Justice Research.]

[Act 20 Sections: 24, 35, 157, 159, 522, 530, 616, 629, 2995, 3010, 3011, 3879d, 3893, and 9401(1k)]

## 18. TRUTH-IN-SENTENCING PHASE II COUNCIL

**Governor:** Create a Truth-in-Sentencing Phase II Council under the Department of Administration. Require the Council to submit a report on sentencing guidelines to the Legislature and the Governor by January 1, 2008. Specify that the Council sunset on January 31, 2008.

Specify that the Council consist of the following members: (a) the State Public Defender or designee; (b) one majority party member and one minority party member from each house of the Legislature, appointed as are members of standing committees; (c) one district attorney appointed by the Governor; (d) three individuals, appointed by the Governor; (e) one representative of crime victims, appointed by the Governor; and (f) one circuit judge, appointed by the Supreme Court. Specify that the Governor approve the chairperson of the Council.

Provide that members be reimbursed for actual and necessary expenses incurred in performance of their duties. Specify that an officer or employee of the state must be reimbursed by the agency that pays the member's salary. Provide that members who are full-time state officers or employees would receive no compensation for their services. Other members would be paid \$25 per day, in addition to their actual and necessary expenses, for each day on which they are actually and necessarily engaged in the performance of their duties. Require that members of the Council comply with the state ethics code and file an annual statement of economic interest.

Modify current law to provide that when a court makes a sentencing decision concerning a person convicted of a criminal felony offense committed on or after February 1, 2003, the court must consider the sentencing guidelines submitted in the report by the Truth-in-Sentencing Phase II Council. If the Council has not submitted a guideline for the offense, the court must consider any applicable temporary sentencing guideline adopted by the Sentence Commission created under 2001 Act 109, or if the Sentencing Commission did not adopt a guideline for the offense, any applicable temporary sentencing guideline adopted by the Criminal Penalties Study Committee created under 1997 Act 283.

**Joint Finance/Legislature:** Delete provision as a non-fiscal policy item.

## 19. LAND INFORMATION REESTIMATE

PR	\$5,603,200
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**Governor/Legislature:** Provide a reestimation of the PR-continuing "Land" appropriation of \$2,801,600 annually, which would include: (a) \$2,000,000 for comprehensive planning grants; and (b) \$801,600 for land information grants to counties.

Under 2005 Wisconsin Act 25, the Governor item vetoed portions of the statutory language relating to the appropriation purposes for four separate land information-related appropriations. The Governor's partial veto resulted in the repeal and recreation of a single PR-continuing "Land" appropriation, with a variety of purposes, including: (a) the receipt and expenditure of revenues from county register of deeds offices for issuing copies of legal records;

(b) providing comprehensive planning grants; (c) providing grants to counties for operation of land information systems; and (d) administrative costs of the Department related to reviewing proposed municipal incorporations and annexations.

The estimated amounts that remain in the appropriation schedule (base funding of \$276,900 annually) are related to the amounts previously provided for administrative costs of the Department for reviewing proposed municipal incorporations and annexations. The bill would add the estimated costs of providing comprehensive planning grants and land information grants to counties to the appropriation.

## 20. NATIONAL COMMUNITY SERVICE BOARD FUNDING

**Governor/Legislature:** Require the Department to annually determine the amount of funding for administrative support of the National Community Service Board that is required to qualify for federal assistance to the Board. Specify that DOA would assess these costs to DOA, the Department of Health and Family Services (DHFS), the Department of Public Instruction (DPI), and the Department of Workforce Development (DWD).

Under current law, the administration of the National Community Service Board appropriation was funded from moneys received from other agencies for support of the Board. The bill would explicitly allow DOA to assess DHFS, DPI, and DWD for administrative support funding necessary to match federal grants. Base funding is \$60,300 PR and 1.0 PR position. The bill would provide no increase in expenditure authority.

[Act 20 Section: 77]

## 21. PAYMENTS FOR MIDWESTERN HIGHER EDUCATION COMMISSION

**Governor/Legislature:** Delete the requirement that DOA make payments for costs of membership the Midwestern Higher Education Compact. Under current law, the Department is required to make membership payments for the Midwestern Higher Education Compact and make payments to Board members for their actual costs associated with participation on the Board. A separate current law provision [s. 36.11(52)] also requires the UW System Board of Regents to pay membership costs. This provision would delete DOA's responsibility for making membership payments.

[Act 20 Section: 23]

## 22. GRANT FOR THE WISCONSIN TECHNICAL COLLEGE SYSTEM FOUNDATION [LFB Paper 128]

GPR	\$219,000
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**Joint Finance:** Provide \$109,500 annually for grants to support administrative costs of the Wisconsin Technical College System Foundation for operating the Department of Defense



excess property program.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

### 23. COUNTY MANAGEMENT ASSISTANCE FOR MENOMINEE COUNTY

	<b>Governor (Chg. to Base)</b>	<b>Legislature (Chg. to Gov)</b>	<b>Net Change</b>
GPR-REV	-\$100,000	-\$100,000	-\$200,000
PR	\$100,000	\$100,000	\$200,000

**Joint Finance:** Increase the amounts provided for county management assistance grants to Menominee County by \$50,000 PR annually from tribal gaming revenue.

Under current law, \$500,000 PR annually from tribal gaming revenues is appropriated to Menominee County for public safety, public health, public infrastructure, public employee training, and economic development.

**Senate:** Increase the amounts provided for county management assistance grants to Menominee County by an additional \$50,000 PR annually from tribal gaming revenues.

Act 20 increases the total grant amount to \$600,000 PR annually. Since non-dedicated tribal gaming revenues are deposited in the general fund, the act reduces the amount of revenue to the general fund by \$100,000 GPR-earned annually.

**Assembly:** Delete Senate modification.

**Conference Committee/Legislature:** Restore Senate modification.

### 24. INCORPORATION OF THE TOWN OF LEDGEVIEW

**Joint Finance/Legislature:** Allow the Town of Ledgeview in Brown County to hold a referendum to become a village without fulfilling the current statutory requirements for becoming a village, other than holding the referendum. Specify that Ledgeview and the City of De Pere must enter into a boundary agreement, but that the agreement need not be approved before the referendum is held.

[Act 20 Section: 1875m]

### 25. CONSOLIDATION OF THE TOWN AND VILLAGE OF ROCHESTER

**Joint Finance/Legislature:** Authorize the Town and Village of Rochester in Racine

County to consolidate if a referendum passes in each municipality approving the consolidation. Specify that the Town and Village would not be required to meet any other current statutory requirement in order to consolidate.

[Act 20 Sections: 1875p thru 1875t]

## **26. CONVERSION TO MONTHLY PAYROLL SYSTEM**

**Assembly:** Direct the Department of Administration and the University of Wisconsin System (UW System) to convert biweekly payroll systems to monthly payroll systems as soon as practicable after the effective date of the bill. The provision would apply to both nonrepresented and represented state employees currently under a biweekly payroll period. Provide that the payroll period would be a prohibited subject of collective bargaining. No funding would be provided for the conversion to a monthly payroll system. Therefore, the costs of the conversion would be absorbed by state agencies, including the UW System.

**Conference Committee/Legislature:** Delete provision.

## **27. ELIMINATE WASHINGTON D.C. OFFICE**

**Assembly:** Delete \$230,400 and 2.0 positions annually from the Department of Administration's general program operations appropriation related to funding for a federal relations office and state staff in a Washington D.C. office. Repeal statutory provisions related to the Office, placement of the Director in Executive Salary Group 3, the authority of the appointing authority to set staff salary levels, and placement of the positions in the unclassified service.

**Conference Committee/Legislature:** Delete provision.

## **28. ELIMINATE VACANT GPR POSITIONS**

**Assembly:** Delete \$80,700 and 1.0 position annually associated with the salary and fringe benefits of GPR positions which have been vacant for 12 months or more.

**Conference Committee/Legislature:** Delete provision.

## **29. CHILD CARE SUBSIDY PHASE OUT**

**Assembly:** Specify that the Department of Administration may not pay any more than \$268,400 in 2007-08, \$178,900 in 2008-09, and \$89,400 in 2009-10 for subsidizing a child care service. Beginning in 2010-11, delete statutory language allowing the Department to subsidize a child care facility that provides services to state employees. Delete \$89,500 in 2008-09 from the facility operations and maintenance appropriation related to the decrease in funding.

**Conference Committee/Legislature:** Delete provision.

**30. COMPREHENSIVE PLANNING MODIFICATIONS**

**Assembly:** Extend the date in which a local unit of government must act in accordance to a comprehensive plan from January 1, 2010 to January 1, 2015. Specify that municipalities of less than 2,500 are exempt from comprehensive planning requirements. Under current law, as of January 1, 2010, an action of a local unit of government must be consistent with its comprehensive plan if taking an action on one of the following: (a) an official mapping of the municipality; (b) local subdivision regulation; (c) county zoning ordinances; (d) city or village zoning ordinances; (e) town zoning ordinances; and (f) zoning of shorelines or wetlands in shorelands.

**Conference Committee/Legislature:** Delete provision.

**Transfers to the Department**

**1. CONSOLIDATION OF ATTORNEYS AND LEGAL STAFF UNDER DOA [LFB Paper 110]**

	<b>Governor (Chg. to Base)</b>		<b>Jt. Finance/Leg. (Chg. to Gov)</b>		<b>Net Change</b>	
	<b>Funding</b>	<b>Positions</b>	<b>Funding</b>	<b>Positions</b>	<b>Funding</b>	<b>Positions</b>
GPR	\$0	-2.00	\$0	2.00	\$0	0.00
PR	16,132,200	128.90	-16,132,200	-128.90	0	0.00
SEG	0	-1.00	0	1.00	0	0.00
<b>Total</b>	<b>\$16,132,200</b>	<b>125.90</b>	<b>-\$16,132,200</b>	<b>-125.90</b>	<b>\$0</b>	<b>0.00</b>

**Governor:** Provide \$16,132,200 PR and -2.0 GPR, 128.9 PR, and -1.0 SEG positions in 2008-09 for personnel costs associated with the transfer of certain executive branch state agency attorney and legal staff positions to DOA, effective July 1, 2008. Of these costs, \$16,132,200 PR and 128.90 PR positions would be provided to the new Division of Legal Services in DOA. Specify that the Department would transfer 2.5 GPR, 0.5 PR, and 1.0 SEG positions from other divisions to the Division of Legal Services and \$131,200 GPR and \$133,100 SEG would be transferred from salaries and fringe benefits to supplies and services to fund costs for DOA's use of legal services. Provide 1.0 (0.5 GPR and 0.5 PR) position to act as an agency general counsel outside of the Division of Legal Services.

*Create Division of Legal Services.* Provide for the creation of the Division of Legal Services within DOA and authorize 1.0 PR unclassified division administrator position appointed by the Secretary of DOA. Increase by one the number of unclassified division administrators under DOA in the statutory enumeration of unclassified state positions.

*Attorneys and Legal Staff Transferred.* Provide for the transfer of all attorney and legal staff positions in state agencies to the new Division of Legal Services on July 1, 2008. Define legal staff as those individuals that provide support services for attorneys, as determined by the Secretary of DOA.

Specify that the state agencies subject to this transfer requirement would be any office, commission, department, independent agency, or board in the executive branch, including the Building Commission, but exclude the Public Service Commission, the Public Defender Board, the UW System Board of Regents, the University of Wisconsin Hospitals and Clinics Board, the State of Wisconsin Investment Board, the Office of the Governor, the Government Accountability Board, the Department of Justice, and the Employment Relations Commission from these transfer requirements. The Secretary of DOA would be authorized to identify the positions to be transferred.

Specify that the following attorney and legal staff positions would not be transferred to DOA: (a) employees of district attorneys; (b) one lead attorney at the Office of State Employment Relations (whose duties include negotiation of collective bargaining agreements for labor relations); and (c) one "general counsel" or lead attorney at the Departments of Administration; Agriculture, Trade, and Consumer Protection; Children and Families; Commerce; Corrections; Employee Trust Funds; Financial Institutions; Health and Family Services; Military Affairs; Natural Resources; Public Instruction; Regulation and Licensing; Revenue; Transportation; Veterans Affairs; and Workforce Development; and at the Office of the Commissioner of Insurance.

*Transfer of Hearing Examiners and Administrative Law Judges.* Specify that all hearing officers, hearing examiners, and administrative law judges would be transferred to DOA's Division of Hearings and Appeals on July 1, 2008, except for such employees that work for the Department of Workforce Development.

*DOA Authorized to Provide Legal Services.* Authorize DOA to provide legal services to state agencies. Require DOA to annually assess each state agency for legal services provided to that agency and create a new PR-continuing legal services appropriation for the receipt of moneys paid by state agencies for legal services.

*General Counsel Positions.* Create 13.0 unclassified general counsel positions to serve as the only agency legal counsel for the following agencies: (a) Department of Administration; (b) Department of Agriculture, Trade, and Consumer Protection; (c) Department of Children and Families; (d) Department of Commerce; (e) Department of Corrections; (f) Department of Financial Institutions; (g) Department of Health and Family Services; (h) Department of Natural Resources; (i) Department of Regulation and Licensing; (j) Department of Revenue; (k) Department of Transportation; (l) Department of Workforce Development; and (m) Office of the Commissioner of Insurance. Include an unclassified general counsel position in these agencies under the statutory enumeration of unclassified positions in state service. These position changes are included under the budget summaries of each of these affected agencies.

*Limitations on Agency Attorney Use.* Specify that if any executive branch department or independent agency is authorized or required to retain an attorney, the agency must: (a) use a

state employee, unless the agency contracts with DOA's Division of Legal Services or its Division of Hearings and Appeals; or (b) be furnished with legal services from the Department of Justice or DOA's Division of Hearings and Appeals. The Department of Health and Family Services would retain the right to hire non-state attorneys to recover certain medical assistance costs from estates.

*Transitional Provisions.* Specify that all transferred attorneys and legal staff would have the same rights and status as in the agency in which they originated. Specify that attorneys and legal staff that have obtained permanent status would not have to undergo a probationary period in DOA. Specify that all equipment, supplies, and furniture related to the duties of the transferred employees, as specified by the Secretary of DOA, would be transferred to DOA on July 1, 2008.

The following table summarizes the attorney and legal staff position transfers and other adjustments recommended by the Governor:

Agency	Current Positions Subject to Transfer	Positions Transferred to DOA	Positions Retained in Agencies		
			Existing Classified Attorney Positions*	New Unclassified General Counsel Positions	Total Legal Staff Before Position Reductions
Administration	4.00	4.00	0.00	1.00	5.00
Board on Aging and Long-Term Care	1.00	1.00	0.00	0.00	1.00
Agriculture, Trade and Consumer Prot.	7.50	7.50	0.00	1.00	8.50
Children and Families	4.30	4.30	0.00	1.00	5.30
Commerce	3.00	3.00	0.00	1.00	4.00
Corrections	7.80	7.80	0.00	1.00	8.80
Employment Relations	2.00	1.00	1.00	0.00	2.00
Employee Trust Funds	2.00	1.00	1.00	0.00	2.00
Financial Institutions	6.00	6.00	0.00	1.00	7.00
Health and Family Services	19.50	19.50	0.00	1.00	20.50
Insurance	6.00	6.00	0.00	1.00	7.00
Military Affairs	1.00	0.00	1.00	0.00	1.00
Natural Resources	17.50	17.50	0.00	1.00	18.50
Public Instruction	3.00	2.00	1.00	0.00	3.00
Regulation and Licensing	30.00	30.00	0.00	1.00	30.00
Revenue	16.75	16.75	0.00	1.00	17.75
Transportation	11.00	11.00	0.00	1.00	12.00
Veterans Affairs	3.00	2.00	1.00	0.00	3.00
Workforce Development	1.55	1.55	0.00	1.00	2.55
Total 2007-08 FTE (All Agencies)	146.90	141.90	5.00	13.00	159.90
New DOA Division of Legal Services Administrator Position		1.00	0.00	0.00	1.00
Total 2008-09 FTE Reduction (in DOA)		-14.00	0.00	0.00	-14.00
Total 2008-09 FTE (All Agencies)		128.90	5.00	13.00	146.90
All Agencies Net Reduction (Current Positions Compared to 2008-09 FTE)					0.00

\*An existing classified attorney would be retained in the indicated agency and designated as the lead attorney for the agency.

**Joint Finance:** Delete provision.

**Senate:** Restore the Governor's recommendation with the following modifications: (a) specify that the lead attorney and the Division of Legal Services division administrator would be under classified service; and (b) exempt the Board on Aging and Long-Term Care, the Department of Military Affairs and the Department of Public Instruction from the consolidation.

**Assembly/Legislature:** Delete provision.

**2. COUNCIL ON DEVELOPMENTAL DISABILITIES [LFB Paper 111]**

	<b>Governor (Chg. to Base)</b>		<b>Jt. Finance/Leg. (Chg. to Gov)</b>		<b>Net Change</b>	
	<b>Funding</b>	<b>Positions</b>	<b>Funding</b>	<b>Positions</b>	<b>Funding</b>	<b>Positions</b>
GPR	\$30,000	0.00	-\$30,000	0.00	\$0	0.00
FED	<u>2,536,400</u>	<u>7.75</u>	<u>-2,536,400</u>	<u>-7.75</u>	<u>0</u>	<u>0.00</u>
Total	\$2,536,400	7.75	-\$2,536,400	-7.75	\$0	0.00

**Governor:** Provide \$15,000 GPR and \$1,268,200 FED annually and 7.75 FED positions annually to reflect the Governor's proposal to transfer of the Council on Developmental Disabilities to DOA from the Department of Health and Family Services (DHFS).

Create an appropriation in DOA for the receipt and distribution of federal funding for the Council. Require DHFS to ensure that the matching funds requirement for the state developmental disabilities councils grant, as received from the U.S. Department of Health and Human Services (DHHS), is met by reporting to DHHS county expenditures for services to persons with developmental disabilities under the community aids program.

Specify that: (a) the assets and liabilities primarily related to the functions of Council would become the assets and liabilities of DOA, as determined by the Secretary of DOA; (b) incumbent employees holding positions, relating primarily to the functions of the Council would be transferred to DOA; (c) transferred employees would have the same rights and status in DOA that they enjoyed in DHFS, and no employee transferred who has attained permanent status would have to serve a probationary period; (d) all tangible personal property, including records, primarily related to the functions of the Council would be transferred to DOA; (e) all contracts primarily related to the functions of the Council would remain in effect and would be transferred to DOA, which would be required to carry out these contractual obligations unless modified or rescinded by DOA to the extent allowed under the contract.

**Joint Finance:** Transfer the Wisconsin Council on Developmental Disabilities to the Department of Children and Families rather than the Department of Administration.

**Senate:** Effective July 1, 2008, create a new state agency, the Board for People with Developmental Disabilities (BPDD), and assign the agency the statutory responsibilities

currently assigned to the Wisconsin Council on Developmental Disabilities (currently in DHFS).

**Assembly:** Delete the provision. Instead, retain the Council's staff and funding in DHFS. Increase net funding in the bill by \$3,600 FED in 2008-09 to reflect a slight difference in fringe benefit rates budgeted for staff in DHFS, compared with the estimated rates that would apply to DCF staff.

**Conference Committee/Legislature:** Restore Senate provision.

**3. TRANSFER OF YOUTH DIVERSION PROGRAM FROM THE DEPARTMENT OF CORRECTIONS [LFB Paper 121]**

**Governor:** Transfer the administration and grant funding of the youth diversion program from the Department of Corrections to the Department of Administration's Office of Justice Assistance. [See "Administration -- Office of Justice Assistance."]

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

## Information Technology

**1. INTEGRATED BUSINESS INFORMATION SYSTEM [LFB PAPER 116]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Legislature (Chg. to JFC)</b>	<b>Net Change</b>
PR	\$19,657,400	-\$19,657,400	\$17,089,200	\$17,089,200

**Governor:** Require DOA to implement, operate, maintain, and upgrade an integrated business information system (IBIS) capable of providing information technology services to all agencies for the following: (a) all financial services (includes accounting, auditing, and payroll); (b) procurement; (c) human resources; and (d) other administrative duties. Allow DOA to provide these services to any agency, authority, or local unit of government as long as the service can be provided efficiently and economically, as determined by the Department. Specify, that DOA may charge an agency, authority, or local unit of government for these services in accordance with the methodology determined by the Department.

Provide \$9,062,900 in 2007-08 and \$10,594,500 in 2008-09 under a newly-created PR-continuing appropriation for the receipt of charges to agencies for IBIS services, for the following: (a) \$647,900 in 2007-08 and \$660,100 in 2008-09 for salaries and fringe benefits; (b) \$493,300 annually for limited-term employees; and (c) \$7,921,700 in 2007-08 and \$9,441,100 in

2008-09 for supplies and services. No positions would be created in the bill. Specify that the current printing, mail, communications, and information technology appropriation could not be used for IBIS service assessments. Allow the Department to expend monies in excess of the revenues under the new appropriation where the depreciated value of equipment purchased is at least equal to the excess expenditures.

Create a PR-continuing appropriation for payments from authorities and local units of government for IBIS system operations. No funding is provided under this appropriation. The Department, however, could expend all moneys received. Modify the current program revenue-supported information technology and communications services; nonstate agencies appropriation to specify that IBIS system charges could not be expended under this appropriation.

Create two sum sufficient appropriations (one for segregated appropriations and one for program revenue appropriations) that would allow DOA to provide sum-sufficient supplements to state agency appropriations that support IBIS system assessments.

**Joint Finance:** Delete provision.

**Senate:** Restore the Governor's recommendation with the following modifications: (a) reestimate the procurement services appropriation by -\$1,284,100 PR annually for IBIS costs no longer supported from that appropriation; and (b) specify that the Legislature and the Courts may choose whether to participate in IBIS.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore Senate provision.

[Act 20 Sections: 128c, 517is thru 517kL, 580i, 580r, and 611p]

**2. INFORMATION TECHNOLOGY APPROPRIATION INCREASES AND MODIFICATIONS [LFB Paper 117]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Legislature (Chg. to JFC)</b>	<b>Net Change</b>
PR	\$13,954,900	-\$4,810,800	\$2,458,000	\$11,602,100

**Governor:** Provide \$4,952,200 in 2007-08 and \$9,002,700 in 2008-09 for increased printing, mail, communication and information technology service costs for agencies as follows: (a) \$2,458,000 in 2007-08 and \$2,352,800 in 2008-09 for space rental costs, maintenance, fuel and utilities, taxes and fiber optics for the new data center in Madison; (b) \$1,220,700 in 2007-08 and \$1,586,100 in 2008-09 for postage and mail room costs; (c) \$250,000 in 2007-08 and \$2,000,000 in 2008-09 for increased software licenses; (d) \$274,600 in 2007-08 and \$823,800 in 2008-09 for increased mainframe costs; and (e) \$748,900 in 2007-08 and \$2,240,000 in 2008-09 for increased data storage costs. Base level funding for this appropriation is \$104,961,900.



In addition, allow the Department to expend monies in excess of the revenues under an annually appropriated program revenue account for printing, mail, communication and information technology services for agencies if the depreciated value of equipment purchased is at least equal to the excess expenditures.

**Joint Finance:** Delete \$2,458,000 in 2007-08 and \$2,352,800 in 2008-09 related to space rental costs, maintenance, fuel and utilities, taxes and fiber optics for the data center in Madison. Delete authority that would have allowed the Department to expend monies in excess of the amounts appropriated under the printing, mail, communication and information technology services appropriation.

**Senate:** Provide \$2,458,000 in 2007-08 and \$2,352,800 in 2008-09 for space rental costs, maintenance, fuel and utilities, taxes and fiber optics for the new data center in Madison. Specify that \$2,458,000 in 2007-08 would be provided under the Department of Administration's printing, mail processing, communications and information technology for state agencies appropriation and \$2,352,800 in 2008-09 would be provided under the Joint Committee on Finance's PR-supplemental appropriation.

Require the Department to publish on its website the following information for all information technology projects: (a) the total anticipated cost of the project; (b) the total amount that will be assessed for the project; and (c) the amounts that will be assessed to each agency, if a flat rate will be used; or (d) the rate per service provided, if a flat rate is not used. Prohibit the Department from assessing more than 110% of the lesser of the amounts appropriated for an information technology project or the anticipated cost of the project.

Require the Department to do the following before continuing server consolidation: (a) complete a revised study of consolidation, in consultation with other executive branch agencies; (b) specify that the study would develop a timeline and full-cost estimate of initially consolidating executive branch servers; (c) identify the cost of retaining servers at the agencies; (d) specify that all costs would consider use of the current space used by agencies; and (e) specify that in considering the costs and benefits of server consolidation that the Department consider the costs that could be saved if less space was leased at the current data center or at an alternative location. Require the Department to provide this information to the Joint Committee on Finance and the Joint Committee on Information Policy and Technology (JCIPT) or the Joint Legislative Audit Committee if JCIPT is not an active committee. Allow the Department to request supplemental appropriation authority pending analysis of the information provided under points (a) through (e).

**Assembly:** Delete Senate provision.

**Conference Committee/Legislature:** Restore Senate provision, but modify the Department's printing, mail, communication and information technology services to agencies appropriation so that DOA may expend monies in excess of revenues, where the depreciated value of equipment is at least equal to the excess expenditures.

**Veto by Governor [C-1]:** Delete provision that would have required DOA to complete a

study of the ongoing information technology server consolidation project and submit that study to the Joint Committee on Finance and the Joint Committee on Information Technology and Policy (JCIPT), or the Joint Legislative Audit Committee (JLAC) if JCIPT is not organized, before requesting a supplement from the Joint Committee on Finance for the purpose of continuing server consolidation.

Delete provision that would have required DOA to publish certain information on its website regarding information technology projects. Finally, delete the provision that would have prohibited the Department from assessing more than 110% of the lesser of the amounts appropriated for an information technology project or the anticipated cost of the project.

[Act 20 Section: 611p]

[Act 20 Vetoed Sections: 128u, 128w, and 9101(9q)]

### 3. WIRING LOANS [LFB Paper 175]

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
GPR-REV	-\$2,625,200	\$2,621,800	-\$3,400
GPR	-\$2,625,200	\$2,621,800	-\$3,400

**Governor:** Provide a reduction of \$1,312,600 annually for loans to school districts (\$1,310,900 annually) and public libraries (\$1,700 annually) for wiring loans and grants. 2003 Wisconsin Act 33 sunset the infrastructure financial assistance program which allowed school districts and public libraries to apply for loans and grants to fund the upgrading of electrical wiring in buildings that existed before October 14, 1997, and for installation and upgrades to computer network wiring. The state bonded for the costs of this rewiring. School districts and libraries are required to pay the debt service on the loans which represented 50% of the financial assistance and the state pays the debt service for the grants, which is the other 50% of the assistance. Currently, the state pays the existing debt service using two GPR appropriations (one for school districts and one for public libraries). The Department then transfers the expenses to the federal e-rate appropriation (to the extent that federal funds are available) and the amounts expended from the wiring loan general fund appropriations are lapsed back to the general fund. Because the statutes do not allow for new loans, the amounts expended under these GPR appropriations will continue to decline as bonds are paid off. All bonds will not be paid off for approximately 20 years.

**Joint Finance/Legislature:** Reestimate the agency's debt service costs related to general fund supported principal and interest for educational technology infrastructure in schools by \$1,310,900 annually. In addition, reestimate GPR-Earned amounts by \$1,310,900 annually for the Department related to federal reimbursement of debt service costs from financing educational technology infrastructure improvements at school districts in the state.

#### 4. ELIGIBLE USES OF FEDERAL E-RATE FUNDS

**Governor/Legislature:** Specify that any excess federal educational telecommunications access (e-rate) funds could be used to make payments to telecommunications providers for telecommunications services at the following facilities, defined as *educational agencies*: (a) public schools including juvenile correctional facilities, school districts and cooperative educational service agencies; (b) public library boards and systems; (c) private schools; (d) the Wisconsin Center for the Blind and Visually Impaired; and (e) the Wisconsin Educational Services Program for the Deaf and Hard of Hearing. The provision under the bill would allow e-rate funds to be used for the purposes identified in items (a) through (e), if funds remain after educational telecommunications wiring loans and administrative costs have been paid.

Under current law, the Department administers an educational telecommunications access program to provide educational agencies with access to data lines and video links. The statutes specify that an educational agency may request access to one data line or video link (school districts with multiple high schools and library systems with more than one library may request additional lines). The educational agency must pay a monthly access fee. The Department is allowed to recover costs that are not supported from these fees from the universal service fund. Also, educational agencies that are eligible for a rate discount for telecommunications services may request data lines, video links, and bandwidth access that are in addition to what is provided under the state's educational telecommunications program. The Department may provide the additional access, and be reimbursed from fees paid by the educational agencies and from federal e-rate funds.

[Act 20 Section: 529]

#### 5. EDUCATIONAL TELECOMMUNICATIONS ACCESS

**Governor/Legislature:** Delete the provision allowing DOA to make new grants to private schools or public school districts for payments to telecommunications providers for access to data lines and video links under contracts that were in existence on October 14, 1997.

Under prior law, the Department was allowed to make payments from the universal service fund to the following: (a) public schools including juvenile correctional facilities, school districts and cooperative educational service agencies; (b) private colleges, technical college districts, public library boards and systems and public museums; (c) private schools; (d) the Wisconsin Center for the Blind and Visually Impaired; and (e) the Wisconsin Educational Services Program for the Deaf and Hard of Hearing. Statutes also allowed DOA to make grants to schools that had a contract for the provision of a data line or video link on October 14, 1997, until January 1, 2006. This later provision is deleted under the bill. Currently, the appropriation funds debt service for agreements made prior to January 1, 2006, which would not change under this provision.

[Act 20 Sections: 129, 531, 532, and 2930]

6. DISTRICT ATTORNEY INFORMATION TECHNOLOGY [LFB Paper 118 and 501]

	Governor (Chg. to Base)		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
PR	\$3,674,900	0.00	-\$1,303,300	4.00	\$2,371,600	4.00

**Governor:** Provide \$1,714,400 in 2007-08 and \$1,974,400 in 2008-09 for amounts received from the justice information surcharge, including one-time funding of \$520,000 in 2007-08 and \$780,000 in 2008-09. Decrease amounts provided from penalty assessments for district attorney information technology (DA IT) by \$13,900 in 2007-08. The Department indicates that increased funds would be used for the following: (a) adding Milwaukee and Racine Counties to the case management system (PROTECT); (b) replacement of Milwaukee County's DA IT equipment; (c) contract IT labor for Milwaukee County's data conversion and development; (d) software and licensing upgrades; and (e) one-time costs for courtroom and remote access systems and use of multi media to display evidence.

A portion of the costs of DA IT costs are is funded from the justice information surcharge. The Department of Administration receives \$5 of a \$12 justice information surcharge that is assessed upon the commencement of certain court proceedings. The penalty surcharge (26% of the fine or forfeiture amount) is imposed by the courts for violations of state laws or municipal or county ordinances, and utilized for multiple state purposes including DA IT.

**Joint Finance/Legislature:** Delete \$565,700 in 2007-08 and \$737,600 in 2008-09 and provide 4.0 positions compared to the Governor's recommendation for DA IT.

Specify that the remaining increased funding (\$1,134,800 in 2007-08 and \$1,236,800 in 2008-09) would be used for the following: (a) \$214,800 in 2007-08 and \$286,800 in 2008-09 and 4.0 positions annually for support staff for case management system staff in Milwaukee County; (b) \$220,000 in 2007-08 and \$250,000 in 2008-09 for replacement of hardware for the case management system; (c) \$400,000 annually for software licensing for the case management system; (d) \$100,000 annually for one-time costs relating to creating a case management system interface in Milwaukee County; and (e) \$200,000 annually for one-time data conversion and development in Milwaukee County.

Specify that \$264,800 in 2007-08 and \$278,700 in 2008-09 for the support of DA IT projects would be supported from the justice information system appropriation rather than a penalty surcharge appropriation. Restore a total of \$13,900 in 2007-08 for penalty surcharge-supported DA IT activities.

7. TRANSFER ENTERPRISE TECHNOLOGY STAFF

**Governor/Legislature:** Transfer a total of \$562,800 PR and 5.0 PR positions annually to the information technology (IT) and communications services appropriation for non-state agencies from the following appropriations: (a) \$391,700 PR and 3.5 PR positions annually from

the printing, mail, communication, and IT services to state agencies appropriation; (b) \$134,600 PR and 1.0 PR position annually from the materials and services to state agencies appropriation; and (c) \$36,500 PR and 0.5 PR position annually from the telecommunications services to state agencies and veterans services appropriation. The Department indicates that the positions transferred would be those related to the educational telecommunications access program. Enterprise Technology Appropriations Corrections

## 8. ENTERPRISE TECHNOLOGY APPROPRIATIONS CORRECTIONS

**Governor/Legislature:** Provide \$2,458,000 annually in the information technology services to non-state agencies appropriation and delete \$2,458,000 annually in the printing, mailing, and information technology services to state agencies appropriation. The Department indicates that the 2005-07 funding adjustments for the Division of Enterprise Technology as a result of 2005 Act 25 should have specified a reduction to the appropriation that supports services to state agencies rather than to the appropriation that serves non-state agencies. This provision would make that modification.

## 9. INFORMATION TECHNOLOGY REPORTING [LFB Paper 115]

**Joint Finance:** Require the following Information Technology (IT) reporting requirements:

a. *Planning for IT Projects in Strategic Plans.* Require DOA, in consultation with other executive branch agencies, to adopt written policies for executive branch information technology projects that are in excess of \$1 million or are otherwise vital to the functions of an agency. Specify that the policies must: (a) prescribe a standardized format for information technology projects that are included in an agency's annual strategic plan; and (b) require all ongoing and planned information technology projects be included in the annual strategic plan. Specify that an initial copy of these adopted policies must be provided to the Joint Legislative Audit Committee and the Joint Committee on Information Policy and Technology (JCIPT), if it is organized, by January 1, 2008, and specify that subsequent updates to these policies must be provided to these Committees. Specify that the JCIPT, if it is organized, or the Joint Legislative Audit Committee (JLAC), if JCIPT is not organized, must approve the written information technology policies established by the Department of Administration.

b. *High-Risk Projects and Cost Projections.* Require the Department of Administration to establish administrative rules by June 30, 2008, that would include the following: (a) a methodology for identifying large, high-risk information technology projects; (b) standardized, quantifiable project performance measures for monitoring large, high-risk projects; (c) policies and procedures for routine monitoring of these projects; (d) a formal process for modifying project specifications when doing so is necessary because of changes in program requirements; (e) requirements for reporting cost or time-line changes to high-risk information technology projects to the Department and the Joint Committee on Information Policy and Technology or

the Joint Legislative Audit Committee; (f) methods for discontinuing projects or modifying projects in such a way to correct the performance problems of failing information technology projects; (g) policies and procedures for the use of master leases to finance new information technology system costs, and to maintain current information technology systems; and (h) establishment of a consistent reference point in the development of all IT projects in which an accurate estimate of the costs and timeline can be presented to the Department of Administration and the Joint Committee on Information Policy and Technology, or the Joint Legislative Audit Committee, if JCIPT is not organized. Require DOA to consider recommendations of the Joint Legislative Audit Committee and the Legislative Audit Bureau in creating these rules.

c. *Use of Off-the-Shelf Systems.* Require DOA to establish administrative rules that do the following: (a) specify when executive branch agencies must use off-the-shelf systems; (b) ensure that agencies have reviewed commercially available information technology products to determine whether an off-the-shelf system would meet agency information technology needs; and (c) before the system is modified or built in-house, an executive branch agency must provide information as to why an off-the-shelf system does not meet the agency's needs, to the satisfaction of DOA.

d. *Use of Master Leases.* By October 1, of each year, require the DOA to provide to the Governor, the members of Joint Committee on Information Policy and Technology, if it is organized, or the members of the Joint Legislative Audit Committee, if JCIPT is not organized, a report on the previous fiscal year's information technology projects funded through master lease. Specify that the report must include: (a) the amounts financed in the previous year; (b) the specific financing amounts that have been approved for future years; (c) principal and interest paid by agencies on projects funded from master leases compared to total financing originally approved; and (d) a summary of the repayments completed in the previous fiscal year.

e. *Vendor Contracts.* Require DOA or any executive branch agency that is given procurement authority by the Department to ensure that all IT vendor contracts, that have potential costs of greater than \$1 million, or are otherwise determined to be high-risk, include clauses that require vendors to complete projects without payments that are in addition to the original agreed upon cost. Allow an executive branch agency to exclude these clauses if such a stipulation would negatively impact the contract negotiations or limit the number of bidders on a contract. Specify that if such a clause is excluded, the agency must submit a plain language explanation to DOA which states the reason why such a clause was not included and what other safeguards would be included under the contract to ensure that the information technology project would be completed on time and within budget. Require the Department to submit the requested exclusion to the JCIPT, if the Committee is organized, or to the JLAC, if JCIPT is not organized, for approval of the modified contract elements under 14-day passive review.

Require executive branch agencies that have information technology contracts that include open-ended clauses to make quarterly reports to DOA stating the amounts expended on the IT project. Define "open-ended contracts" as stipulations in which a maximum payment is not

specified or a stipulation that pays an hourly wage to a vendor without specifying the number of hours required for completing the project. Require DOA to annually compile these agency submissions for submission to the JCIPT, if the Committee is organized, or to the JLAC, if JCIPT is not organized.

**Assembly/Legislature:** In addition to the Joint Finance provision, allow the Joint Committee on Information Policy and Technology (JCIPT), if it is organized, or the Joint Legislative Audit Committee, if JCIPT is not organized, to review all executive branch information technology projects with an actual or projected cost of at least \$1 million or considered high-risk by the Department of Administration. Require semiannual reports from the Department of Administration to JCIPT or the Joint Legislative Audit Committee that document the following for each project: (a) original and updated projections for project costs; (b) original and updated projections for the date of completion of any stage of the project; (c) the reason for cost or timeline changes under points (a) and (b); (d) contractual information related to an information technology project; (e) the funding sources for the project; (f) the amount of funding provided under a master lease; (g) information on the expected and actual completion of any stage of an information technology project; and (h) any additional information considered important by the Committee related to information technology projects. Allow JCIPT or the Joint Legislative Audit Committee to make recommendations to the Legislature and the Governor related to whether an information technology project should be implemented or continued.

**Veto by Governor [C-1]:** Delete the provision that would have specified that DOA promulgate administrative rules in consultation with LAB and JLAC, and submit the rules to the Legislative Council by January 1, 2008, relating to the following: (a) high-risk information technology projects; and (b) commercially available information technology projects. [The Department would still be required to "promulgate" these items, but not as administrative rules.]

Delete the specific date in which a preliminary draft of policies must be submitted to JLAC and JCIPT.

Delete the provisions that would have specified that JLAC would assume the responsibilities of JCIPT, if JCIPT was not organized.

[Act 20 Sections: 101d, 128d, 128t, 128v, 2994d, and 9101(8i)]

[Act 20 Vetoed Sections: 9p, 9rg 128t, 9101(8i), and 9101(8j)]

## Office of Justice Assistance

### I. CREATION OF BUREAU OF CRIMINAL JUSTICE RESEARCH [LFB Paper 120]

	Governor (Chg. to Base)		Legislature (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	\$2,352,400	8.00	-\$2,352,400	- 8.00	\$0	0.00

**Governor:** Provide \$1,044,300 in 2007-08, \$1,308,100 in 2008-09, and 8.0 positions annually to create a Bureau of Criminal Justice Research in OJA. The Bureau would assume many of the duties required of the Sentencing Commission, which the bill would delete. Under the recommendation: (a) \$269,300 and 2.0 positions annually would be transferred to OJA from the Sentencing Commission; (b) \$400,000 in 2007-08, and \$538,800 in 2008-09, would be provided to OJA to create 6.0 additional positions in the Bureau; and (c) \$375,000 in 2007-08, and \$500,000 in 2008-09, would be provided for estimated hardware and software costs for the new Bureau.

*Deleted Sentencing Commission Duties.* The following current law responsibilities of the Sentencing Commission would no longer be carried out by the recommended Bureau: (a) adopting advisory sentencing guidelines for felonies to promote public safety, to reflect changes in sentencing practices, and to preserve the integrity of the criminal justice and correctional systems; (b) providing information to judges and lawyers about the sentencing guidelines; and (c) publishing and distributing to all circuit court judges hearing criminal cases an annual report regarding its work, which must include all sentencing guidelines and all changes in existing sentencing guidelines adopted during the 12 months preceding the report.

*Transferred Sentencing Commission Duties.* The duties that the Bureau would assume from the Sentencing Commission include: (a) monitoring and compiling data regarding sentencing practices in the state; (b) providing information to the Legislature, state agencies, and the public regarding costs to and other needs of the Department of Corrections that result from sentencing practices; (c) studying whether race is a basis for imposing sentences in criminal cases, and submitting a report and recommendations on this issue to the Governor, Legislature, and the Supreme Court; (d) assisting the Legislature in assessing the cost of enacting new or revising existing statutes affecting criminal sentencing; (e) submitting reports to all circuit court judges and the Legislature at least semiannually which contain statistics regarding criminal sentences imposed in the state; and (f) studying how sentencing options affect various types of offenders and offenses.

*Report on Standard Sentences.* The bill would require the Bureau to prepare a report containing statewide statistics on standard sentences for each felony offense and how the standard sentences of each circuit court compare to the statistics on the sentences for its respective region and the state. The report must be distributed to the Governor, the Director of State Courts, and appropriate legislative standing committees no later than the first day of the 12<sup>th</sup> month after the bill's effective date, and biennially thereafter.



*Justice System Research and Data Analysis.* Under current law, OJA must serve as a clearinghouse of justice system data and information and conduct justice system research and data analysis. Under the bill, this responsibility would become the responsibility of OJA's Bureau of Criminal Justice Research.

*Staff Director.* Require the Executive Director of OJA to appoint a staff director outside of classified service. Place the staff director in executive salary group 2 (ESG-2). The current salary range for an ESG-2 is \$60,905 to \$94,403 annually. Specify that the salary of the deputy staff director (currently in the Sentencing Commission) be established by the Executive Director and that the position would be unclassified.

**Joint Finance:** Modify the requirement to report on standard sentences for each felony offense by eliminating the requirement to compare these sentences by circuit court. Instead, the Bureau would have to prepare a report containing statewide statistics on standard sentences for each felony offense by region and for the state as a whole.

**Assembly/Legislature:** Delete provision. Further, provide that the Sentencing Commission sunset on July 1, 2007. Under prior law, the Sentencing Commission was scheduled to sunset on December 31, 2007.

[Act 20 Section: 9401(1k)]

**2. TRANSFER OF YOUTH DIVERSION PROGRAM FROM THE DEPARTMENT OF CORRECTIONS [LFB Paper 121]**

	Governor (Chg. to Base)		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	\$760,000	0.00	\$0	0.00	\$760,000	0.00
PR	2,198,400	0.50	41,000	0.00	2,239,400	0.50
Total	\$2,958,400	0.50	\$41,000	0.00	\$2,999,400	0.50

**Governor:** Transfer the administration and grant funding of the youth diversion program from the Department of Corrections to OJA by: (a) transferring a 0.5 PR grant specialist position and its associated funding of \$24,800 PR annually from Corrections' youth diversion administration appropriation to OJA's law enforcement programs-administration appropriation; (b) revising the title of this OJA appropriation to reflect the transfer of youth diversion administration to OJA; (c) transferring \$300,000 PR annually in grant funding from the Juvenile Correctional Services' interagency and intra-agency aids appropriation to OJA's interagency and intra-agency aids appropriation; (d) transferring the GPR and PR youth diversion grant appropriations and funding of \$380,000 GPR and \$794,900 PR annually from Corrections to OJA; and (e) renumbering the statutory language governing the administration of the program to OJA.

In addition, specify that a \$150,000 annual grant that is currently provided to an organization in the City of Racine's Ward 1, will instead be provided to an organization in

Racine's Ward 2. The grant would continue to be provided to the George Bray Neighborhood Center.

Under 2001 Wisconsin Act 16, the youth diversion program was initially transferred from Corrections to OJA. The provisions of 2005 Wisconsin Act 25 transferred the program back to Corrections. The program is currently being administered by OJA under a memorandum of understanding between Corrections and OJA. Under the bill, the Governor recommends that the program again be transferred back to OJA.

*Penalty Surcharge Shortfall.* The penalty surcharge provides the funding for the PR youth diversion grant appropriation. Reduce the expenditure authority under the appropriation by \$41,000 PR in 2007-08, to \$753,900 PR. Base level funding in the appropriation is \$794,900 PR annually. The reduction generally reflects a one-time decrease of 5% in 2007-08 (after standard budget adjustments) to appropriations supported by penalty surcharge receipts in order to address a deficit in penalty surcharge funding. [See "Justice."]

Under state statute, grant funding totaling \$1,500,000 annually (\$380,000 GPR, \$820,000 PR from penalty surcharge, and \$300,000 PR from federal funds administered by DHFS) must be allocated in six awards that provide gang diversion services. The statutes specify how much OJA must annually distribute under each of these awards. Because the penalty surcharge-funded youth diversion program appropriation would be reduced to \$753,900 PR in 2007-08, and remain at \$794,900 PR in 2008-09, under the bill, nonstatutory language will be needed to direct OJA to proportionately reduce the required grant award amounts under these six awards by a total of \$66,100 in 2007-08, and \$25,100 in 2008-09.

Notwithstanding state statute, in effectuating the penalty surcharge reduction for 2007-08, the bill directs OJA to reduce youth diversion awards in 2007-08 by \$41,000. Nonstatutory language will be needed to direct OJA to proportionally reduce the required grants amounts as identified in the previous paragraph.

*Transition Provisions.* On the general effective date of the biennial budget act, transfer the assets and liabilities, tangible personal property, and contracts of Corrections primarily related to its youth diversion program, as determined by the Secretary of DOA, to OJA. Specify that all incumbent employees of Corrections having duties primarily related to its youth diversion program, as determined by the Secretary of DOA, would be transferred to OJA. Provide that all transferred employees would retain the same rights and employee status in OJA that they enjoyed in Corrections immediately prior to the transfer, and no transferred employee who had attained permanent status in his or her classified position would be required to serve a new probationary period. Specify that the pending matters, and rules and orders of Corrections primarily related to its youth diversion program, as determined by the Secretary of DOA, would become the pending matters, rules and orders of OJA.

**Joint Finance:** Delete the recommendation to reduce expenditure authority under the penalty surcharge funded PR youth diversion grant appropriation by \$41,000 PR in 2007-08. Direct OJA to reduce funding for youth diversion contracts by \$25,100 PR annually to reflect

budgeted expenditure authority of \$794,900 PR annually under this appropriation.

**Assembly:** Delete provision transferring the administration of the youth diversion program from the Department of Corrections to OJA. Direct Corrections to reduce funding for youth diversion contracts by \$25,100 PR annually to reflect budgeted expenditure authority under the penalty surcharge funded PR youth diversion grant appropriation.

Further, require that the annual contract to an organization in the City of Racine (Ward 2 under SB 40) to provide services to divert youths from gang activities into productive activities must be put out under a competitive bid process to any organization in the City of Racine. Under current law, contracts under the program are not subject to a competitive bid process.

**Conference Committee/Legislature:** Restore Joint Finance provision.

[Act 20 Sections: 102, 323, 326, 487, 539, 3126 thru 3128, 9101(5), and 9109(1)]

**3. ADMINISTRATION OF STATE GRANT PROGRAMS [LFB Paper 122]**

	<b>Governor (Chg. to Base)</b>		<b>Jt. Finance/Leg. (Chg. to Gov)</b>		<b>Net Change</b>	
	<b>Funding</b>	<b>Positions</b>	<b>Funding</b>	<b>Positions</b>	<b>Funding</b>	<b>Positions</b>
GPR	\$274,900	1.53	-\$274,900	- 1.53	\$0	0.00

**Governor:** Provide \$139,400 in 2007-08, and \$135,500 in 2008-09, and 1.53 positions annually to provide staffing and supplies and services funding to administer the following two state grant programs: (a) law enforcement officer supplement grant program; and (b) grants to counties for substance abuse treatment programs for criminal offenders.

The Legislature originally created the law enforcement officer supplement grant program under 1993 Wisconsin Act 193, and since the 1994-95 state fiscal year has provided \$1,000,000 GPR annually for this grant program. Under this program, OJA provides supplemental grants to cities to employ additional uniformed officers whose primary duty is beat patrolling.

Under 2005 Wisconsin Act 25, the Legislature created the grants to counties for substance abuse treatment programs for criminal offenders grant program. This program is intended to provide grants to counties to enable them to establish and operate programs, including suspended and deferred prosecution programs and programs based on principles of restorative justice, that provides alternatives to prosecution and incarceration for criminal offenders who abuse alcohol or other drugs. Under current law, this program is funded with program revenue through the drug abuse program improvement surcharge and through the \$10 drug offender diversion surcharge.

**Joint Finance/Legislature:** Delete provision.

4. **LAW ENFORCEMENT OFFICER SUPPLEMENT GRANTS TO THE CITY OF MILWAUKEE** [LFB Paper 123]

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
GPR	\$1,500,000	-\$600,000	\$900,000

**Governor:** Provide \$750,000 annually under a new GPR annual appropriation for law enforcement officer supplement grants to 1<sup>st</sup> class cities. OJA would be required to provide grants from the appropriation to the City of Milwaukee (the only city currently qualifying as a 1<sup>st</sup> class city under state statute) to employ additional uniformed law enforcement officers. For each year that the city receives a grant, the city would be required to provide matching funds of at least 25% of the amount of the grant.

OJA would be permitted to make grants to the City of Milwaukee under this program in addition to any grant it provided the City under the existing OJA law enforcement officer supplement grant program. This latter OJA grant program provides supplemental grants totaling \$1.0 million GPR annually to cities to employ additional uniformed officers whose primary duty is beat patrolling.

**Joint Finance:** Delete provision and instead provide \$450,000 annually to the law enforcement officer supplement grant program under OJA.

Under current law, the program has base funding of \$1,000,000 GPR annually and the program provides grants to cities to employ additional uniformed law enforcement officers whose primary duty is beat patrolling. A city is eligible to apply for a grant under the program if it has a population of at least 25,000. OJA must make grant awards to the 10 eligible cities submitting applications that have the highest rates of violent crime index offenses in the most recent full calendar year for which data is available from the Federal Bureau of Investigation's uniform crime reporting system. OJA may not award an annual grant in excess of \$150,000 to any one city. The additional grant funding would permit the Office to provide nearly full-funded grants to the 10 cities eligible to participate under the program. [An additional \$250,000 GPR annually for City of Milwaukee law enforcement would be provided under the Department of Justice law enforcement community policing grants program. See "Justice".]

**Assembly:** Delete \$450,000 annually to the law enforcement officer supplement grant program.

**Conference Committee/Legislature:** Restore Joint Finance provision.

5. **CIVIL LEGAL SERVICES FOR THE INDIGENT** [LFB Paper 124]

GPR	\$1,000,000
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**Governor:** Provide \$1,000,000 in 2008-09 under a new, GPR annual indigent civil legal services appropriation for OJA. Beginning in 2008-09, specify that OJA must annually pay the

amounts appropriated to the Wisconsin Trust Account Foundation, Inc. Provide that the Foundation would be required to distribute the moneys received as grants to programs that provide civil legal services to indigent persons.

Stipulate that the grants could be used only for the following civil legal services: (a) serving as guardian ad litem for cases with the Bureau of Milwaukee Child Welfare of the Department of Health and Family Services; (b) coordinating insurance benefits for medical assistance recipients; (c) assisting Wisconsin Works participants in applying for supplemental security income program benefits; (d) obtaining and enforcing child support, including legal services related to domestic abuse; (e) developing discharge plans for mentally ill inmates and assisting those inmates in their community integration planning; and (f) providing ancillary services to juvenile offenders.

The Wisconsin Trust Account Foundation, Inc. was created in 1986 by the Wisconsin Supreme Court to receive funding from the interest on lawyers' trust accounts and to provide grants to agencies providing civil legal services to indigent persons.

**Joint Finance:** Delete the GPR annual appropriation for indigent civil legal services under OJA, and instead create the appropriation under DOA's supervision and management program and continue to provide \$1,000,000 in 2008-09. Specify that the Department, not OJA, must provide this funding to the Wisconsin Trust Account Foundation, Incorporated for civil legal services to indigent persons. Require the Foundation to distribute the moneys received as grants to programs that provide civil legal services to indigent persons. Eliminate the restrictions on the types of civil legal services for which the funding could be utilized and permit programs receiving this grant funding to utilize the grant funds to match other federal and private grants. Specify that the Secretary of DOA must ensure that the Foundation complies with these requirements in order to receive funding.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore Joint Finance provision.

[Act 20 Sections: 76r and 516e]

**6. PRESENTENCING ASSESSMENT GRANT TO THE COUNTY WITH THE HIGHEST VIOLENT CRIME RATE [LFB Paper 125]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
GPR	\$750,000	-\$750,000	\$0

**Governor:** Provide \$250,000 in 2007-08, and \$500,000 in 2008-09, for a grant to the county that has the highest violent crime rate, as reported by OJA, to fund the preparation of presentencing assessments of offenders. The Executive Budget Book indicates that the grant

would be provided to Milwaukee County. Presentencing assessments provide courts information for criminal sentencing decisions. Amend OJA's GPR annual grants for county alcohol and other drug abuse programs appropriation, to permit OJA to provide this grant funding.

Create a non-statutory provision specifying that, by December 1, 2007, the county that has the highest violent crime rate, as reported by OJA, would be required to submit to OJA a plan for conducting presentencing assessments. Upon approval of the plan, OJA would be required to award the county \$250,000 for calendar year 2008, and \$500,000 for calendar year 2009. At least 50% of the assessments performed by a county with this grant funding would have to be of persons subject to sentencing in connection with a felony.

The county plan submitted to OJA would have to include all of the following:

a. Identification of a target group of offenders to assess, from among persons who are convicted of a Class F through I felony, or a misdemeanor.

b. Assessment of persons in the target group to determine: (1) the risk that they will commit further crimes; (2) their needs that are directly related to criminal behavior; and (3) the likelihood that they will respond positively to community-based treatment for the assessed needs, and an assessment of the availability of community-based treatment programs to serve the offenders.

c. Collection and dissemination of information relating to the: (1) accuracy of assessments performed; (2) value and usefulness of information contained in the assessment reports for purposes of making sentencing decisions; (3) effectiveness of community-based treatment programs in addressing the assessed needs of offenders; and (4) effect of the treatment programs with respect to recidivism.

d. Annual reevaluation of the plan.

**Joint Finance:** Delete the expenditure authority under OJA. Instead, place \$500,000 GPR in 2008-09, in the Joint Committee on Finance's GPR supplemental appropriation for possible future release to OJA to provide grant funding to the county with the highest violent crime rate, to fund the preparation of presentencing assessments of offenders. Require OJA to submit the approved plan for the preparation of presentencing assessments of offenders to the Joint Committee on Finance. Upon approval of the plan, OJA would be required to award the county \$500,000 for calendar year 2009.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore Joint Finance provision.

[Act 20 Sections: 536 and 9101(4)]

7. GRANTS FOR COUNTY ALCOHOL AND OTHER DRUG ABUSE PROGRAMS [LFB Paper 126]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$750,000	-\$375,000	\$375,000

**Governor:** Include the following changes to the grants for county alcohol and other drug abuse program.

*Program Revenue Funding Changes.* Modify the distribution of revenue the state collects from the drug abuse program improvement surcharge so that: (a) the first \$850,000 plus two-thirds of all funds collected in excess of \$1,275,000 in each fiscal year would be credited to a Department of Health and Family Services (DHFS) appropriation that supports programs that provide prevention, intervention, and treatment for alcohol and other drug abuse problems; and (b) all moneys in excess of \$850,000 and up to \$1,275,000, plus one-third of moneys in excess of \$1,275,000 would be credited to an OJA appropriation to fund grants to enable counties to establish and operate programs, including suspended and deferred prosecution programs and programs based on principles of restorative justice, that provide alternatives to prosecution and incarceration for criminal offenders who abuse alcohol or other drugs. Specify that the new allocations would take effect on July 1, 2007. Under current law, as of July 1, 2007, two-thirds of all moneys from the surcharge are credited to the DHFS appropriation and one-third of the surcharge revenues are credited to the OJA appropriation.

Provisions of 2005 Wisconsin Act 25 created the OJA grant program for counties. Act 25 created an annual GPR appropriation under OJA for making grants and evaluating the program, but provided no funding. Act 25 also created a continuing PR appropriation under OJA for grant funding. Program revenue for this latter appropriation is provided from the drug abuse program improvement surcharge and from a \$10 drug offender diversion surcharge to be assessed for property crime convictions under Chapter 943 of the statutes.

*GPR Grant Funding to the County that has the Highest Violent Crime Rate.* Provide \$250,000 GPR in 2007-08, and \$500,000 GPR in 2008-09, for a grant to the county that has the highest violent crime rate, as reported by OJA, to enable the county to establish and operate programs, including suspended and deferred prosecution programs and programs based on principles of restorative justice, that provide alternatives to prosecution and incarceration for criminal offenders who abuse alcohol or other drugs. The Executive Budget Book indicates that the grant would be provided to Milwaukee County.

Specify that, by August 15, 2007, the county with the highest violent crime rate, as reported by OJA, would have to submit an application to OJA to receive this grant funding. Upon approval of the application, OJA would be required to award the county \$250,000 for calendar year 2008, and \$500,000 for calendar year 2009. For the county to be eligible for the grant, all of the following current law provisions would have to apply:

a. The county's program would have to be designed to meet the needs of a person who abuses alcohol or other drugs and who may be or has been charged with or who has been convicted of a crime in that county related to the person's use or abuse of alcohol or other drugs.

b. The program would have to be designed to promote public safety, reduce prison and jail populations, reduce prosecution and incarceration costs, reduce recidivism, and improve the welfare of participants' families by meeting the comprehensive needs of participants.

c. The program would have to establish eligibility criteria for a person's participation. The criteria would have to specify that a violent offender is not eligible to participate in the program. A "violent offender" is one of the following: (1) a person who has been charged with or convicted of an offense in a pending case and, during the course of the offense, the person carried, possessed, or used a dangerous weapon, the person used force against another person, or a person died or suffered serious bodily harm; or (2) a person with one or more prior convictions for a felony involving the use or attempted use of force against another person with the intent to cause death or serious bodily harm.

d. Services provided under the program would have to be consistent with evidence-based practices in substance abuse and mental health treatment, as determined by DHFS, and the program would have to provide intensive case management.

e. The program would have to utilize graduated sanctions and incentives to promote successful substance abuse treatment.

f. The program would have to provide holistic treatment to its participants and provide them services that may be needed, as determined under the program, to eliminate or reduce their use of alcohol or other drugs, improve their mental health, facilitate their gainful employment or enhanced education or training, provide them stable housing, facilitate family reunification, ensure payment of child support, and increase the payment of other court-ordered obligations.

g. The program would have to be designed to integrate all mental health services provided to program participants by state and local government agencies and other organizations. The program would have to require regular communication among a participant's substance abuse treatment providers, other service providers, the case manager, and any person designated under the program to monitor the person's compliance with his or her obligations under the program and any probation, extended supervision, and parole agent assigned to the participant.

h. The program would have to provide substance abuse and mental health treatment services through DHFS-certified providers.

i. The program would have to require participants to pay a reasonable amount for their treatment, based on their income and available assets, and pursue and use all possible resources available through insurance and federal, state, and local aid programs, including cash, vouchers, and direct services.

j. The program would have to be developed with input from, and implemented in



collaboration with, one or more circuit court judges, the district attorney, the state public defender, local law enforcement officials, county agencies responsible for providing social services, including services relating to alcohol and other drug addiction, child welfare, mental health, and the Wisconsin works program, the departments of corrections and health and family services, private social services agencies, and substance abuse treatment providers.

k. The county would have to comply with other eligibility requirements established by OJA to promote the objectives listed under a. and b. above.

**Joint Finance:** Delete \$250,000 in 2007-08, and \$500,000 in 2008-09, for a grant to the county that has the highest violent crime rate, as reported by OJA, to enable the county to establish and operate a treatment alternatives and diversion (TAD) program. Instead, provide \$375,000 in 2007-08, to this county to operate its TAD program.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore Joint Finance provision, but specify that, by December 1, 2007, the county with the highest violent crime rate, as reported by OJA, would have to submit an application to OJA to receive this grant funding. Upon approval of the application, OJA would be required to award the county \$375,000 for calendar year 2008.

[Act 20 Sections: 3866, 9101(3), and 9407(1)]

**8. GRANTS FOR DIGITAL RECORDING OF CUSTODIAL INTERROGATIONS BY LAW ENFORCEMENT GRANT PROGRAM [LFB Paper 501]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
PR	-\$1,500,000	\$1,500,000	\$0

**Governor:** Eliminate the grants for digital recording of custodial interrogations by law enforcement program. Delete \$750,000 annually in base grant funding for the program and delete the statutory language governing the administration of the program. Under current law, the program is supported by the penalty surcharge. Whenever a court imposes a fine or forfeiture for most violations of state law or municipal or county ordinance, the court also imposes a penalty surcharge of 26% of the total fine or forfeiture.

Under 2005 Wisconsin Act 60, the Legislature created the grants for digital recording of custodial interrogations by law enforcement grant program. The program is intended to provide grants to law enforcement agencies for equipment or training associated with digitally recording custodial interrogations of suspects.

**Joint Finance/Legislature:** Delete provision.

**9. CASE MANAGEMENT FUNDING FOR MILWAUKEE COUNTY [LFB Paper 127]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
GPR	\$25,000	-\$25,000	\$0

**Governor:** Provide \$25,000 to OJA's general program operations appropriation in 2007-08 to permit OJA to transfer \$25,000 to the Milwaukee County District Attorney's Office to support the development of case management processes.

**Joint Finance/Legislature:** Delete provision.

**10. PENALTY SURCHARGE SHORTFALL [LFB Paper 501]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
PR	-\$9,100	\$9,100	\$0

**Governor:** Reduce expenditure authority by \$9,100 in 2007-08 under OJA's law enforcement programs-administration appropriation that is supported by penalty surcharge funding. Under current law, the appropriation is utilized by OJA to fund administration costs associated with grants for law enforcement assistance. The reduction generally reflects a one-time decrease of 5% in 2007-08 (after standard budget adjustments) to appropriations supported by penalty surcharge receipts in order to address a deficit in penalty surcharge funding. [See "Justice."]

**Joint Finance/Legislature:** Delete provision.

**11. FEDERAL BYRNE JUSTICE ASSISTANCE GRANT FUNDING [LFB Paper 261]**

**Joint Finance:** Direct OJA to utilize 44% of the federal fiscal year (FFY) 2007 and 2008 Byrne Justice Assistance Grant awards to support local multijurisdictional enforcement groups (MEGs). Multijurisdictional enforcement groups are cooperative multi-agency law enforcement efforts to prosecute criminal drug violations of Chapter 961 (the Uniform Controlled Substances Act). As in prior biennia, under 2005 Wisconsin Act 25, the Legislature identified the highest priority for Byrne funding to be the support of local MEGs. Under Act 25, the Legislature approved utilizing 44% of the projected available Byrne funding for the support of MEGs. This provision would ensure that available Byrne funding be utilized in like proportion as in 2005-07 to support local MEGs. [See "District Attorneys."]

Direct OJA to allocate \$58,000 FED annually in Byrne funding during 2007-09, to an entity in Dane County for the employment of a full-time youth court coordinator to expand the number of youth courts in the County. The intent of the funding is to support the youth court

activities of the Dane County Timebank, Inc.

**Assembly:** Delete provision directing OJA to allocate \$58,000 FED annually in Byrne funding during 2007-09, to an entity in Dane County for the employment of a full-time youth court coordinator.

**Conference Committee/Legislature:** Restore Joint Finance provision.

[Act 20 Sections: 9101(6L)&(7t)]

## 12. CHILD ADVOCACY CENTERS

GPR	\$240,000
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**Senate:** Provide \$240,000 in 2008-09, to OJA under a new GPR annual child advocacy centers appropriation to provide annual grants of \$20,000 to each of the following 12 child advocacy centers for education, training, medical advice, and quality assurance activities: (a) Care House in Rock County; (b) Child Protection Center in Milwaukee County; (c) Safe Harbor in Dane County; (d) Kenosha Child Advocacy Center in Kenosha County; (e) Fox Valley Child Advocacy Center in Winnebago County; (f) Stepping Stones in La Crosse County; (g) CARE Center in Waukesha County; (h) Child Advocacy Center of Northeastern Wisconsin in Marathon County; (i) Chippewa County Child Advocacy Center; (j) a child advocacy center in Brown County; (k) a child advocacy center in Racine County; and (l) a child advocacy center in Walworth County. The intent of child advocacy centers is to provide comprehensive services for child victims and their families by coordinating services from law enforcement and criminal justice agencies, child protective services, victim advocacy agencies, and health care providers.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore Senate provision.

[Act 20 Sections: 125g and 536m]

## 13. GRANT FOR WISCONSIN CASA ASSOCIATION

**Senate:** Direct OJA to provide a grant of \$150,000 FED annually during 2007-09 only, to the Wisconsin CASA (court-appointed special advocates) Association for the support, assistance, and development of court-appointed special advocate programs. Direct OJA to fund the grants from amounts received under the federal Byrne Justice Assistance Grant Program. In abuse and neglect cases, a court-appointed special advocate may provide information to the court regarding the best interests of a child.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore Senate provision.

[Act 20 Section: 9101(6Lj)]

**14. MOBILE DATA COMPUTERS FOR THE CITY OF FORT ATKINSON**

**Senate:** Direct OJA to provide a grant of \$61,400 FED in 2007-08, funded with federal criminal justice-related grant funds, to purchase mobile data computers for law enforcement vehicles for the City of Fort Atkinson.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore Senate provision.

[Act 20 Section: 9101(6f)]

**15. GRANT FOR COPS-N-KIDS READING PROGRAM**

**Senate:** Direct OJA to provide a three-year grant totaling \$112,500 FED, effective January 1, 2008, to the Cops-n-Kids Reading Program in the City of Racine. The Office previously provided a three-year grant totaling \$112,500 FED, funded with federal juvenile justice funding, to support this program which expires on December 31, 2007. Under this provision, the Legislature would direct the Office to provide an additional three-year grant.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore Senate provision.

[Act 20 Section: 9101(7h)]

**16. EMERGENCY GENERATOR FOR THE TOWN OF SUMNER IN JEFFERSON COUNTY**

**Senate:** Direct OJA to provide a grant of \$10,000 FED in 2007-08, funded with federal homeland security grant dollars, to purchase an emergency generator for the Town of Sumner in Jefferson County.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore Senate provision.

[Act 20 Section: 9101(7f)]

**17. DELETE OFFICE AND TRANSFER FUNDING, STAFF, AND DUTIES TO THE DEPARTMENTS OF JUSTICE AND MILITARY AFFAIRS**

**Assembly:** Delete \$19,700 GPR and 0.15 GPR position, \$174,500 FED and 1.60 FED positions, and \$120,100 PR and 1.0 PR position annually to eliminate OJA administrative staffing and delete the Office.

Transfer the administration of federal homeland security grant funding to the Department of Military Affairs (DMA) by: (a) creating a federal continuing appropriation under DMA for the receipt and expenditure of funds for homeland security programs and providing \$36,729,400 FED in 2007-08, and \$36,584,300 FED in 2008-09; (b) enumerating as a statutory duty of the Adjutant General, the administration of federal homeland security funds; (c) delete the federal aid, homeland security appropriation under OJA which is utilized to receive and expend funding for federal homeland security programs; and (d) delete the requirement that OJA apply for contracts and receive and expend federal funds related to homeland security.

Transfer the remaining funding, staff, and duties of the Office to the Department of Justice. Specifically, transfer \$1,220,900 GPR and 2.27 GPR positions, \$21,751,200 FED and 13.58 FED positions, and \$1,684,700 PR and 1.40 PR positions in 2007-08, and \$1,220,900 GPR and 2.27 GPR positions, \$21,333,200 FED and 11.58 FED positions, and \$1,684,700 PR and 1.40 PR positions in 2008-09.

**Conference Committee/Legislature:** Delete provision.

**Division of Gaming**

**1. DELETE RACING REGULATORY POSITIONS**

	<b>Funding</b>	<b>Positions</b>
PR	- \$214,300	- 2.00

**Governor/Legislature:** Delete \$91,800 in 2007-08 and \$122,500 in 2008-09 and 2.0 positions annually for general program operations for racing regulation. The decrease reflects declining workload due to the closure of the Geneva Lakes Kennel Club racetrack. The positions are currently vacant.

**2. POSITIONS FOR TRIBAL GAMING VENDOR BACKGROUND INVESTIGATIONS**

	<b>Positions</b>
PR	2.00

**Governor/Legislature:** Authorize 2.0 positions annually to conduct background investigations of vendors contracting with tribes for supplies and services relating to tribal gaming. Under current law, in accordance with an Indian gaming compact or

with the regulations of, or an agreement with, the National Indian Gaming Commission, DOA is required to certify and conduct background investigations of a person proposing to be an Indian gaming vendor. The Department indicates it currently contracts for the background investigations of vendors and the investigations could be conducted at a lower cost by state personnel. The bill would authorize 2.0 auditor positions. Funding for the positions would be reallocated from supplies and services (\$105,100 in 2007-08 and \$140,100 in 2008-09).

**3. TRIBAL GAMING APPROPRIATIONS AND GENERAL FUND REVENUE [LFB Paper 135]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Legislature (Chg. to JFC)</b>	<b>Net Change</b>
GPR-REV	\$98,360,200	-\$6,392,800	\$51,014,600	\$142,982,000

**Governor:** Appropriate \$28,584,100 in 2007-08 and \$28,668,900 in 2008-09 in tribal gaming revenue paid to the state under the amended tribal gaming compacts. The appropriations include: (a) allocations totaling \$26,641,300 in 2007-08 and \$26,726,100 in 2008-09 to various state agencies for programs unrelated to tribal gaming regulation or law enforcement; and (b) appropriations for the regulation of tribal gaming in DOA [\$1,811,200 annually], and tribal gaming law enforcement in the Department of Justice (DOJ) [\$131,600 annually]. Where there is a net fiscal change associated with any of these appropriations (other than standard budget adjustments), it is included under the budget summaries of the affected agency.

Tribal revenue paid to the state is based on provisions in the amended state-tribal gaming compacts, signed in 2003 by 10 of the 11 Wisconsin tribes. [The Lac du Flambeau did not conclude any 2003 amendments to their compact with the state.] Under the amendments, tribes are scheduled to make payments to the state based on a percentage of net revenue (gross revenue minus winnings) in the 2007-09 biennium. The percentages used to calculate state payments vary by tribe and, in some cases, vary by year for the same tribe.

Under current law, Indian gaming receipts are credited to: (a) the DOJ Indian gaming law enforcement appropriation; (b) the DOA general program operations appropriation relating to Indian gaming regulation under the compacts; and (c) a DOA appropriation for Indian gaming receipts in the amount necessary to make all the transfers specified under the appropriation to other state programs. Indian gaming receipts not otherwise credited to these appropriation accounts are deposited in the general fund.

Under the bill, tribal gaming revenues in the 2007-09 biennium are projected to total \$75,874,300 in 2007-08 and \$79,808,400 in 2008-09. These projections assume that all prior-year lump-sum payments will have been made by the end of 2006-07. [One lump-sum payment of \$30.0 million by the Ho-Chunk Nation currently remains outstanding.]

The general fund summary included in SB 40 shows tribal gaming general fund revenue totaling \$47,245,600 in 2007-08 and \$51,114,600 in 2008-09, and the biennial total of these amounts (\$98,360,200) is shown above. However, based on the revenue projections made by the administration and the actual appropriations of tribal gaming revenue under the bill, general fund revenue would total \$47,290,200 in 2007-08 and \$51,139,500 in 2008-09. These amounts are \$44,600 in 2007-08 and \$24,900 in 2008-09 higher than the amounts shown in the general fund summary. The following table shows the calculation of the corrected general fund revenue amounts under the bill.

**2007-09 Tribal Gaming General Fund Revenue  
Governor**

	<u>2007-08</u>	<u>2008-09</u>
Estimated Tribal Payments Due in 2007-09	\$75,874,300	\$79,808,400
Appropriations of Tribal Revenue	28,584,100	28,668,900
General Fund Revenue under SB 40	47,290,200	51,139,500

Under the bill, the Governor recommends the appropriation of tribal gaming revenue to 13 state agencies, in 41 program areas, including the DOA regulation and DOJ enforcement appropriations. Each of these program areas is listed and briefly described in the following table.

Of these 41 programs areas, 40 appropriation accounts are authorized under current law. For 39 of these 40 programs, base funding is either unchanged or modified by standard budget adjustments or certain cost reestimates. Cost reestimates include fleet rate increases that affect multiple appropriations in the Department of Natural Resources, including items 24, 25, and 27 in the table, and debt service reestimates affecting multiple state agencies and appropriations, including item 33. No additional description of these 39 tribal gaming appropriations is provided in the budget summaries under the respective agencies. One program funded under current law for Veterans Affairs [item 35] would have base funding modified to expand the program. A more detailed description of the provision can be found in the budget summary for Veterans Affairs. One new program area is funded under the bill from tribal gaming revenue in the Historical Society [item 18] for a storage facility for the Society's collections. A more detailed description of this provision can be found in the budget summary for the Historical Society. Finally, two program areas identified in the table [items 29, and 37] are not appropriated funding in the 2007-09 biennium, but are existing appropriation accounts under current law that can only be funded with tribal gaming revenue.

**2007-09 Tribal Gaming Revenue Appropriations  
Governor**

<u>Agency</u>	<u>Program Revenue</u>		<u>Purpose</u>
	<u>2007-08</u>	<u>2008-09</u>	
1 Administration	\$500,000	\$500,000	County management assistance grant program.
2 Administration	250,000	250,000	UW-Green Bay and Oueida Tribe programs.
3 Arts Board	25,200	25,200	State aid for American Indian arts.
4 Commerce	112,800	112,800	American Indian economic liaison and gaming grants specialist and program marketing.
5 Commerce	94,000	94,000	American Indian economic development technical assistance grants.
6 Commerce	2,538,700	2,538,700	Gaming economic development and diversification grants and loans.
7 Commerce	488,700	488,700	Physician, Dentist, Dental Hygienist and Health Care Provider Loan Assistance Programs.
8 Health and Family Services	500,000	500,000	Elderly nutrition; home-delivered and congregate meals.
9 Health and Family Services	120,000	120,000	American Indian health projects.
10 Health and Family Services	271,600	271,600	Indian aids for social and mental hygiene services.
11 Health and Family Services	500,000	500,000	Indian substance abuse prevention education.
12 Health and Family Services	1,070,000	1,070,000	Medical assistance matching funds for tribal outreach positions and federally qualified health centers (FQHC).
13 Health and Family Services	800,000	800,000	Health services: tribal medical relief block grants.
14 Health and Family Services	150,000	150,000	Minority health program and public information campaign grants.
15 Higher Education Aids Board	787,600	787,600	Indian student assistance grant program for American Indian undergraduate or graduate students.
16 Higher Education Aids Board	404,000	404,000	Wisconsin Higher Education Grant (WHEG) program for tribal college students.
17 Historical Society	261,200	261,200	Northern Great Lakes Center operations funding.
18 Historical Society	62,900	127,600	Collection preservation storage facility.
19 Justice	708,400	708,400	County-tribal law enforcement programs: local assistance.
20 Justice	91,500	91,500	County-tribal law enforcement programs: state operations.
21 Justice	550,000	550,000	County law enforcement grant program.
22 Justice	700,000	700,000	Tribal law enforcement grant program.



<u>Agency</u>	<u>Program Revenue</u>		<u>Purpose</u>
	<u>2007-08</u>	<u>2008-09</u>	
23 Natural Resources	\$3,000,000	\$3,000,000	Transfer to the fish and wildlife account of the conservation fund.
24 Natural Resources	103,600	105,400	Management of an elk reintroduction program.
25 Natural Resources	162,700	163,100	Management of state fishery resources in off-reservation areas where tribes have treaty-based rights to fish.
26 Natural Resources	100,000	100,000	Payment to the Lac du Flambeau Band relating to certain fishing and sports licenses.
27 Natural Resources	1,196,900	1,216,400	State snowmobile enforcement program, safety training and fatality reporting.
28 Natural Resources	62,600	62,600	Reintroduction of whooping cranes.
29 Shared Revenue	0	0	Farmland tax relief credit payments by tribes with casinos associated with certain pari-mutuel racetracks. (No allocations are made in the 2007-09 biennium.)
30 Tourism	101,600	101,600	Limited-term employees to operate or staff Wisconsin travel information centers.
31 Tourism	9,149,400	9,149,400	General tourism marketing, including grants to nonprofit tourism promotion organizations and specific earmarks.
32 Tourism	32,300	32,300	Law enforcement services at the Kickapoo Valley Reserve.
33 University of Wisconsin System	261,700	260,100	Ashland full-scale aquaculture demonstration facility debt service payments.
34 University of Wisconsin System	402,100	402,100	Ashland full-scale aquaculture demonstration facility operational costs.
35 Veterans Affairs	56,000	56,000	Grants to assist American Indians in obtaining federal and state veterans benefits.
36 Veterans Affairs	75,800	75,800	American Indian services veterans benefits coordinator position.
37 Veterans Affairs	0	0	Operation of Wisconsin Veterans Museum. (No allocations are made in the 2007-09 biennium.)
38 Wisconsin Technical College System Board	600,000	600,000	Grants for work-based learning programs.
39 Workforce Development	<u>350,000</u>	<u>350,000</u>	Vocational rehabilitation services for Native American individuals and American Indian tribes or bands.
Subtotal (Non-Regulatory Items)	\$26,641,300	\$26,726,100	
40 Administration	\$1,811,200	\$1,811,200	General program operations for Indian gaming regulation under the compacts.
41 Justice	<u>\$131,600</u>	<u>\$131,600</u>	Investigative services for Indian gaming law enforcement.
Subtotal (Regulation/Enforcement)	\$1,942,800	\$1,942,800	
Total Appropriations	\$28,584,100	\$28,668,900	

**Joint Finance:** Reestimate general fund revenue from tribal gaming payments to the state at \$45,166,700 in 2007-08 and \$46,800,700 in 2008-09. These amounts are \$2,078,900 in 2007-08 and \$4,313,900 in 2008-09 lower than the estimates made in the general fund summary under the bill. These totals reflect the following changes:

Technically correct general fund revenue relating to tribal gaming by increasing the amounts shown in the bill's general fund summary by \$44,600 in 2007-08 and \$24,900 in 2008-09. This correction modifies general fund revenue to reflect the revenue projections made by the administration and the actual appropriations of tribal gaming revenue under the Governor's bill.

A further reestimate of general fund revenues for the 2007-09 biennium was made on the basis of revised state payment projections and adjustments for certain miscellaneous revenue relating to tribal gaming, the estimated return of unspent tribal gaming revenue allocated to state agencies in the prior fiscal year, and certain compensation and health care reserves. This reestimate lowered the general fund revenue under the bill by \$3,046,400 in 2007-08 and \$4,551,700 in 2008-09.

In addition, the following changes in the allocation of tribal gaming revenue to state agencies were made. In total, these changes reduced agency allocations by \$922,900 in 2007-08 and \$212,900 in 2008-09. These reductions in allocations result in an increase in general fund revenue.

a. *Administration -- County Management Assistance Grant Program.* Provide \$50,000 annually to increase the funding appropriated for the grant program to \$550,000 annually.

b. *Commerce -- Gaming Economic Development and Diversification Grants and Loans.* Delete \$1,000,000 in 2007-08 and \$350,000 in 2008-09 for the program. This results in appropriations of \$1,538,700 in 2007-08 and \$2,188,700 in 2008-09 for grants and loans.

c. *Higher Education Aids Board -- Wisconsin Higher Education Grant (WHEG) Program for Tribal College Students.* Provide \$10,000 in 2007-08 and \$20,000 in 2008-09 to increase the funding appropriated for the grant program to \$414,000 in 2007-08 and \$424,000 in 2008-09.

d. *Historical Society -- Collection Preservation Storage Facility.* Delete \$62,900 in 2007-08. This eliminates the 2007-08 tribal gaming funds for the project. The 2008-09 tribal gaming funding (\$127,600) would remain unchanged.

e. *Justice -- Tribal Law Enforcement Grant Program.* Provide \$80,000 annually to increase the funding appropriated for the grant program to \$780,000 annually.

f. *Natural Resources -- Fleet Rate Adjustments.* Delete \$12,900 in 2008-09 to reflect fleet rate adjustments to three tribal gaming funded programs. These adjustments include: (1) -\$1,100 for the management of an elk reintroduction program; (2) -\$200 for the management of state fishery resources; and (3) -\$11,600 for the state snowmobile enforcement program.

Based on these actions, the following table summarizes the reestimated tribal payments to the state, the modified appropriations made to state agencies from tribal gaming revenue, and the revised projection of general fund revenue in 2007-08 and 2008-09:

**2007-09 Tribal Gaming General Fund Revenue  
Joint Finance**

	<u>2007-08</u>	<u>2008-09</u>
Reestimated Tribal Payments	\$72,038,100	\$74,523,500
Appropriations of Tribal Revenue	27,661,200	28,456,000
Revenue and Expense Adjustments*	789,800	733,200
Reestimated General Fund Revenue**	45,166,700	46,800,700
General Fund Revenue under SB 40***	47,245,600	51,114,600
General Fund Revenue - Change to Bill	-2,078,900	-4,313,900

\* Adjustments = miscellaneous revenues - budgeted compensation and other reserves.

\*\* Reestimated general fund revenue = reestimated payments - appropriations + adjustments.

\*\*\* Amounts shown in the general fund summary for SB 40.

**Assembly:** Modify the allocation of tribal gaming revenue to state agencies, as follows: (a) delete proposed increases of \$10,000 in 2007-08 and \$20,000 in 2008-09 to the Higher Education Aids Board for need based financial aid for students attending tribal colleges; (b) delete the appropriation which would provide \$402,100 annually to the UW System for operational costs associated with the aquaculture demonstration facility; and (c) delete \$112,800 annually and 1.0 position allocated to Commerce to eliminate the American Indian economic liaison and related funding. These actions would increase tribal gaming general fund revenue by \$524,900 in 2007-08 and \$534,900 in 2008-09.

**Conference Committee/Legislature:** Delete Assembly provision. Appropriate \$500,000 in 2007-08 to the Department of Health and Family Services and \$500,000 in 2008-09 to the Department of Children and Families for an Indian child high-cost out-of-home care placement program. With these additions, appropriations of tribal gaming revenue paid to the state under Act 20 total \$28,211,200 in 2007-08 and \$29,006,000 in 2008-09. The appropriations include: (a) allocations totaling \$26,268,400 in 2007-08 and \$27,063,200 in 2008-09 to various state agencies for programs unrelated to tribal gaming regulation or law enforcement; and (b) appropriations for the regulation of tribal gaming in DOA [\$1,811,200 annually], and tribal gaming law enforcement in DOJ [\$131,600 annually].

Reestimate tribal gaming revenues paid to the state at \$124,153,000 in 2007-08. This projection assumes that all outstanding prior-year payments due from the Ho-Chunk Nation will have been made by the end of 2007-08.

The general fund summary for Act 20 shows tribal gaming general fund revenue totaling \$96,731,600 in 2007-08 and \$46,250,700 in 2008-09. The following table shows the calculation of the general fund revenue amounts under the act.

**2007-09 Tribal Gaming General Fund Revenue  
Act 20**

	<u>2007-08</u>	<u>2008-09</u>
Reestimated Tribal Payments	\$124,153,000	\$74,523,500
Appropriations of Tribal Revenue	28,211,200	29,006,000
Revenue and Expense Adjustments*	789,800	733,200
Reestimated General Fund Revenue**	96,731,600	46,250,700

\* Adjustments = miscellaneous revenues - budgeted compensation and other reserves.

\*\* Reestimated General fund revenue = reestimated payments - appropriations + adjustments.

Under Act 20, tribal gaming revenue is appropriated to 14 state agencies, in 40 program areas, including the DOA regulation and DOJ enforcement appropriations. Each of these program areas is listed and briefly described in the following table. Note that the Indian child high-cost out-of-home care placement program (Items #4 and #9) is funded in each year of the biennium, but under Health and Family Services in 2007-08 and Children and Families in 2008-09.

**2007-09 Tribal Gaming Revenue Appropriations  
Act 20**

<u>Agency</u>	<u>Program Revenue</u>		<u>Purpose</u>
	<u>2007-08</u>	<u>2008-09</u>	
1 Administration	\$600,000	\$600,000	County management assistance grant program.
2 Administration	250,000	250,000	UW-Green Bay and Oneida Tribe programs.
3 Arts Board	25,200	25,200	State aid for American Indian arts.
4 Children and Families	0	500,000	Indian child high-cost out-of-home care placements.
5 Commerce	112,800	112,800	American Indian economic liaison and gaming grants specialist and program marketing.
6 Commerce	94,000	94,000	American Indian economic development technical assistance grants.
7 Commerce	1,538,700	2,188,700	Gaming economic development and diversification grants and loans.
8 Commerce	488,700	488,700	Physician, Dentist, Dental Hygienist and Health Care Provider Loan Assistance Programs.

<u>Agency</u>	<u>Program Revenue</u>		<u>Purpose</u>
	<u>2007-08</u>	<u>2008-09</u>	
9 Health and Family Services	\$500,000	\$0	Indian child high-cost out-of-home care placements.
10 Health and Family Services	500,000	500,000	Elderly nutrition; home-delivered and congregate meals.
11 Health and Family Services	120,000	120,000	American Indian health projects.
12 Health and Family Services	271,600	271,600	Indian aids for social and mental hygiene services.
13 Health and Family Services	500,000	500,000	Indian substance abuse prevention education.
14 Health and Family Services	1,070,000	1,070,000	Medical assistance matching funds for tribal outreach positions and federally qualified health centers (FQHC).
15 Health and Family Services	800,000	800,000	Health services: tribal medical relief block grants.
16 Health and Family Services	150,000	150,000	Minority health program and public information campaign grants.
17 Higher Education Aids Board	787,600	787,600	Indian student assistance grant program for American Indian undergraduate or graduate students.
18 Higher Education Aids Board	414,000	424,000	Wisconsin Higher Education Grant (WHEG) program for tribal college students.
19 Historical Society	261,200	261,200	Northern Great Lakes Center operations funding.
20 Historical Society	0	127,600	Collection preservation storage facility.
21 Justice	708,400	708,400	County-tribal law enforcement programs: local assistance.
22 Justice	91,500	91,500	County-tribal law enforcement programs: state operations.
23 Justice	550,000	550,000	County law enforcement grant program.
24 Justice	780,000	780,000	Tribal law enforcement grant program.
25 Natural Resources	3,000,000	3,000,000	Transfer to the fish and wildlife account of the conservation fund.
26 Natural Resources	103,600	104,300	Management of an elk reintroduction program.
27 Natural Resources	162,700	162,900	Management of state fishery resources in off-reservation areas where tribes have treaty-based rights to fish.
28 Natural Resources	100,000	100,000	Payment to the Lac du Flambeau Band relating to certain fishing and sports licenses.
29 Natural Resources	1,196,900	1,204,800	State snowmobile enforcement program, safety training and fatality reporting.
30 Natural Resources	62,600	62,600	Reintroduction of whooping cranes.

<u>Agency</u>	<u>Program Revenue</u>		<u>Purpose</u>
	<u>2007-08</u>	<u>2008-09</u>	
31 Shared Revenue	\$0	\$0	Farmland tax relief credit payments by tribes with casinos associated with certain pari-mutuel racetracks. (No allocations are made in the 2007-09 biennium.)
32 Tourism	101,600	101,600	Limited-term employees to operate or staff Wisconsin travel information centers.
33 Tourism	9,149,400	9,149,400	General tourism marketing, including grants to nonprofit tourism promotion organizations and specific earmarks.
34 Tourism	32,300	32,300	Law enforcement services at the Kickapoo Valley Reserve.
35 University of Wisconsin System	261,700	260,100	Ashland full-scale aquaculture demonstration facility debt service payments.
36 University of Wisconsin System	402,100	402,100	Ashland full-scale aquaculture demonstration facility operational costs.
37 Veterans Affairs	56,000	56,000	Grants to assist American Indians in obtaining federal and state veterans benefits.
38 Veterans Affairs	75,800	75,800	American Indian services veterans benefits coordinator position.
39 Veterans Affairs	0	0	Operation of Wisconsin Veterans Museum. (No allocations are made in the 2007-09 biennium.)
40 Wisconsin Technical College System Board	600,000	600,000	Grants for work-based learning programs.
41 Workforce Development	<u>350,000</u>	<u>350,000</u>	Vocational rehabilitation services for Native American individuals and American Indian tribes or bands.
Subtotal (Non-Regulatory Items)	\$26,268,400	\$27,063,200	
42 Administration	1,811,200	1,811,200	General program operations for Indian gaming regulation under the compacts.
43 Justice	<u>131,600</u>	<u>131,600</u>	Investigative services for Indian gaming law enforcement.
Subtotal (Regulation/Enforcement)	\$1,942,800	\$1,942,800	
Total Appropriations	\$28,211,200	\$29,006,000	

[Act 20 Section: 175]

## AGRICULTURE, TRADE AND CONSUMER PROTECTION

<b>Budget Summary</b>							
Fund	2006-07 Base Year Doubled	2007-09 Governor	2007-09 Jt. Finance	2007-09 Legislature	2007-09 Act 20	Act 20 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$55,708,400	\$60,779,800	\$59,286,400	\$60,081,000	\$60,081,000	\$4,372,600	7.8%
FED	15,255,400	30,309,000	29,968,000	29,968,000	29,968,000	14,712,600	96.4
PR	39,269,400	40,804,600	40,517,400	40,517,400	40,517,400	1,248,000	3.2
SEG	<u>45,858,200</u>	<u>60,508,000</u>	<u>59,800,000</u>	<u>58,600,000</u>	<u>58,600,000</u>	<u>12,741,800</u>	27.8
<b>TOTAL</b>	<b>\$156,091,400</b>	<b>\$192,401,400</b>	<b>\$189,571,800</b>	<b>\$189,166,400</b>	<b>\$189,166,400</b>	<b>\$33,075,000</b>	<b>21.2%</b>
BR		\$7,000,000	\$7,000,000	\$7,000,000	\$7,000,000		

<b>FTE Position Summary</b>						
Fund	2006-07 Base	2008-09 Governor	2008-09 Jt. Finance	2008-09 Legislature	2008-09 Act 20	Act 20 Change Over 2006-07 Base
GPR	219.90	215.40	220.90	222.40	222.40	2.50
FED	71.95	70.95	70.95	70.95	70.95	- 1.00
PR	183.40	183.40	182.90	182.90	182.90	- 0.50
SEG	<u>97.12</u>	<u>96.12</u>	<u>97.12</u>	<u>97.12</u>	<u>97.12</u>	<u>0.00</u>
<b>TOTAL</b>	<b>572.37</b>	<b>565.87</b>	<b>571.87</b>	<b>573.37</b>	<b>573.37</b>	<b>1.00</b>

### Budget Change Items

#### 1. STANDARD BUDGET ADJUSTMENTS

**Governor:** Provide adjustments for: (a) turnover reduction (-\$151,400 GPR annually and -\$71,400 PR annually); (b) full funding of salaries and fringe benefits (\$1,936,600 GPR, \$217,700 FED, \$435,200 PR and \$534,500 SEG annually); (c) reclassifications (\$43,800 PR in 2007-08 and \$52,000 PR in 2008-09 and \$14,800 SEG in 2007-08 and \$21,800 SEG in 2008-09); and (d) minor transfers within the same alpha appropriation (transfer 1.0 GPR position from meat inspection to food safety and 1.0 GPR position from the office of agricultural statistics to the office of the secretary and management services).

GPR	\$3,570,400
FED	435,400
PR	823,400
SEG	<u>1,105,600</u>
<b>Total</b>	<b>\$5,934,800</b>

**Assembly:** Modify the provision to delete \$1,785,200 GPR annually (all GPR standard budget adjustments).

**Conference Committee/Legislature:** Delete Assembly modification.

## 2. SOIL AND WATER RESOURCE MANAGEMENT [LFB Papers 585 and 586]

	<b>Governor (Chg. to Base)</b>	<b>Legislature (Chg. to Gov)</b>	<b>Net Change</b>
SEG	\$12,000,000	-\$6,000,000	\$6,000,000
BR	\$7,000,000	\$0	\$7,000,000

**Governor:** Provide an additional \$5,000,000 in 2007-08 and \$7,000,000 in 2008-09 from the nonpoint account of the segregated environmental fund primarily for county cost-share grants to landowners for nutrient management planning and manure management grants. Under administrative rule ATCP 50, all farmers must implement a nutrient management plan by 2008 in order to meet DNR runoff pollution performance standards (currently, only farmers near outstanding and exceptional resource waters are required to implement a nutrient management plan).

In addition, provide an increase in general obligation bonding authority of \$7,000,000 for the soil and water resource management program. Bonding revenue would be used to provide cost-share grants to counties for land and water resource management projects and animal waste best management practices. The Department of Agriculture, Trade and Consumer Protection (DATCP) is currently authorized \$26,075,000 in bonding for these activities.

**Senate:** Provide increased funding of \$1 million nonpoint account SEG (rather than \$5 million) in 2007-08 and \$7 million in 2008-09 for nutrient management planning and manure management grants.

**Assembly:** Provide increased funding of \$1 million in 2007-08 and \$2 million in 2008-09 for local nutrient and manure management planning grants (a reduction of \$4 million in 2007-08 and \$5 million in 2008-09 to the amount recommended by the Governor).

**Conference Committee/Legislature:** Provide an additional \$6,000,000 beginning in 2008-09 primarily for local nutrient and manure management planning grants and \$7,000,000 BR for soil and water resource management grants.

[Act 20 Section: 596]

## 3. NUTRIENT MANAGEMENT CONSULTANT PLAN

**Assembly:** Require DATCP to develop a plan to increase producer access to trained private sector technical service providers, and utilization of those providers, for the



development and implementation of nutrient management plans. Require DATCP to submit this plan to the Assembly and Senate Committees on Agriculture by June 30, 2008.

**Conference Committee/Legislature:** Delete provision.

**4. FEDERAL REVENUE REESTIMATES**

FED	\$14,405,200
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**Governor/Legislature:** Provide increased expenditure authority of \$7,202,600 annually in various federal appropriations to align expenditure authority with projected revenue levels. The table below depicts the increases by appropriation.

<u>Appropriation</u>	<u>Annual Amount</u>
Food safety inspection	\$143,400
Meat safety inspection	112,800
Animal Health	2,497,300
Marketing services	3,001,800
United State Department of Agriculture funding	143,300
Central office and services funding	<u>1,304,000</u>
Total	\$7,202,600

The recommended increase in the animal health appropriation is due to a variety of federal animal health grants, primarily related to Johnne's disease and chronic wasting disease.

The recommended marketing services increase is predominantly due to \$4.5 million in federal grants received for the value added dairy initiative.

The inajority of the recommended central services increase is due to a \$1.75 million federal grant to be used for the development and implementation of the state's animal premises registration system.

**5. SOYBEAN CRUSHING FACILITY GRANTS**

SEG	\$4,000,000
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**Assembly/Legislature:** Provide DATCP with \$4 million recycling fund SEG in 2007-08 in a biennial appropriation to make grants for the construction of soybean crushing facilities that can process greater than 20 million bushels per year.

[Act 20 Sections: 185t and 9103(4u)]

**6. AWARD FOR PULP AND PAPER MILL**

**Assembly:** Provide \$2,500,000 recycling fund SEG in 2007-08 in a biennial appropriation. In addition, require WHEDA to transfer \$2,500,000 from its unencumbered reserves in 2007-08 to DATCP for deposit in a biennial PR appropriation. Direct DATCP to use funding provided

in these appropriations to award a grant to the first pulp and paper mill to be free of natural gas and coal usage in Wisconsin if all of the following apply:

- a. The person submits a plan to DATCP specifying the proposed use of the grant, and the Secretary approves the plan.
- b. The Department enters into a written agreement with the person that specifies the conditions for the use of the grant, including auditing and reporting requirements.
- c. The person agrees in writing to submit to DATCP, within six months after spending the grant proceeds, a report detailing how the grant proceeds were spent.

**Conference Committee/Legislature:** Delete provision (see a related provision under Commerce).

**7. DEBT SERVICE PAYMENTS [LFB Paper 175]**

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$1,501,000	-\$1,810,200	-\$309,200

**Governor:** Delete \$56,500 in 2007-08 and provide \$1,557,500 in 2008-09 for debt service estimates for general obligation bonds issued for the following purposes: (a) \$100 in 2007-08 and -\$200 in 2008-09 for animal health facilities; (b) -\$1,184,600 in 2007-08 and -\$186,000 in 2008-09 for the conservation reserve enhancement program; and (c) \$1,128,000 in 2007-08 and \$1,743,700 in 2008-09 for the soil and water resource management program.

**Joint Finance/Legislature:** Delete \$497,500 in 2007-08 and \$1,312,700 in 2008-09 for reestimated debt service costs related to the conservation reserve enhancement program.

**8. AGRICULTURAL CHEMICAL CLEANUP FUND [LFB Paper 140]**

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
PR-REV	\$600,000	\$0	\$600,000
SEG-REV	0	-1,810,500	-1,810,500

**Governor:** Transfer \$250,000 in 2007-08 and \$100,000 in 2008-09 from the segregated agricultural chemical cleanup (ACCP) fund to DATCP's food regulation program revenue appropriation account.

In addition, transfer \$125,000 in 2007-08 and \$125,000 in 2008-09 from the ACCP fund to DATCP's animal health inspection, testing and enforcement program revenue appropriation account.

The agricultural chemical cleanup (ACCP) fund supports the cleanup of fertilizers and nonhousehold pesticides, including spills occurring at commercial fertilizer blending facilities, commercial pesticide application businesses and farm sites. Revenues collected by the ACCP fund consist of fertilizer and pesticide license and tonnage surcharges. The ACCP had revenues of \$3.8 million in 2005-06 with expenditures of \$2.1 million.

DATCP's food regulation appropriation is used by the Department (along with GPR funds) to administer the state's food safety program. Fees deposited to this fund are derived from a variety of producer and licensing fees, including food product inspection fees, dairy and cheese plant, milk hauler and producer license fees, food warehouse and processing plant fees, and food establishment fees. In 2005-06 the food safety PR account had revenues of \$4.0 million with expenditures of \$4.5 million.

DATCP's animal health inspection, testing and enforcement appropriation supports DATCP staff who work in the Department's animal health program. Revenues deposited to this appropriation come from animal market, animal dealer, trucker licenses, and deer farm and aquaculture registrations. In 2005-06 the PR account had revenues of \$313,000 with expenditures of \$475,000.

**Joint Finance:** Include provision. In addition, reduce fees and surcharges deposited to the ACCP fund as follows (generally consistent with a 30% fee reduction): (a) reduce the fertilizer license surcharge from \$20 (the current statutory maximum) to \$14 effective with fertilizer sold July 1, 2007 (for the license year that begins August 15, 2007); (b) reduce the fertilizer tonnage surcharge from 63¢ to 44¢ per ton effective with fertilizer sold on July 1, 2007; (c) reduce the pesticide application business surcharge to \$55 from \$38, the pesticide dealer - restricted use surcharge from \$40 to \$28, and the pesticide individual applicator surcharge from \$20 to \$14 effective with the license year beginning January 1, 2008; and (d) reduce the pesticide registration nonhousehold surcharge from \$5 to \$3.50 for products with sales up to \$25,000, from \$170 to \$120 for products with sales of \$25,000 to \$74,999, and from 1.1% of gross revenues to 0.75% of gross revenues for products with sales of \$75,000 or greater, effective with the payment period beginning on October 1, 2007 (for the license year beginning on January 1, 2008). These fee reductions would be expected to reduce revenues deposited to the ACCP fund by \$765,400 in 2007-08 and \$1,045,100 in 2008-09.

State law requires DATCP to maintain a year end ACCP balance of not more than \$2.5 million. DATCP may further reduce fees beyond the levels specified in the bill, or may increase fees up to the current statutory maximums (identified above), through administrative rule.

**Assembly:** Rather than the Joint Finance 30% reduction, reduce fees and surcharges deposited to the ACCP fund as follows (generally consistent with a 35% fee reduction): (a) reduce the fertilizer license surcharge from \$20 (the current statutory maximum) to \$13 effective with fertilizer sold July 1, 2007 (for the license year that begins August 15, 2007); (b) reduce the fertilizer tonnage surcharge from 63¢ to 41¢ per ton effective with fertilizer sold on July 1, 2007; (c) reduce the pesticide application business surcharge from \$55 to \$36, the pesticide dealer - restricted use surcharge from \$40 to \$26, and the pesticide individual applicator surcharge from

\$20 to \$13 effective with the license year beginning January 1, 2008; and (d) reduce the pesticide registration nonhousehold surcharge from \$5 to \$3.25 for products with sales up to \$25,000, from \$170 to \$110 for products with sales of \$25,000 to \$74,999, and from 1.1% of gross revenues to 0.72% of gross revenues for products with sales of \$75,000 or greater, effective with the payment period beginning on October 1, 2007 (for the license year beginning on January 1, 2008). These fee reductions would be expected to reduce revenues deposited to the ACCP fund by \$840,000 in 2007-08 and \$1,165,000 in 2008-09 (a reduction to Joint Finance of \$75,000 in 2007-08 and \$119,500 in 2008-09).

**Conference Committee/Legislature:** Delete Assembly modification.

[Act 20 Sections: 2595n thru 2595w, 2596e, 2596g, 2598e, 2598f, 9203(1)&(2), and 9303(1v)]

**9. AGRICULTURAL CHEMICAL POLLUTION PREVENTION [LFB Paper 141]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
SEG	\$500,000	-\$500,000	\$0

**Governor:** Provide \$250,000 annually from the agricultural chemical cleanup (ACCP) fund for financial assistance to businesses for the costs of capital improvements designed to prevent pollution from agricultural chemicals, and limit these grants to \$250,000 annually. The total combined grant provided to a site for pollution prevention and agricultural chemical cleanup from the ACCP would not be allowed to exceed \$500,000. DATCP is provided base funding of \$3,000,000 annually from the ACCP for the cleanup of fertilizer and pesticide spills. Maximum agricultural chemical cleanup reimbursement grants under the program are \$294,375 for commercial sites and \$297,750 for non-commercial sites.

**Joint Finance/Legislature:** Include the Governor's recommendation to allow DATCP to make pollution prevention reimbursement grants from the ACCP fund. However, based on estimated ACCP claim demand, provide no additional expenditure authority for these grants. In addition, specify that a pollution prevention grant not exceed 50% of project costs. Further, require DATCP to promulgate an administrative rule defining eligible recipients, eligible projects and allowable costs for pollution prevention grants.

[Act 20 Sections: 194 and 2599]

**10. MANURE MANAGEMENT ADVISORY SYSTEM**

SEG	\$115,000
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**Governor/Legislature:** Provide \$75,000 in 2007-08 and \$40,000 in 2008-09 from the agrichemical management (ACM) fund to establish and operate an online manure management and advisory system to assist farmers and manure applicators in identifying the least risky fields and times to apply manure. The \$75,000 provided in 2007-08 would fund one-time development costs, while the \$40,000 provided beginning in 2008-09 would fund ongoing

maintenance costs and hard copy materials for farmers without access to the online website.

**11. LEAD ARSENATE OUTREACH AND EDUCATION**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
SEG	\$100,000	-\$100,000	\$0

**Governor:** Provide \$50,000 annually from the agrichemical management (ACM) fund to establish an outreach and educational program to inform the public about lead arsenate and its risks. Annual funding would be used to support limited-term employees (\$30,000), and supplies and services (\$20,000).

Lead arsenate was widely used in orchards within the state as a pesticide until the 1950s, when its use was largely discontinued due to health risks. DATCP's Lead Arsenate Task Force proposed this initiative to raise awareness of the chemical, the use of which is now illegal, and its eligibility for cleanup under the ACCP program.

**Joint Finance/Legislature:** Delete provision.

**12. GRAZING LANDS INITIATIVE**

SEG	\$800,000
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**Senate/Legislature:** Provide \$400,000 SEG annually from the agrichemical management (ACM) fund for a grant to the Wisconsin Grazing Lands Conservation Initiative (WGLCI) for technical education and research.

The Wisconsin Grazing Lands Conservation Initiative is an organization with a mission of improving and expanding the use of grazing-based systems of livestock production on private land that are practical and profitable for farmers and to foster environmental stewardship.

[Act 20 Sections: 186m and 2594p]

**13. CLEAN SWEEP FUNDING [LFB Paper 144]**

SEG	\$579,200
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**Governor:** Provide \$289,600 annually from the recycling fund for the clean sweep program, which provides grants to counties to fund the collection and disposal of agricultural and household hazardous materials. The bill would increase base funding from \$710,400 recycling fund SEG annually currently, to \$1 million. The recommended funding would be used to make additional grants primarily for household waste collection events, as the current administrative rules have had the effect of prioritizing agricultural events (requests of \$206,800 for agricultural events for calendar year 2005, all of which were funded, as opposed to requests of \$711,200 for household events, \$524,600 of which were funded). For 2006, DATCP estimates grants of approximately \$225,000 for agricultural events, and \$480,000 for household events.

The recycling fund receives revenues from a business tax recycling surcharge and a recycling solid waste tipping fee. Revenues are primarily used to provide financial assistance to local governments and businesses for solid waste recycling and waste reduction purposes.

**Joint Finance/Legislature:** Include the Governor's recommendation. In addition, specify that a clean sweep grant may not exceed 75% of project costs, and require DATCP to allocate two-thirds of available clean sweep funding for household waste collection grants (consistent with DATCP's 2007 allocations).

Further, specify that DATCP may make grants under the clean sweep program to fund the costs of collecting unused or unwanted pharmaceuticals. Specify that DATCP may promulgate an emergency rule, without the finding of an emergency, to allow the Department to make clean sweep grants for the collection of prescription drugs.

[Act 20 Sections: 2594g, 2594i, and 9103(1k)]

**14. ANAEROBIC DIGESTER RESEARCH AND DEVELOPMENT GRANTS [LFB Paper 145]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
SEG	\$250,000	-\$250,000	\$0

**Governor:** Provide \$250,000 from the recycling fund in 2007-08 in a new, biennial appropriation that would be available for the research and development of anaerobic digesters at farms participating in the discovery farm program under the Wisconsin agricultural stewardship initiative (WASI). As a biennial appropriation, funding provided in 2007-08 would be available in either year of the 2007-09 biennium, with any unspent and unencumbered funds lapsing back to the recycling fund at the end of the biennium. The bill does not specify a local match requirement.

Discovery farms are a series of operating, commercial farms conducting on-farm research while cooperating with each other, a research farm at UW-Platteville, and researchers at UW-Madison.

DATCP requested this initiative in response to a provision in 2005 Act 141 that required the Department to submit a proposal to provide additional funding for the research and development of anaerobic digesters at farms participating in the discovery farms program as part of its 2007-09 biennial budget request.

The recycling fund receives revenues from a business tax recycling surcharge and a recycling solid waste tipping fee. Revenues are primarily used to provide financial assistance to local governments and businesses for solid waste recycling and waste reduction purposes.

**Joint Finance/Legislature:** Delete provision.

**15. DISCOVERY FARMS**

**Joint Finance:** Provide \$150,000 agricultural chemical cleanup (ACCP) fund SEG in each year of the 2007-09 biennium on a one-time basis to the University of Wisconsin-Extension to provide grants for research and outreach at the discovery farms. Repeal the biennial appropriation on June 30, 2009.

Discovery Farms are a series of operating, commercial farms conducting on-farm research while cooperating with each other, a research farm at UW-Platteville, and researchers at UW-Madison, together forming the Wisconsin agricultural stewardship initiative.

**Assembly:** Instead of the Joint Finance provision providing \$150,000 ACCP fund SEG in one-time funding, provide \$250,000 nonpoint account SEG annually for a grant to the University of Wisconsin-Extension for these purposes.

**Conference Committee/Legislature:** Provide \$250,000 SEG in ACCP funds annually to UW-Extension for discovery farms.

[Act 20 Sections: 261e and 732x]

**16. BUY LOCAL, BUY WISCONSIN PROGRAM**

	Funding	Positions
GPR	\$606,800	1.00

**Senate/Legislature:** Create a buy local grant program whereby DATCP would award grants to individuals and organizations to fund projects designed to increase the local sales of agricultural products grown within the state. Grants under the program would be permitted for the creation, promotion and support of regional food and cultural tourism trails, and for promoting the development of regional food systems (which could include the creation or expansion of food processing and distribution facilities, creating or supporting networks of producers, and strengthening connections between producers, retailers, institutions and consumers). Create a new, biennial GPR buy local grant appropriation in DATCP and provide expenditure authority of \$225,000 in 2007-08. (A corresponding reduction of \$225,000 GPR in 2007-08 would be made to the Wisconsin Development Fund in Commerce.)

Require DATCP to promulgate administrative rules for the administration of the buy local program, but allow DATCP to promulgate an emergency rule for administration of the program without the finding of an emergency. Further, allow an emergency rule promulgated by DATCP for administration of the buy local program to remain in effect for 18 months after the effective date of the bill, or the effective date of the permanent rule, whichever is sooner (rather than the normal five to nine months allowed for emergency rules).

In addition, provide DATCP with \$42,700 GPR in 2007-08 and \$64,100 GPR in 2008-09 with 1.0 position for administration of the new buy local grant program and for agricultural product promotion. Further, provide an additional \$110,000 GPR in 2007-08 and \$165,000 GPR in 2008-09 for training, marketing, data tracking and information technology related to

DATCP's buy local and agricultural promotion efforts.

Require DATCP to promulgate administrative rules for the administration of the buy local program, but allow DATCP to promulgate an emergency rule for administration of the program without the finding of an emergency. Further, allow an emergency rule promulgated by DATCP for administration of the buy local program to remain in effect for 18 months after the effective date of the act, or the effective date of the permanent rule, whichever is sooner (rather than the normal five to nine months allowed for emergency rules).

[Act 20 Sections: 183p, 2593p, 2594c, and 9103(3i)]

**17. EXPOSITION CENTER GRANTS**

**Assembly:** Delete \$100,000 GPR annually for a grant to the Dane County Exposition Center (a total of \$116,300 GPR annually would be provided, as opposed to \$216,300 GPR currently). Since fiscal year 1994-95, DATCP has made an annual grant to Dane County to assist in paying debt service costs for a 1995 expansion to the exposition center related to hosting the annual World Dairy Expo. DATCP may not make payments beyond 2013-14.

**Conference Committee/Legislature:** Delete provision.

**18. OFFICE OF PRIVACY PROTECTION [LFB Paper 142]**

	<b>Governor (Chg. to Base)</b>		<b>Jt. Finance/Leg. (Chg. to Gov)</b>		<b>Net Change</b>	
	<b>Funding</b>	<b>Positions</b>	<b>Funding</b>	<b>Positions</b>	<b>Funding</b>	<b>Positions</b>
GPR	\$0	0.00	\$204,600	1.50	\$204,600	1.50
FED	0	-3.00	-341,000	0.00	-341,000	-3.00
PR	<u>491,800</u>	<u>3.00</u>	<u>-287,200</u>	<u>-1.50</u>	<u>204,600</u>	<u>1.50</u>
Total	\$491,800	0.00	-\$423,600	0.00	\$68,200	0.00

**Governor:** Transfer 3.0 positions associated with the Office of Privacy Protection (OPP) from FED to PR. Further, provide \$245,900 PR annually associated with these positions from DATCP's central services appropriation account.

The bill would provide the Office of the Commissioner of Insurance (OCI) \$123,000 PR annually, supported by revenue OCI collects from insurance fees, to transfer to DATCP to partially support the OPP.

Further, while not part of the Governor's budget recommendations, the administration indicates the Department of Financial Institutions (DFI) has agreed to fund the remainder of the costs of the OPP (\$122,900). According to the administration, DFI would fund the office from its general program operations PR appropriation account. DFI is funded with program revenue from various licensing, filing, and examination fees and assessments applicable to financial institutions and services. However, the proposed budget for DFI does not include specific funding for this item.



The Office of Privacy Protection was created by executive order of the Governor in April, 2006. The OPP networks and consults with government agencies, law enforcement and businesses on privacy issues, and handles DATCP's identity theft complaints and investigations. While the three positions associated with the OPP were administratively created by DATCP and the Department of Administration under a federal appropriation, DFI agreed to reimburse DATCP for the costs of this office with program revenue (estimated at \$225,000) during 2006-07.

**Joint Finance:** Modify the Governor's recommendation by instead transferring 1.5 positions associated with the Office of Privacy Protection (OPP) from FED to GPR, and 1.5 OPP positions from FED to PR. Provide DATCP \$102,300 GPR annually and \$102,300 PR annually to support the office and delete \$170,500 FED annually. (OCI would also be provided \$102,300 PR annually to transfer to DATCP to partially support the OPP. This funding is addressed separately under Insurance.) As a result, DATCP would be provided with 3.0 positions for the OPP, at corrected funding levels, with 1.5 PR positions supported by OCI revenues and 1.5 positions supported by GPR.

**Assembly:** Delete the Joint Finance provision. This would delete \$102,300 GPR annually and 1.5 GPR positions and \$102,300 PR annually and 1.5 PR positions associated with the Office of Privacy Protection (OPP). In addition, delete \$102,300 PR provided to the Office of the Commissioner of Insurance to transfer to DATCP to partially support the OPP. The 3.0 current FED positions would remain. These actions would have the effect of returning to current law.

**Conference Committee/Legislature:** Delete Assembly provision (retain Joint Finance).

**19. PROGRAM REVENUE REESTIMATES**

PR	\$433,000
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**Governor/Legislature:** Provide increased expenditure authority of \$216,500 annually. Of this amount, \$195,000 annually is recommended from a variety of weights and measures inspection related fees (including fertilizer, commercial feed, retail food establishment, vehicle sale and petroleum meter fees) for increased rent costs associated with the Department's new weights and measures inspection laboratory (the remaining \$21,500 is for agricultural impact statements).

**20. REVENUE AND POSITION ADJUSTMENTS [LFB Paper 143]**

	<u>Governor</u> <u>(Chg. to Base)</u>		<u>Jt. Finance</u> <u>(Chg. to Gov)</u>		<u>Legislature</u> <u>(Chg. to JFC)</u>		<u>Net Change</u>	
	Funding	Positions	Funding	Positions	Funding	Positions	Funding	Positions
GPR	\$0	0.00	-\$87,800	-0.50	\$87,800	0.50	\$0	0.00
FED	213,000	2.00	0	0.00	0	0.00	213,000	2.00
PR	<u>-213,000</u>	<u>-2.00</u>	<u>0</u>	<u>0.00</u>	<u>0</u>	<u>0.00</u>	<u>-213,000</u>	<u>-2.00</u>
Total	\$0	0.00	-\$87,800	-0.50	\$87,800	0.50	\$0	0.00

**Governor:** Transfer \$120,800 GPR and 1.5 GPR positions as follows: (a) delete \$43,900 and

0.5 economist position from food safety; (b) delete \$76,900 and 1.0 information systems development position from animal health; and (c) provide \$120,800 and 1.5 positions for DATCP's central administrative services.

Further, provide \$106,500 FED and 2.0 FED positions annually and delete \$106,500 PR and 2.0 PR positions annually to reflect anticipated revenues and modified position duties.

Annual PR adjustments would be as follows.

<u>Appropriation</u>	<u>Funding</u>	<u>Positions</u>
Fruit and vegetable inspection	-\$55,900	-1.50
Ozone-depleting refrigerants registration	5,700	0.15
Food regulation	-54,900	-1.05
Weights and measures inspection	13,400	0.35
Plant protection	2,600	0.05
Telephone solicitation	19,100	0.50
Administrative services	<u>-36,500</u>	<u>-0.50</u>
Total	-\$106,500	-2.00

The net result of the PR modifications would be to eliminate 2.55 fruit, vegetable and related food safety inspectors and a 0.5 communications specialist position, and provide fractions of position increases, totaling 1.05 positions, to the ozone-depleting refrigerants registration, weights and measures inspection, plant protection and telephone solicitation appropriations, yielding a net reduction of 2.0 PR positions.

Annual FED adjustments include providing \$161,800 and 3.0 positions to DATCP's federal indirect cost reimbursement (FICR) appropriation and deleting \$55,300 and 1.0 executive staff assistant position from the food safety appropriation.

The cumulative effect of these modifications is to delete 4.05 positions related to food safety inspection and create equal position authority in other appropriations, predominantly for DATCP's central administration (3.5 positions).

**Joint Finance:** Modify the Governor's recommendations to delete \$43,900 GPR annually and 0.5 GPR economist position rather than transfer this funding and position to the Office of the Secretary.

**Assembly:** Delete provision and maintain current law.

**Conference Committee/Legislature:** Delete Joint Finance and Assembly provisions (retain Governor's recommendation).

**21. CONSOLIDATION OF EXECUTIVE BRANCH ATTORNEYS AND LEGAL STAFF UNDER DOA [LFB Paper 110]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
GPR	- 4.50	4.50	0.00
PR	- 1.00	1.00	0.00
SEG	- 1.00	1.00	0.00
Total	- 6.50	6.50	0.00

**Governor:** Delete 7.5 classified positions and create 1.0 unclassified position in 2008-09 to reflect the consolidation of the agency's attorneys and legal staff under DOA, effective July 1, 2008. Reallocate \$828,800 in 2008-09 from salaries and fringe benefits to the agency's supplies and services budget to pay for legal services supplied by DOA. Authorize the Secretary of DOA to identify one attorney position in DATCP as general counsel for the agency. The general counsel position would be funded from base level salary and fringe benefits amounts associated with the position identified by the Secretary of DOA.

Specify that all transferred attorneys and legal staff would have the same rights and status as in the agency in which they originated. Specify that attorneys and legal staff that have obtained permanent status would not have to undergo a probationary period in DOA. Provide that all equipment, supplies, and furniture related to the duties of the transferred employees, as specified by the Secretary of DOA, must be transferred to DOA on July 1, 2008. [See "Administration -- Transfers to the Department."]

**Joint Finance:** Delete provision.

**Senate:** Approve the Governor's recommendation with the following modifications: (a) specify that the lead attorneys would be under classified service; and (b) exempt the Board on Aging and Long-Term Care, the Department of Military Affairs, and the Department of Public Instruction from the consolidation.

**Assembly/Legislature:** Delete provision.

**22. BIO-INDUSTRY GRANT PROGRAM [LFB Paper 145]**

**Governor:** Delete DATCP's bio-industry grant program and the associated biennial appropriation funded from the agrichemical management (ACM) fund (\$1 million was appropriated on a one-time basis in 2005-06).

Created as a part of the 2005-07 biennial budget act, the bio-industry grant program awards grants for: (a) research and development of technologies that use agricultural products or waste, including digesters, as energy sources; (b) encouraging the use of agricultural products or waste as energy sources; (c) reducing the generation of agricultural wastes or increasing their beneficial uses; and (d) encouraging the development of bio-chemicals from agricultural products. Under the program, a grant may not exceed \$300,000 to one recipient, of

which up to \$150,000 may be for planning and \$150,000 may be for implementation.

In a related provision, the bill would create a biennial appropriation in the Department of Commerce, from the recycling fund, to provide grants and loans for renewable energy. For additional information on this program, see "Commerce -- Economic Development."

**Joint Finance/Legislature:** Delete provision. [DATCP's statutory authority to administer the bio-industry grant program would remain, but no funding would be provided in the associated biennial agricultural management fund SEG appropriation. However, these grants may also be funded under an existing GPR appropriation.]

### 23. APPROPRIATION ELIMINATIONS AND CHANGES

**Governor/Legislature:** Delete statutory authority and appropriations associated with the following programs that have been sunset or are no longer in use: (a) ethanol producer grant program; (b) drainage board grants; and (c) pesticide sales and use reporting system development.

In addition, delete DATCP's agricultural chemical cleanup program GPR appropriation and statutory references to this appropriation.

Further, delete DATCP's farmer tuition assistance grants appropriation.

Moreover, rename DATCP's "marketing services" division, to the "agricultural development services" division, and change the associated statutory (including appropriation) references.

Under the ethanol producer grant program, qualifying producers were eligible for annual payments of up to 20¢ per gallon of ethanol produced (for up to 15 million gallons, or a maximum of \$3 million) in a 12-month period. This program was sunset on June 30, 2006. The GPR and PR tribal gaming appropriations from which DATCP made these grants would be eliminated under the bill, as would the Department of Administration appropriation from which tribal gaming revenue was provided to DATCP to make these grants.

Prior to July 1, 2006, drainage boards were eligible for grants of up to 60% of the costs of compliance with drainage district rules and regulations. A GPR appropriation that funded these grants would be eliminated under the bill.

Chapter 94 of the statutes requires DATCP to develop a proposal for a pesticide sales and use reporting system and to submit this proposal to the Joint Committee on Finance (JFC) for review. Subject to JFC approval, DATCP is required to administer a pilot program to test the system. DATCP completed the proposal in 2000. However, because of cost considerations the plan was never approved by the Joint Finance Committee, nor was additional action required of DATCP by the Committee. The bill would delete this statutory language, along with the appropriation that provided funding for the development of any such system.

The agricultural chemical cleanup (ACCP) fund supports the cleanup of fertilizers and

nonhousehold pesticides, including spills occurring at commercial fertilizer blending facilities, commercial pesticide application businesses and farm sites. Revenues collected by the ACCP fund consist of fertilizer and pesticide license and tonnage surcharges. Prior to the 1999-01 biennium, funding for these grants was also provided from GPR. The bill would delete the agricultural chemical cleanup program GPR appropriation from which no grants have been awarded since 1998-99.

Under current law, DATCP is permitted to make grants to low-income farmers for the purpose of paying all or part of the tuition for a farmer who enrolls in a course on farm and business management techniques offered by a technical college. No grants have been made under this program since 2001-02. The GPR appropriation that funded these grants would be eliminated under the bill. However, the statutory authority to provide these grants would remain.

[Act 20 Sections: 178, 179, 181 thru 183, 185, 189, 190, 193, 541, 2558, 2589, 2595, 2596, 2597, and 2598]

**24. COUNTY FAIR AIDS**

	<b>Jt. Finance (Chg. to Base)</b>	<b>Legislature (Chg. to JFC)</b>	<b>Net Change</b>
GPR	\$200,000	\$100,000	\$300,000

**Joint Finance:** Provide an additional \$100,000 GPR annually (for a total of \$350,000 GPR annually) for aids to county and district fairs.

**Senate:** Provide an additional \$50,000 GPR annually (for a total of \$400,000 GPR annually) for aids to county and district fairs.

In addition, modify the current county fair aid formula to provide each eligible fair up to 95% of the first \$8,000 in premiums actually paid (in all categories: junior, adult and senior), and 70% of all premiums in excess of \$8,000, with a maximum grant of \$10,000 per fair.

Under prior law, DATCP provided fair aids of up to 50% of junior premiums awarded, not to exceed \$10,000 per fair. Over the past few years, total eligible reimbursement claims had averaged between \$310,000 and \$320,000. Payments are prorated if funds are insufficient to pay all eligible reimbursements. Eligible premium costs for fair aids include those paid for livestock articles, for production, educational exhibits, agricultural implements and tools, domestic manufactures, and mechanical implements and productions.

**Assembly:** Delete Senate provision.

**Conference Committee/Legislature:** Include Senate provision.

[Act 20 Section: 2592g]

**25. INTERNATIONAL CRANE FOUNDATION FUNDING**

SEG	\$142,000
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**Joint Finance/Legislature:** Provide a grant of \$71,000 SEG each year on a one-time basis from the agrichemical management (ACM) fund to the International Crane Foundation (ICF) for costs associated with a sandhill crane crop depredation project. Require the ICF to provide a non-state match of 70% to the state grant.

The International Crane Foundation in Sauk County administers a sandhill crane crop depredation project that is: (a) reviewing and testing non-toxic alternatives to chemicals currently available for deterring cranes from damaging crops; (b) developing habitat selection theories of the cranes; and (c) assessing the success of crane deterrence methods within the agricultural setting.

[Act 20 Sections: 192e, 192g, 9103(2c), and 9403(2c)]

**26. ELIMINATE VACANT GPR POSITIONS**

**Assembly:** Delete \$32,200 and 0.5 program planning analyst position annually associated with the salary and fringe benefits of GPR positions which have been vacant for 12 months or more.

**Conference Committee/Legislature:** Delete provision.

**27. NURSERY AND PLANT QUARANTINE LAW PENALTIES**

**Governor:** Specify that any person who violates any provision of DATCP's nursery and plant pest laws (chapter 94 of the statutes), or related administrative rules, for which a specific penalty is not prescribed is subject to a fine of up to \$1,000 for the first offense, and from \$500 to \$5,000 and imprisonment up to six months for each subsequent offense.

In addition, specify in lieu of the criminal penalties above, a person violating DATCP's nursery and plant pest laws, or related administrative rules, may be required to pay a forfeiture of between \$200 and \$5,000. If the offense occurs within five years of a previous offense, the person may be required to pay a forfeiture of between \$400 and \$10,000.

Further, specify DATCP may seek an injunction to prevent any person from violating DATCP's nursery and plant pest laws, or related administrative rules.

Chapter 94 of the statutes grants DATCP authority to conduct survey and inspection programs for the detection, prevention, and control of pests. This includes the authority to impose quarantines and other restrictions on the movement of plants and other materials within the state as necessary to prevent and control the dissemination or spread of pests. Currently, a person who violates DATCP's nursery and plant pest laws is subject to criminal penalties of up to \$200 and imprisonment for up to six months.

**Joint Finance/Legislature:** Delete provision as a non-fiscal policy item.

**28. AGRICULTURAL PRODUCER SECURITY PROGRAM**

**Assembly:** Sunset the current agricultural producer security (APS) program effective December 31, 2009. Require DATCP to develop a proposal for the creation of a new APS program in consultation with the grain, dairy and vegetable industries that is less costly than the existing program. Require that the plan be submitted to the Assembly and Senate Committees on Agriculture by June 30, 2008.

**Conference Committee/Legislature:** Delete provision.

**29. CORN CHECK-OFF INCREASE**

**Assembly:** Adopt the provisions of 2007 Assembly Bill 306, as amended by Assembly Amendment 1, to increase the assessment under the current marketing order for corn from 0.1¢ per bushel to 0.5¢ per bushel (an increase of 0.4¢ per bushel), effective the day after publication of the act. The assessment would end on June 30, 2012, provided corn producers approved a referendum to end the assessment. Assessments are paid by corn growers who are required to pay the assessment under the marketing order for corn. DATCP estimates the assessment would generate an annual revenue increase of approximately \$715,000 to the Corn Marketing Board.

**Conference Committee/Legislature:** Delete provision.

**30. FOOD SAFETY CONSOLIDATION STUDY**

**Assembly:** Require DATCP and the Department of Health and Family Services to prepare a plan for the consolidation of their respective food safety programs into a single food safety program administered by DATCP that identifies and quantifies efficiencies and savings. Require that the plan be submitted to the Assembly and Senate Committees on Agriculture by June 30, 2008.

**Conference Committee/Legislature:** Delete provision.

**31. WORLD DAIRY CENTER AUTHORITY REPEAL**

**Assembly:** Eliminate the statutory authorization for a World Dairy Center Authority (the Authority was never created).

**Conference Committee/Legislature:** Delete provision.

### **32. LOCAL WEIGHTS AND MEASURES TESTING AND INSPECTION**

**Assembly:** Allow municipalities with a population of over 5,000 people to contract out for weights and measures testing and inspection duties with certified individuals (an inspector or a sealer, someone who examines and certifies testing equipment for weights and measures, such as scales or pumps). Require DATCP to promulgate an administrative rule implementing a program for private contractor certification.

Under current law, a municipality with a population of over 5,000 people is required to either use municipal staff for weights and measures duties or to contract with DATCP for these services. This provision would also allow municipalities to contract with individuals for its weights and measures purposes.

**Conference Committee/Legislature:** Delete provision.

### **33. BRANDED FUEL SUPPLIER CONTRACTS**

**Assembly:** Specify that new or renewed contracts between fuel suppliers and fuel retailers entered into after the effective date of the bill may not restrict the ability of a fuel retailer to sell or install equipment to dispense E85 (85% ethanol) or B20 (20% biodiesel) fuels.

**Conference Committee/Legislature:** Delete provision.

### **34. COOPERATIVE DAIRY MANUFACTURING FACILITIES REPORT**

**Assembly:** Require DATCP to prepare a report on the manners in which incentives could be used to promote the modernization and expansion of cooperative dairy manufacturing facilities. Require DATCP to submit this report to the Assembly and Senate Committees on Agriculture by June 30, 2008.

**Conference Committee/Legislature:** Delete provision.



## ARTS BOARD

<b>Budget Summary</b>							
Fund	2006-07 Base Year Doubled	2007-09 Governor	2007-09 Jt. Finance	2007-09 Legislature	2007-09 Act 20	Act 20 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$4,863,600	\$4,940,400	\$4,980,400	\$4,980,400	\$4,980,400	\$116,800	2.4%
FED	1,339,200	1,339,200	1,339,200	1,339,200	1,339,200	0	0.0
PR	<u>970,000</u>	<u>980,000</u>	<u>980,000</u>	<u>980,000</u>	<u>980,000</u>	<u>10,000</u>	1.0
<b>TOTAL</b>	<b>\$7,172,800</b>	<b>\$7,259,600</b>	<b>\$7,299,600</b>	<b>\$7,299,600</b>	<b>\$7,299,600</b>	<b>\$126,800</b>	<b>1.8%</b>

<b>FTE Position Summary</b>						
Fund	2006-07 Base	2008-09 Governor	2008-09 Jt. Finance	2008-09 Legislature	2008-09 Act 20	Act 20 Change
						Over 2006-07 Base
GPR	4.00	4.00	4.00	4.00	4.00	0.00
FED	5.00	5.00	5.00	5.00	5.00	0.00
PR	<u>1.00</u>	<u>1.00</u>	<u>1.00</u>	<u>1.00</u>	<u>1.00</u>	<u>0.00</u>
<b>TOTAL</b>	<b>10.00</b>	<b>10.00</b>	<b>10.00</b>	<b>10.00</b>	<b>10.00</b>	<b>0.00</b>

### Budget Change Items

#### 1. STANDARD BUDGET ADJUSTMENTS

GPR	\$76,800
PR	<u>10,000</u>
<b>Total</b>	<b>\$86,800</b>

**Governor/Legislature:** Adjust the base budget by \$38,400 GPR and \$5,000 PR annually for full funding of continuing salaries and fringe (\$29,000 GPR and \$5,000 PR annually) and reclassifications (\$9,400 GPR annually).

#### 2. TRANSFER FUNDING FROM CHALLENGE GRANTS TO STATE AID FOR THE ARTS

**Governor/Legislature:** Decrease funding by \$688,800 GPR annually for the challenge grant program and increase funding by an equal amount for the state aid for the arts appropriation. Base funding for the challenge grant program is \$778,800 GPR annually, and would be reduced to \$90,000 GPR annually under the recommendation. Base funding for state

aid for the arts is \$1,196,700 GPR annually, and would increase to \$1,885,500 GPR annually under the recommendation.

Under the challenge grant program, the Arts Board awards grants to match up to 25% of an arts organization's or a local arts agency's income from contributions, if the agency's income in the year in which it applies for the grant exceeds its income from the previous fiscal year. Under state aid for the arts, the Board awards grants-in-aid or contract payments to groups, individuals, organizations, or institutions for the development of the arts and humanities, with a 50% matching requirement. The Board may also award operational grants to organizations, provided the sum of such grants does not exceed 50% or the total grants awarded in a given year.

### 3. ONE-TIME GRANTS

GPR	\$40,000
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**Joint Finance:** Provide \$40,000 in 2007-08 for the following one-time grants in a new, annual appropriation, which would be repealed on June 30, 2009: (a) Lake Superior Big Top Chautauqua performing arts center in Bayfield County (\$25,000); (b) Ko Thi Dance Company in the City of Milwaukee (\$10,000); and (c) African American Children's Theater in the City of Milwaukee (\$5,000).

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

[Act 20 Sections: 221m, 221p, 9104(1j), and 9404(1j)]

### 4. PERCENT FOR THE ARTS PROGRAM

**Assembly:** Delete the percent for the arts program and \$444,800 PR annually and 1.0 PR position under the Arts Board. Under this program, 0.2% of the project budget for state building program projects costing more than \$250,000 that are open to the public is used to acquire one or more works of art for the building.

**Conference Committee/Legislature:** Delete provision.

## BOARD FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES

<b>Budget Summary</b>							
Fund	2006-07 Base Year Doubled	2007-09 Governor	2007-09 Jt. Finance	2007-09 Legislature	2007-09 Act 20	Act 20 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$0	\$0	\$0	\$30,000	\$30,000	\$30,000	N.A.
FED	<u>0</u>	<u>0</u>	<u>0</u>	<u>2,536,400</u>	<u>2,536,400</u>	<u>2,536,400</u>	N.A.
<b>TOTAL</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$2,566,400</b>	<b>\$2,566,400</b>	<b>\$2,566,400</b>	N.A.

<b>FTE Position Summary</b>						
Fund	2006-07 Base	2008-09 Governor	2008-09 Jt. Finance	2008-09 Legislature	2008-09 Act 20	Act 20 Change
						Over 2006-07 Base
FED	0.00	0.00	0.00	7.75	7.75	7.75

### Budget Change Item

#### 1. POSITIONS AND FUNDING FOR THE COUNCIL ON DEVELOPMENTAL DISABILITIES [LFB Paper 111]

	<u>Governor</u> <u>(Chg. to Base)</u>		<u>Jt. Finance</u> <u>(Chg. to Gov)</u>		<u>Legislature</u> <u>(Chg. to JFC)</u>		<u>Veto</u> <u>(Chg. to Leg.)</u>		<u>Net Change</u>	
	Funding	Positions	Funding	Positions	Funding	Positions	Funding	Positions	Funding	Positions
GPR	\$0	0.00	\$0	0.00	\$30,000	0.00	\$0	0.00	\$30,000	0.00
FED	<u>0</u>	<u>0.00</u>	<u>0</u>	<u>0.00</u>	<u>2,536,400</u>	<u>7.75</u>	<u>0</u>	<u>0.00</u>	<u>2,536,400</u>	<u>7.75</u>
<b>Total</b>	<b>\$0</b>	<b>0.00</b>	<b>\$0</b>	<b>0.00</b>	<b>\$2,566,400</b>	<b>7.75</b>	<b>0</b>	<b>0.00</b>	<b>\$2,566,400</b>	<b>7.75</b>

**Governor:** Reduce the Department of Health and Family Services (DHFS) budget by \$1,286,800 (-\$15,000 GPR and -\$1,271,800 FED) annually and delete 7.75 FED positions in DHFS, beginning in 2007-08, and provide \$1,283,200 (\$15,000 GPR and \$1,268,200 FED) and 7.75 FED positions for the Department of Administration (DOA), beginning in 2007-08, to reflect the Governor's proposal to transfer funding and staff for the Council on Developmental Disabilities from DHFS to DOA. The fiscal effects of these changes are summarized under "Health and Family Services -- Disability and Elder Services" and "Administration -- Transfers to the Department."

Create an appropriation in DOA for the receipt and distribution of federal funding for the Council. Require DHFS to ensure that the matching funds requirement for the state developmental disabilities councils grant, as received from the U.S. Department of Health and Human Services (DHHS), is met by reporting to DHHS county expenditures for services to persons with developmental disabilities under the community aids program.

Specify that: (a) the assets and liabilities primarily related to the functions of the Council would become the assets and liabilities of DOA, as determined by the DOA Secretary; (b) incumbent employees holding positions, related primarily to the functions of the Council would be transferred to DOA; (c) transferred employees would have the same rights and status in DOA that they enjoyed in DHFS, and no employee transferred who has attained permanent status would have to serve a probationary period; (d) all tangible personal property, including records, primarily related to the functions of the Council would be transferred to DOA; (e) all contracts primarily related to the functions of the Council would remain in effect and would be transferred to DOA, which would be required to carry out these contractual obligations unless modified or rescinded by DOA to the extent allowed under the contract.

**Joint Finance:** Modify the Governor's provision by transferring the funding and positions from DHFS to the Department of Children and Families (DCF) in 2008-09, rather than to DOA in 2007-08. Modify the Governor's funding and position changes as follows: (a) increase funding for DHFS by \$1,286,800 (\$15,000 GPR and \$1,271,800 FED) in 2007-08 and provide 7.75 FED positions in 2007-08; (b) reduce funding for DOA by \$1,283,200 (-\$15,000 GPR and -\$1,268,200 FED) annually and delete 7.75 FED positions, beginning in 2007-08; and (c) increase funding for DCF by \$1,283,200 (\$15,000 GPR and \$1,268,200 FED) and provide 7.75 FED positions, beginning in 2008-09. The fiscal effects of these changes are summarized under "Health and Family Services -- Disability and Elder Services," "Administration -- Transfers to the Department," and "Children and Families."

Modify the Governor's statutory changes relating to the transfer of assets, incumbent employees, tangible property, and contracts to include references to DCF, rather than DOA.

**Senate:** Modify the Joint Finance provision by creating a new state agency, the Board for People with Developmental Disabilities (BPDD), and assigning the agency the statutory responsibilities currently assigned to the Council. Attach BPDD to DOA for administrative purposes only, effective with the passage of the biennial budget bill. Modify the Joint Finance statutory changes relating to the transfer of assets, incumbent employees, tangible property, and contracts to include references to BPDD, rather than to DCF. Modify funding and positions as follows: (a) reduce funding for DHFS by \$1,268,800 (-\$15,000 GPR and -\$1,271,800 FED) and delete 7.75 FED positions in 2007-08; (b) reduce funding for DCF by \$1,283,200 (-\$15,000 GPR and -\$1,268,200 FED) and delete 7.75 FED positions, beginning in 2008-09; and (c) provide \$1,283,200 (\$15,000 GPR and \$1,268,200 FED) and 7.75 FED positions, beginning in 2007-08, to BPDD. The fiscal effect of these changes for DCF and DHFS are summarized under "Children and Families" and "Health and Family Services -- Disability and Elder Services."

**Assembly:** Delete provision. Consequently, the Council's funding and staff would be retained in DHFS. Modify funding and positions as follows: (a) delete \$1,283,200 (-\$15,000 GPR and -\$1,268,200 FED) and 7.75 FED positions, beginning in 2007-08, for BPDD; and (b) provide \$1,286,800 (\$15,000 GPR and \$1,271,800 FED) annually and 7.75 FED positions, beginning in 2007-08, for DHFS. The fiscal effect of this change for DHFS is summarized under Health and Family Services -- Disability and Elder Services."

**Conference Committee/Legislature:** Restore Senate provision.

**Veto by Governor [D-6]:** Delete statutory provisions that would have: (a) decreased funding for DHFS by \$728,200 FED in 2007-08 to reflect the transfer of 7.75 FED positions to BPDD; and (b) decreased funding for DCF by \$724,600 FED in 2008-09 to reflect the transfer of 7.75 FED positions to BPDD. It was not necessary to retain these nonstatutory provisions in the act, since the federal general operations appropriations for DCF and BPDD had already been adjusted to reflect these staff transfers.

[Act 20 Sections: 52b, 330s, 524w, 1824b, 9101(10q), and 9121(9i)]

[Act 20 Vetoed Sections: 9221(1q) and 9255(1q)]

## BOARD OF COMMISSIONERS OF PUBLIC LANDS

<b>Budget Summary</b>							
Fund	2006-07 Base Year Doubled	2007-09 Governor	2007-09 Jt. Finance	2007-09 Legislature	2007-09 Act 20	Act 20 Change Over Base Year Doubled	
						Amount	Percent
FED	\$105,400	\$105,400	\$105,400	\$105,400	\$105,400	\$0	0.0%
PR	<u>2,817,600</u>	<u>3,208,800</u>	<u>3,008,800</u>	<u>3,008,800</u>	<u>3,008,800</u>	<u>191,200</u>	6.8
<b>TOTAL</b>	<b>\$2,923,000</b>	<b>\$3,314,200</b>	<b>\$3,114,200</b>	<b>\$3,114,200</b>	<b>\$3,114,200</b>	<b>\$191,200</b>	<b>6.5%</b>

<b>FTE Position Summary</b>						
Fund	2006-07 Base	2008-09 Governor	2008-09 Jt. Finance	2008-09 Legislature	2008-09 Act 20	Act 20 Change Over 2006-07 Base
PR	7.50	7.50	8.50	8.50	8.50	1.00

### Budget Change Items

**1. STANDARD BUDGET ADJUSTMENTS**

PR	\$191,200
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**Governor/Legislature:** Provide an increase of \$95,600 annually for adjustments to the base budget as follows: (a) \$80,600 for full funding of continuing salaries and fringe benefits; and (b) \$15,000 for staff reclassifications.

**2. INFORMATION TECHNOLOGY SUPPORT [LFB Paper 155]**

	Governor (Chg. to Base)		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
PR	\$200,000	0.00	-\$200,000	1.00	\$0	1.00

**Governor:** Provide \$100,000 annually primarily for limited-term employee (LTE) information technology staff.

**Joint Finance/Legislature:** Delete \$100,000 annually, but provide 1.0 information systems specialist. Associated salary and fringe benefits of \$97,500 annually would be transferred from BCPL's base level allotment for supplies.

### **3. DRAINAGE DISTRICT LOAN ELIGIBILITY**

**Joint Finance/Legislature:** Authorize the Board of Commissioners of Public Lands (BCPL) to make loans to drainage districts from the BCPL trust funds (common school fund, normal school fund, university fund and the agricultural college fund).

[Act 20 Sections: 674d thru 674w]

## BOARD ON AGING AND LONG-TERM CARE

<b>Budget Summary</b>							
Fund	2006-07 Base Year Doubled	2007-09 Governor	2007-09 Jt. Finance	2007-09 Legislature	2007-09 Act 20	Act 20 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$1,800,200	\$2,106,600	\$2,106,600	\$2,106,600	\$2,106,600	\$306,400	17.0%
PR	<u>2,219,400</u>	<u>2,705,600</u>	<u>2,705,600</u>	<u>2,705,600</u>	<u>2,705,600</u>	<u>486,200</u>	21.9
<b>TOTAL</b>	<u>\$4,019,600</u>	<u>\$4,812,200</u>	<u>\$4,812,200</u>	<u>\$4,812,200</u>	<u>\$4,812,200</u>	<u>\$792,600</u>	19.7%

<b>FTE Position Summary</b>						
Fund	2006-07 Base	2008-09 Governor	2008-09 Jt. Finance	2008-09 Legislature	2008-09 Act 20	Act 20 Change Over 2006-07 Base
PR	<u>15.47</u>	<u>17.47</u>	<u>18.47</u>	<u>18.47</u>	<u>18.47</u>	<u>3.00</u>
<b>TOTAL</b>	<u>28.00</u>	<u>33.00</u>	<u>34.00</u>	<u>34.00</u>	<u>34.00</u>	<u>6.00</u>

### Budget Change Items

**1. STANDARD BUDGET ADJUSTMENTS**

GPR	\$88,000
PR	<u>138,000</u>
<b>Total</b>	<b>\$226,000</b>

**Governor/Legislature:** Provide \$113,000 (\$44,000 GPR and \$69,000 PR) annually to reflect the full funding of salaries and fringe benefits.

**2. VOLUNTEER OMBUDSMAN PROGRAM [LFB Paper 160]**

	Funding	Positions
GPR	\$307,800	3.20
PR	<u>78,100</u>	<u>0.80</u>
<b>Total</b>	<b>\$385,900</b>	<b>4.00</b>

**Governor:** Provide \$173,400 (\$137,800 GPR and \$35,600 PR) in 2007-08 and \$212,500 (\$170,000 GPR and \$42,500 PR) in 2008-09 and 4.0 positions (3.20 GPR positions and 0.80 PR positions), beginning in 2007-08, to recruit, train, and supervise volunteers as part of the Board's ombudsman program to expand operations to unserved areas. The source of the program revenue would be medical assistance administrative funding, which would be budgeted in the Department of Health and Family



Services (DHFS) on a 50% GPR/50% FED basis, that DHFS would transfer to the Board.

Currently, the program operates in 11 counties. Under the program, volunteers make weekly visits to nursing homes to speak with residents and an assigned staff member, and submit monthly reports to the volunteer program coordinator for review and possible follow-up activities.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

**3. OMBUDSMAN SERVICES FOR FAMILY CARE ENROLLEES [LFB Paper 160]**

	<b>Funding</b>	<b>Positions</b>
GPR	\$46,200	0.50
PR	<u>46,100</u>	<u>0.50</u>
Total	\$92,300	1.00

**Governor:** Provide \$41,200 (\$20,600 GPR and \$20,600 PR) in 2007-08 and \$51,100 (\$25,600 GPR and \$25,500 PR) in 2008-09 to fund 1.0 additional ombudsman position (0.50 GPR position and 0.50 PR position), beginning in 2007-08, to provide information and advocacy services to individuals over the age of 60 that are enrolled in the Family Care program. This level of staffing would allow the Board to provide approximately one professional ombudsman position for every 7,000 elderly Family Care clients. The source of the program revenue funding for this item would be medical assistance administrative funding, which would be budgeted in the Department of Health and Family Services (DHFS) on a 50% GPR/50% FED basis, that DHFS would transfer to BOALTC.

In addition, the bill would authorize BOALTC to employ staff in classified positions to provide advocacy services to Family Care program recipients or potential recipients, their families, and guardians. Under current law, BOALTC is authorized to contract to provide advocacy services to these individuals.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

[Act 20 Section: 74]

**4. MEDIGAP HELPLINE INSURANCE COUNSELOR**

	<b>Funding</b>	<b>Positions</b>
PR	\$86,000	1.00

**Governor/Legislature:** Provide \$38,500 in 2007-08 and \$47,500 in 2008-09 to support 1.0 additional Medigap helpline insurance counselor position, beginning in 2007-08. The position would provide information and counseling on Medicare supplemental policies and other insurance products to elderly consumers. Funding would be provided from insurance fee revenues transferred from the Office of the Commissioner of Insurance. The Board is currently authorized 4.0 Medigap helpline insurance counselor positions.

**5. POSTAGE COSTS**

PR	\$2,400
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**Governor/Legislature:** Provide \$1,200 annually to fund increased postage costs for materials the Board provides on Medigap supplemental insurance. Funding would be provided from insurance fee revenues transferred from the Office of the Commissioner of Insurance.

**6. INCREASE MA ADMINISTRATION SUPPORT FOR CURRENT POSITIONS**

	Funding	Positions
GPR	-\$135,600	-0.70
PR	<u>135,600</u>	<u>0.70</u>
Total	\$0	0.00

**Governor/Legislature:** Convert 0.70 GPR positions to 0.70 PR positions, beginning in 2007-08, and reduce GPR funding by \$67,800 and increase PR funding by \$67,800 annually. This funding and position adjustment reflects the net fiscal effect of assigning a greater percentage of the costs of the Board's ombudsman positions and volunteer coordinator positions with medical assistance (MA) administration funds transferred from the Department of Health and Family Services. The state claims a portion of the costs of these positions as MA-eligible administration costs, which are funded on a 50% GPR/50% FED basis.

**7. CONSOLIDATION OF EXECUTIVE BRANCH ATTORNEYS UNDER DOA [LFB Paper 110]**

	Governor (Chg. to Base) Positions	Jt. Finance/Leg. (Chg. to Gov) Positions	Net Change Positions
GPR	-1.00	1.00	0.00

**Governor:** Delete 1.0 position in 2008-09 to reflect the consolidation of the agency's attorneys and legal staff under DOA, effective July 1, 2008. Reallocate \$81,900 in 2008-09 from budgeted salaries and fringe benefits to the agency's supplies and services budget to pay for legal services supplied by DOA.

Specify that all transferred attorneys and legal staff would have the same rights and status as in the agency in which they originated. Specify that attorneys and legal staff that have obtained permanent status would not have to undergo a probationary period in DOA. Provide that all equipment, supplies, and furniture related to the duties of the transferred employees, as specified by the Secretary of DOA, must be transferred to DOA on July 1, 2008. [See "Administration -- Transfers to the Department."]

**Joint Finance:** Delete provision.

**Senate:** Approve the Governor's recommendation with the following modifications: (a) specify that the lead attorneys would be under classified service; and (b) exempt the Board on Aging and Long-Term Care, the Department of Military Affairs, and the Department of Public Instruction from the consolidation. Consequently, the Senate's action would not restore the

attorney position that would be deleted under the Governor's recommendation.

**Assembly/Legislature:** Delete provision.

**8. OMBUDSMAN SERVICES FOR RESIDENTS OF RESIDENTIAL CARE APARTMENT COMPLEXES [LFB Paper 161]**

**Governor:** Expand the statutory definition of "long-term care facility" to include residential care apartment complexes (RCACs), as it relates to the Board's authority to provide ombudsman services. Under current law, a long-term care ombudsman or a designated representative may enter a long-term care facility at any time, without notice, and have access to clients of the facility. For this purpose, long-term care facilities are defined as nursing homes, community-based residential facilities (CBRFs), places in which care is provided under a continuing care contract, swing beds within an acute or extended care facility, hospices, and adult family homes.

Further, include residents of RCACs in the group of persons who are entitled to the rights that are specified under current law for residents of nursing homes and CBRFs, including but not limited to the right to have private and unrestricted communication with others, to present grievances without fear of reprisal, to manage personal finances, to be treated with courtesy, to be guaranteed confidentiality of health and personal records, and to be fully informed of charges for services and changes in services. Under current law, DHFS may establish additional rights for residents of these long-term care facilities in administrative rule. Finally, require RCACs to post a notice with the name, address, and telephone number of the Board's ombudsman program in a conspicuous location.

A RCAC is defined as a place where five or more adults reside that consists of independent apartments with specified amenities, and that provide a resident with not more than 28 hours per week of supportive, personal, and nursing services.

**Joint Finance/Legislature:** Delete provision.

**9. POSITION FUNDING TRANSFER**

**Governor/Legislature:** Transfer 1.0 position from an appropriation supported by program revenue the Board receives through contracts with other state agencies to an appropriation supported by insurance fees revenues the Office of the Commissioner of Insurance (OCI) transfers to the Board to support the Medigap Helpline. This position, a Medigap insurance counselor position, is currently funded from insurance fees, but is budgeted in an appropriation funded from revenue the Board receives from contracts other than the Board's contract with OCI.

**10. CBRF REQUIREMENT TO POST CONTACT INFORMATION ON THE OMBUDSMAN PROGRAM**

**Governor:** Modify a current law provision that requires every community-based residential facility to post a notice providing contact information for the Board's long-term care ombudsman program so that the requirement would only apply to facilities that are licensed to serve a client group of persons with functional impairments that commonly accompany advanced age. Currently, all CBRFs, including CBRFs that are licensed to serve non-elderly clients, must post this contact information.

**Joint Finance/Legislature:** Delete provision as a non-fiscal policy item.

# BONDING AUTHORIZATION

## Budget Change Items

### 1. GENERAL OBLIGATION BONDING AUTHORITY

**Governor/Building Commission:** Provide general obligation bonding authority of \$2,413,080,500.

**Joint Finance:** Provide general obligation bonding authority of \$2,032,040,200 for the purposes indicated in the following table.

**Senate:** Provide general obligation bonding authority of \$2,378,260,800 for the purposes indicated in the following table.

**Assembly:** Provide general obligation bonding authority of \$927,097,200 for the purposes indicated in the following table.

**Conference Committee/Legislature:** Provide general obligation bonding authority of \$2,061,283,800 for the purposes indicated in the following table.

<u>Agency and Purpose</u>	<u>Governor/ Bldg. Comm</u>	<u>It. Finance</u>	<u>Senate</u>	<u>Assembly</u>	<u>Conf Comm/ Legislature</u>
<b>Administration</b>					
Energy conservation projects	\$50,000,000	\$30,000,000	\$30,000,000	\$30,000,000	\$30,000,000
School educational technology infrastructure	0	-18,288,700	-18,288,700	-18,288,700	-18,288,700
Public library educational technology infrastructure	0	-31,000	-31,000	-31,000	-31,000
<b>Agriculture, Trade and Consumer Protection</b>					
Soil and water	7,000,000	7,000,000	7,000,000	7,000,000	7,000,000
<b>Building Commission</b>					
Other public purposes (all agency projects)	165,000,000	165,000,000	165,000,000	100,000,000	125,000,000
Housing state agencies	69,264,500	69,264,500	69,264,500	69,264,500	69,264,500
Hmong cultural center	2,500,000	0	2,000,000	0	2,250,000
Civil War exhibit at the Kenosha Public Museums	500,000	0	500,000	0	500,000
Bond Health Center	0	0	1,000,000	0	1,000,000
Racine County; Discovery Place Museum	0	0	0	-1,000,000	-1,000,000
<b>Corrections</b>					
Correctional facilities	10,256,500	10,256,500	10,256,500	10,256,500	10,256,500
<b>Educational Communications Board</b>					
Educational communications facilities	1,123,400	1,123,400	1,123,400	1,123,400	1,123,400

<u>Agency and Purpose</u>	<u>Governor/ Bldg. Comm</u>	<u>It. Finance</u>	<u>Senate</u>	<u>Assembly</u>	<u>Conf Comm/ Legislature</u>
Environmental Improvement Fund					
Clean water fund program	\$49,500,000	\$59,900,000	\$59,900,000	\$59,900,000	\$59,900,000
Safe drinking water loan program	6,090,000	6,090,000	6,090,000	6,090,000	6,090,000
Health and Family Services					
Mental health facilities	45,056,000	45,056,000	45,056,000	45,056,000	45,056,000
Medical College of Wisconsin					
Biomedical research and technology incubator	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000
Military Affairs					
Armories and military facilities	5,308,600	5,308,600	5,308,600	5,308,600	5,308,600
Natural Resources					
Contaminated sediment removal	17,000,000	17,000,000	17,000,000	17,000,000	17,000,000
Environmental repair	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000
Nonpoint watersheds	7,000,000	5,500,000	7,000,000	5,500,000	7,000,000
Nonpoint runoff management	5,000,000	5,000,000	5,000,000	5,000,000	5,000,000
Urban nonpoint source cost-sharing	6,000,000	4,700,000	6,000,000	4,700,000	6,000,000
Stewardship 2000 program	1,050,000,000	1,050,000,000	1,050,000,000	145,000,000	860,000,000
SEG fund supported administration facilities	18,199,600	18,199,600	18,199,600	18,199,600	18,199,600
Environmental fund SEG supported facilities	2,849,800	2,849,800	2,849,800	2,849,800	2,849,800
Warren Knowles-Gaylord Nelson Stewardship Program	0	0	0	-2,050,000	0
State Fair Park					
Self-amortizing facilities	5,800,000	-3,800,000	-3,800,000	500,000	-3,800,000
State Historical Society					
Historic records	3,250,000	3,250,000	3,250,000	3,250,000	3,250,000
Transportation					
Harbor improvements	12,700,000	12,700,000	12,700,000	12,700,000	12,700,000
Marquette interchange reconstruction project	90,200,000	90,200,000	66,900,000	90,200,000	90,200,000
Rail acquisitions and improvements	22,000,000	22,000,000	22,000,000	22,000,000	22,000,000
Rail passenger route development	32,000,000	32,000,000	32,000,000	0	32,000,000
University of Wisconsin					
Academic facilities	205,365,000	205,365,000	205,365,000	109,122,000	208,565,000
Self-amortizing facilities	448,478,100	85,257,500	448,478,100	77,307,500	335,751,100
Veterans Affairs					
Self-amortizing mortgage loans	50,000,000	85,000,000	85,000,000	85,000,000	85,000,000
Self-amortizing facilities	3,139,000	3,139,000	3,139,000	3,139,000	3,139,000
22 and 30 W. Mifflin Madison	9,500,000	0	0	0	0
Total General Obligation Bonds	\$2,413,080,500	\$2,032,040,200	\$2,378,260,800	\$927,097,200	\$2,061,283,800

Update summary schedules relating to bonding and debt service that appear for informational purposes in the statutes.

[Act 20 Section: 176]

## 2. REVENUE OBLIGATION BONDING

**Governor:** Provide revenue obligation bonding authority of \$752,108,100 for the purposes indicated in the following table.

**Joint Finance:** Provide revenue obligation bonding authority of \$703,032,100 for the purposes indicated in the following table.

**Senate:** Provide revenue obligation bonding authority of \$663,352,600 for the purposes indicated in the following table.

**Conference Committee/Legislature:** Provide revenue bonding authority of \$703,032,100 for the purposes indicated in the following table.

<u>Agency and Purpose</u>	<u>Governor/ Bldg. Comm</u>	<u>Jt. Finance</u>	<u>Senate</u>	<u>Assembly</u>	<u>Conf Comm/ Legislature</u>
Commerce					
Petroleum Environmental Cleanup	\$0	-\$49,076,000	-\$49,076,000	-\$49,076,000	-\$49,076,000
Environmental Improvement Fund					
Clean water fund	368,145,000	368,145,000	368,145,000	368,145,000	368,145,000
Transportation					
Major highway projects, transp. facilities	<u>383,963,100</u>	<u>383,963,100</u>	<u>344,283,600</u>	<u>344,283,600</u>	<u>383,963,100</u>
Total Revenue Obligation Bonds	\$752,108,100	\$703,032,100	\$663,352,600	\$663,352,600	\$703,032,100
<b>GRAND TOTAL Bonding Authority</b>					
Modifications	\$3,165,188,600	\$2,735,072,300	\$3,041,613,400	\$1,590,449,800	\$2,764,315,900

Update summary schedules relating to bonding and debt service that appear for informational purposes in the statutes.

[Act 20 Section: 176]

## BUDGET MANAGEMENT AND COMPENSATION RESERVES

### 1. COMPENSATION RESERVES [LFB Paper 173]

**Governor:** Provide total compensation reserves of \$143,311,400 in 2007-08 and \$366,427,800 in 2008-09 for the increased cost of state employee salaries and fringe benefits. Total compensation reserve amounts by fund source and fiscal year are shown in the following table:

<u>Fund Source</u>	<u>2007-08</u>	<u>2008-09</u>
General Purpose Revenue	\$67,784,500	\$172,546,700
Federal Revenue	36,589,600	93,760,400
Program Revenue	20,454,900	52,569,300
Segregated Revenue	<u>18,482,400</u>	<u>47,551,500</u>
<b>TOTAL</b>	<b>\$143,311,400</b>	<b>\$366,427,900</b>

Details on the component funding amounts included by the Governor in these reserve amounts were not provided by the administration. Typically, amounts within compensation reserve are funds to pay for such items as: (a) the employer share of increased premium costs in the forthcoming fiscal biennium for state employee health insurance; (b) the costs of negotiated pay increases; (c) increases in the employer share of contributions to the state retirement fund for employees' future state retirement benefits; and (d) pension obligation bond payments for the state's unfunded prior service liability for retirement benefits and the accumulated sick leave conversion credit program.

**Assembly:** Reduce compensation and other reserves by \$21,921,600 GPR, \$11,833,100 FED, \$6,615,100 PR, and \$5,977,200 SEG in 2007-08 and \$72,268,000 GPR, \$39,269,800 FED, \$22,017,700 PR, and \$19,916,100 SEG in 2008-09. Reserve the remaining amounts for state employee compensation adjustments and potential cost increases for state employee health insurance coverage. In addition, GPR reserves would be available to cover any potential revenue losses relating to the March, 2007, Wisconsin Supreme Court decision in *Wisconsin Department of Revenue v. River City Refuse Removal, Inc.* Remaining compensation and other reserve amounts by fund source and fiscal year, under the provision, are shown in the following table:

<u>Fund Source</u>	<u>2007-08</u>	<u>2008-09</u>
General Purpose Revenue	\$45,862,900	\$100,278,700
Federal Revenue	24,756,500	54,490,600
Program Revenue	13,839,800	30,551,600
Segregated Revenue	<u>12,505,200</u>	<u>27,635,400</u>
<b>TOTAL</b>	<b>\$96,964,400</b>	<b>\$212,956,300</b>



**Conference Committee/Legislature:** Provide total compensation reserves of \$131,197,500 in 2007-08 and \$328,026,800 in 2008-09 for the increased cost of state employee salaries and fringe benefits. Total compensation reserve amounts by fund source and fiscal year are shown in the following table:

<u>Fund Source</u>	<u>2007-08</u>	<u>2008-09</u>
General Purpose Revenue	\$62,759,600	\$156,617,900
Federal Revenue	33,197,700	83,008,100
Program Revenue	18,516,700	46,425,100
Segregated Revenue	<u>16,723,500</u>	<u>41,975,700</u>
<b>TOTAL</b>	<b>\$131,197,500</b>	<b>\$328,026,800</b>

[Act 20 Section: 175]

**2. DOA SECRETARY AUTHORITY TO LAPSE OR TRANSFER FUNDS TO THE GENERAL FUND [LFB Paper 170]**

	<b>Governor (Chg. to Base)</b>	<b>Legislature (Chg. to Gov)</b>	<b>Net Change</b>
GPR-REV	\$80,000,000	\$120,000,000	\$200,000,000
GPR-Lapse	\$0	\$26,000,000	\$26,000,000

**Governor:** Require the Secretary of the Department of Administration (DOA) to lapse or transfer \$40,000,000 annually to the general fund from the unencumbered balances of state operations appropriations, other than sum sufficient appropriations and federal appropriations, during each fiscal year of the 2007-09 and 2009-11 fiscal biennia.

Specify that these transfers or lapses would occur notwithstanding the following: (a) current law governing the treatment of unexpended appropriation balances; and (b) current law limiting the use of moneys from the transportation fund.

Specify that the DOA Secretary would not be allowed to lapse or transfer moneys if the lapse or transfer would: (a) violate a condition imposed by the federal government on the expenditure of the moneys; or (b) violate the federal or state constitution.

**Joint Finance:** Delete provision. Instead, the Secretary of Administration would use his authority under current law to limit spending by executive branch agencies to generate \$40 million of annual savings. If any of these savings amounts would accrue from continuing GPR appropriations or from SEG or PR moneys, subsequent legislation could authorize any lapses or transfers to the general fund needed to reach the goal. There would be no provisions relating to these items, as it would rely upon the current law authority of the Secretary of Administration to achieve these spending reductions.

**Assembly:** Increase the projected lapse amount by \$35,000,000 annually from the Joint Finance level of \$40,000,000 annually, so that the total annual lapse would be \$75,000,000. Under this provision, the Secretary of Administration would use his authority under current law to limit spending by executive branch agencies to generate \$75,000,000 of annual savings for fiscal years 2007-08 through 2010-11.

**Conference Committee/Legislature:** Restore the Governor's recommendation and increase the required lapse or transfer to the general fund to \$200,000,000 biennially from the unencumbered balances of appropriations of executive branch state agencies, other than sum sufficient appropriations and federal appropriations. These moneys are treated as a revenue (GPR-Earned) to the general fund.

The \$200,000,000 lapse or transfer would not apply to appropriations of the UW System and to the Wisconsin Technical College System. However, in addition, require the DOA Secretary to lapse or transfer the following amounts to the general fund biennially in each of the 2007-09 and 2009-11 fiscal biennia: (a) \$25,000,000 from the unencumbered balances of appropriations to the UW System of funding for system or campus administration, other than sum sufficient and federal appropriations; and (b) \$1,000,000 from the unencumbered balances of appropriations to the Wisconsin Technical College System, other than sum sufficient and federal appropriations. These moneys are treated as a reduction in expenditures (GPR-Lapse) from the general fund.

[Act 20 Section: 9201(1c)]

### 3. REQUIRED GENERAL FUND STATUTORY BALANCE [LFB Paper 171]

**Governor:** Provide that the required general fund statutory balance would be \$130 million for each fiscal year from 2007-08 through 2010-11. Specify that beginning in 2011-12, the required balance would equal 2% of total GPR appropriations plus GPR compensation reserves for each fiscal year. Delete references to required balances in the previous biennium.

Under current law, the required balance is \$65 million for 2007-08 and for 2008-09 and 2% of total GPR appropriations plus GPR compensation reserves in each fiscal year beginning in 2009-10. As an example, under the bill, 2% of total GPR appropriations plus GPR compensation reserves would equal approximately \$279.5 million in 2008-09, if it applied in that year.

**Assembly:** Delete the required statutory general fund reserve for the 2007-09 biennium. Specify that in 2009-10 and 2010-11, the required balance would be \$65 million. Provide that beginning in 2011-12, the required balance would equal 2% of total GPR appropriations plus GPR compensation reserves for each fiscal year.

**Conference Committee/Legislature:** Restore a required statutory general fund reserve of \$65 million in each fiscal year from 2007-08 through 2010-11. Provide that beginning in 2011-12, the required balance would equal 2% of total GPR appropriations plus GPR compensation reserves for each fiscal year.

A comparison of current law, Governor/Joint Finance, Assembly, and Conference Committee/Legislature is shown in the following table.

	<u>Current Law</u>	<u>Governor/ Joint Finance</u>	<u>Assembly</u>	<u>Conf. Comm/ Legislature</u>
2007-08	\$65,000,000	\$130,000,000	\$0	\$65,000,000
2008-09	65,000,000	130,000,000	0	65,000,000
2009-10	2%*	130,000,000	65,000,000	65,000,000
2010-11	2%*	130,000,000	65,000,000	65,000,000
2011-12 and thereafter	2%*	2%*	2%*	2%*

\*The required balance equals 2% of gross GPR appropriations plus GPR compensation reserves in that year.

[Act 20 Sections: 168 thru 174]

#### 4. BASE BUDGET REVIEW REPORT [LFB Paper 172]

**Governor:** Delete the current requirement that was created in 2001 Act 109, that one-third of state agencies submit a report each biennium containing all of the following: (a) a description of each programmatic activity of the state agency; (b) an accounting of all expenditures by programmatic activity, arranged by revenue source and by categories developed by the Secretary of Administration, in each of the prior three fiscal years; and (c) a similar accounting of all expenditures in the last two quarters in each of the prior three fiscal years. Delete the current requirements that this information be included in the agency budget request and that a summary of this information be included in the Governor's executive budget documents.

**Assembly:** Retain the base budget review report. Specify that any agency could use any format for the report, but if it uses a different format, it would have to reissue all previous reports in the new format. Require that the most recent reports would have to be included in the compilation of agency budget requests prepared by the Department of Administration by November 20 of each even-numbered year, rather than in the executive budget documents as under current law. Specify that the compilation of agency budget requests would have to include the statements of specific objectives and performance measures submitted in the agency's budget request.

**Conference Committee/Legislature:** Delete provision.

#### 5. BUDGETING IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES (GAAP)

**Assembly:** Prohibit the executive budget bill from increasing the GAAP deficit and require that the budget bill be prepared using GAAP in the biennium following a fiscal year in which the state does not have a GAAP deficit.

**Conference Committee/Legislature:** Delete provision.

## **6. ZERO-BASED BUDGETING REQUIREMENT**

**Assembly:** Require the Secretary of Administration to designate one-fifth of all state agencies each biennium, so that those agencies would be required to submit their agency budget request for that biennium using zero-based budgeting. Specify that each biennium, a different set of agencies would be subject to this requirement, so that at least once every five biennia, each state agency would submit a zero-based agency budget request. Define zero-based budgeting as the compilation of a budget in which each component is justified on the basis of cost, need, and relation to the agency's statutory responsibilities.

**Conference Committee/Legislature:** Delete provision.

## **7. REQUIRED GENERAL FUND STRUCTURAL BALANCE**

**Assembly:** Modify the current general fund structural balance requirement that applies to both fiscal years in a biennium, so that it would only apply to the second fiscal year, which is the base year for the following biennium. Under current law, no bill may be adopted by the Legislature, if the bill would cause total expenditures in any fiscal year to exceed available revenues, without considering the opening balance.

**Conference Committee/Legislature:** Delete provision.

## BUILDING COMMISSION

<b>Budget Summary</b>							
Fund	2006-07 Base Year Doubled	2007-09 Governor	2007-09 Jt. Finance	2007-09 Legislature	2007-09 Act 20	Act 20 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$67,639,200	\$94,962,800	\$85,711,500	\$85,711,500	\$85,711,500	\$18,072,300	26.7%
SEG	<u>2,048,400</u>	<u>2,048,400</u>	<u>2,048,400</u>	<u>2,048,400</u>	<u>2,048,400</u>	<u>0</u>	0.0
TOTAL	\$69,687,600	\$97,011,200	\$87,759,900	\$87,759,900	\$87,759,900	\$18,072,300	25.9%
BR			-\$18,319,700	-\$18,319,700	-\$18,319,700		

<b>FTE Position Summary</b>
There are no full time positions authorized for the Building Commission.

### Budget Change Items

**1. DEBT SERVICE REESTIMATE [LFB Paper 175]**

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$27,323,600	-\$9,251,300	\$18,072,300
GPR-Lapse	\$8,000,000	\$4,000,000	\$12,000,000

**Governor:** Adjust funding by \$5,394,600 in 2007-08 and \$21,929,000 in 2008-09 to reestimate sum sufficient debt service appropriations as shown in the following table.

	Adjusted Base	Change to Base		Total Debt Service	
	<u>2006-07</u>	<u>2007-08</u>	<u>2008-09</u>	<u>2007-08</u>	<u>2008-09</u>
<b>GPR Debt Service Appropriation</b>					
Capitol and Executive Residence	\$12,476,000	-\$1,697,200	-\$1,953,100	\$10,778,800	\$10,522,900
Amounts Not Initially Allocated to Agencies	19,571,700	5,883,500	21,800,300	25,455,200	41,372,000
Other Public Purposes	1,573,500	435,700	1,213,200	2,009,200	2,786,700
Children's Research Institute	0	772,100	806,300	772,100	806,300
HR Academy Youth Center	114,400	-1,600	1,900	112,800	116,300
Milwaukee Police Youth Activity Ctr.	84,000	2,100	400	86,100	84,400
Swiss Cultural Center	0	0	30,000	0	30,000
Discovery Place Museum	<u>0</u>	<u>0</u>	<u>30,000</u>	<u>0</u>	<u>30,000</u>
<b>Total GPR</b>	<b>\$33,819,600</b>	<b>\$5,394,600</b>	<b>\$21,929,000</b>	<b>\$39,214,200</b>	<b>\$55,748,600</b>

Estimate lapses from GPR sum sufficient debt service appropriations of \$4,000,000 annually. These lapse amounts are associated with interest earnings on the bond security redemption fund that will be allocated to debt service appropriations in the biennium.

**Joint Finance/Legislature:** Reduce estimated debt service by \$586,000 in 2007-08 and \$1,307,900 in 2008-09 associated with other public purposes (passenger rail development) appropriation and by \$2,109,400 in 2007-08 and \$5,248,000 in 2008-09 associated with the amounts not initially allocated to agencies (housing state agencies) appropriation. In addition, increase estimated lapses from state GPR debt service appropriations by \$2,000,000 annually associated with the reallocation of debt service from the Commission's other public purpose bonding to program revenue and segregated revenue debt service appropriations.

**2. AGREEMENTS RELATED TO STATE BORROWING PROGRAMS [LFB Paper 176]** GPR-Lapse \$4,500,000

**Governor:** Modify current law authorizing agreements or ancillary arrangements relating to state general obligation debt, and operating notes.

Based on information from the Department of Administration (DOA), these modifications would allow the state, and a third party, to enter into certain interest rate exchange agreements associated with the state's debt obligations. These agreements could be entered into at the time that state debt obligations are issued or any time such issues remain outstanding. These agreements, or "swaps," are considered a debt management tool, which can provide a debt issuer certain benefits, such as reducing their exposure to interest rate volatility, reducing their cost of capital, and increasing their flexibility to alter the structure of their existing debt payments. In using this authority, DOA and the Building Commission would have the responsibility of balancing these potential benefits with the inherent risks associated with entering into the types of agreements or arrangements that would be authorized under the bill.

DOA Capital Finance officials estimate that the state could receive \$4,500,000 GPR in

2007-08 associated with entering into "swap" agreements or arrangements associated with the state's general obligation bond debt. These amounts would be applied to the GPR debt service appropriations that correspond to the purposes for which the initial bonds are sold. Because the purposes of bonds for which these agreements or arrangements may be sold are not known, for the purposes of the state's general fund condition statement the amounts would be considered to be lapsed from these GPR sum sufficient debt service appropriations. Similar receipts of payments related to agreements or ancillary arrangements related to state's appropriation and revenue obligation bond debt could also accrue to these programs.

Make the following modifications to relating to the payment and receipt of funds on agreements and ancillary arrangements associated with the state debt obligation programs and operating notes:

*Modifications to State General Obligation Debt.* Specify that the Building Commission could enter into agreements or ancillary arrangements relating to public debt at the time of, or in anticipation of contracting the public debt and at any time the public debt is outstanding. Require the Building Commission to determine the following, if applicable, with respect to revenues or payments on any agreement or ancillary arrangement entered into relating to state debt: (a) whether revenues will be deposited into the bond security and redemption fund (BSRF) or the capital improvement fund (CIF); and (b) whether any payment to be made will be made from the BSRF or the CIF and the timing of any transfer of funds. Under current law, the BSRF is used to pay debt service on state general obligation bonds and monies from agency debt service appropriations are transferred to the BSRF, and then paid to bondholders when due. The CIF is used for the deposit of bond proceeds at the time bonds are issued. These bond proceeds are expended from the CIF as project expenditures need to be made.

Provide that monies received from the issuance of public debt or payments from any agreement or ancillary arrangement relating to public debt would be deposited in the CIF, except as follows: (a) such monies representing accrued interest or that are for funding or refunding bonds would be credited to the BSRF or the building trust fund; and (b) any such monies that represent a premium or that are from an agreement or ancillary arrangement relating to public debt could be credited to the BSRF or the CIF, as determined by the Building Commission. Under current law, monies received from the issuance of public debt are deposited in the CIF, except that any monies representing a premium or accrued interest or that are for funding or refunding bonds are credited to the BSRF or the building trust fund.

Authorize expenditures from the CIF for any payment due under an agreement or ancillary arrangement with respect to public debt and modify current law governing the transfer of the proceeds of public debt to the CIF to pay loans or notes or pay expenses incurred in contracting public debt, to also apply to these payments.

Modify current law governing expenditures from the BSRF to add payments due under an agreement or ancillary arrangement as an allowable purpose. Under current law, the BSRF is used to pay principal, interest and premium, if any, on public debt. Related provisions concerning debt service appropriations and the BSRF would be modified to reflect this

additional spending purpose. The bill would modify each state general obligation debt service appropriation to add payments due under an agreement or ancillary arrangement as an allowable expenditure from the appropriation.

Delete the current law limitation that an interest exchange agreement is not considered public debt of the state. Require the following with respect to any interest exchange agreement or agreements relating to state public debt:

a. the Building Commission would be required to contract with an independent financial consulting firm to determine if the terms and conditions of the agreement reflect a fair market value as of the proposed date of the execution of the agreement; and

b. the interest exchange agreement would have to identify by maturity, bond issue, or bond purpose the debt or obligation to which the agreement is related. The bill would specify that any determination of the Building Commission included in an interest exchange agreement that such agreement relates to a debt or obligation would be conclusive.

Specify that the resolution authorizing the Building Commission to enter into any interest exchange agreement relating to state general obligation debt must require that the terms and conditions of the agreement reflect a fair market value as of the date of execution of the agreement, as reflected by the determination of the independent financial consulting firm and would establish guidelines for any such agreement, including the following: (a) the conditions under which the Commission may enter into the agreements; (b) the form and content of the agreements; (c) the aspects of risk exposure associated with the agreements; (d) the standards and procedures for counterparty selection; (e) the standards for the procurement of, and the setting aside of reserves, if any, in connection with, the agreements; (f) the provisions, if any, for collateralization or other requirements for securing any counterparty's obligations under the agreements; and (g) a system for financial monitoring and periodic assessment of the agreements.

Authorize the Building Commission to delegate to other persons the authority and responsibility to take actions necessary and appropriate to implement interest rate exchange agreements. It is the intent that this authority would only be delegated to DOA Capital Finance staff or a trustee involved in a transaction, which would likely be indicated in the authorizing resolution approved by the Commission.

The bill would require DOA to submit a report, semiannually, during any year in which the state is a party to an agreement relating to state general obligation debt, to the Building Commission and to the Co-chairpersons of the Joint Committee on Finance listing all such agreements. The report would have to include all of the following: (a) a description of each agreement, including a summary of its terms and conditions, rates, maturity, and the estimated market value of each agreement; (b) an accounting of amounts that were required to be paid and received on each agreement; (c) any credit enhancement, liquidity facility, or reserves, including an accounting of the costs and expenses incurred by the state; (d) a description of the counterparty to each agreement; and (e) a description of the counterparty risk, the termination risk, and other risks associated with each agreement.



Specify that payments under these arrangements would have the same priority of payment as debt service on general obligation bonds, under current law governing payment delays if a state fund has cashflow problems.

*Modifications to Appropriation Obligation Debt.* Specify that the determination by DOA in an interest exchange agreement that the agreement relates to an appropriation obligation debt would be conclusive.

*Limitations on Interest Rate Agreements on General and Appropriation Obligation Debt.* Provide that the terms and conditions of an interest exchange agreement relating to general obligation and appropriation obligation debt, could not be structured so that, as of the trade date of the agreement, both of the following would reasonably be expected to occur:

a. the aggregate expected debt service and net exchange payments relating to the agreement during the fiscal year in which the trade date occurs will be less than the aggregate expected debt service and net exchange payments relating to the agreement that would be payable during that fiscal year if the agreement is not executed; and

b. the aggregate expected debt service and net exchange payments relating to the agreement in subsequent fiscal years will be greater than the aggregate expected debt service and net exchange payments relating to the agreement that would be payable in those fiscal years if the agreement is not executed.

Provide that this limitation on structuring an agreement would not apply if either of the following occurs:

a. the Commission (DOA for appropriation obligation debt) receives a determination by the independent financial consulting firm that the terms and conditions of the agreement reflect payments by the state that represent on-market rates as of the trade date for the particular type of agreement; or

b. the Commission (DOA for appropriation obligation debt) provides written notice to the Joint Committee on Finance of its intention to enter into an agreement that is reasonably expected to be subject to the limitation on structuring interest rate agreements, and the Joint Committee on Finance either approves or disapproves, in writing, the Commission's entering into the agreement within 14 days of receiving the written notice from the Commission.

Specify that the interest rate exchange agreement limitations would not limit the liability of the state under an agreement if actual contracted net exchange payments in any fiscal year exceed original expectations.

Specify that for arrangements and agreements related to the state's general obligation program, aggregate expected debt service and net exchange payments would mean the sum of the following: (a) the aggregate net payments expected to be made and received under a specified interest rate exchange agreement; (b) the aggregate debt service expected to be made on bonds related to that agreement; and (c) the aggregate net payments expected to be made

and received under any other interest exchange agreement relating to bonds that are in force at the time of executing the agreement

*Modifications to Operating Note Obligations.* Under current law, there are references that specify that the Building Commission's authority to enter into agreements and ancillary arrangements for public debt applies to operating notes. Create similar authority under the statutes governing operating notes, except specify that the Commission would have that authority at the time of, or in anticipation of, and after issuing operating notes. Specify that the determination by the Building Commission that an interest rate exchange agreement relates to an operating note would be conclusive.

In addition, specify that any payment made or received under such agreements or arrangements would be made from, or deposited to, the general fund or the operating note redemption fund, as determined by the Commission.

Specify that all moneys resulting from payments to be received under an agreement or ancillary arrangement regarding operating notes would be credited to the general fund. Authorize the operating note redemption fund to make payments due on an agreement or ancillary arrangement entered into with respect to operating notes. Specify that the payments due under these agreements or arrangements with respect to operating notes would be an allowable purpose for which funds could be transferred from the GPR sum sufficient appropriation for debt service on operating notes to the operating note redemption fund.

*Modifications to Revenue Obligations.* Specify that the determination by the Building Commission in an interest exchange agreement that the agreement relates to a revenue obligation would be conclusive. The proposal would also allow payments under an agreement or ancillary arrangement related to revenue obligation debt issued for the transportation revenue bond program, the clean water revenue bond program, and the PECFA revenue bond program to be received by, and made from, the trusts of these various programs. Modify the debt service appropriations for each of these programs to add payments due under an agreement or ancillary arrangement as an allowable expenditure from the appropriation.

**Joint Finance:** Specify that the proposed limitations on off-market interest rate exchange agreements related to the state's general obligation and appropriation obligation debt programs would also apply to off-market interest rate exchange agreements related to the state's revenue obligation and operating note borrowing programs. Specify that the proposed guidelines and reporting requirements for agreements related to the state general obligation programs would also apply to agreements related to the state's appropriation obligation, revenue obligation, and operating note borrowing programs.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

[Act 20 Sections: 86d thru 88h, 91, 135 thru 155, 180, 188, 191, 192, 207, 208, 218, 219, 220, 221, 222, 223, 228, 229, 232, 233, 235, 249, 250, 253, 256, 257, 259 thru 261, 262, 266 thru 271, 283

thru 290, 292 thru 301, 310 thru 317, 320, 324, 339, 408, 501, 509, 510, 515, 516, 523, 524, 525, 526, 533, 534, 535, 571, 575, 582, 583, 598 thru 605, 606h thru 610, 2537, 2538, 2628, 2629, 3077, and 3078]

**3. SALE OF STATE-OWNED REAL PROPERTY [LFB Paper 177]**

	<b>Governor (Chg. to Base)</b>	<b>Legislature (Chg. to Gov)</b>	<b>Net Change</b>
GPR-REV	\$30,000,000	\$10,000,000	\$40,000,000

**Governor:** Modify provisions of 2005 Act 25 related to the sale of state properties by the Department of Administration (DOA) and the Building Commission and UW System properties by the UW System Board of Regents. Increase estimated revenues to the general fund by \$30 million GPR-Earned in 2007-08 attributable to property sales under this provision, based on estimates by DOA in executive budget documents.

*Sale of State Agency Properties.* Modify the June 30, 2007, sunset of the 2005 Act 25 provision relating to the sale of state agency properties by extending the authority of DOA to offer state agency properties for sale so that it applies from the bill's effective date until June 30, 2009.

Delete the Act 25 requirement that the DOA Secretary submit a report to the Building Commission containing an inventory of his or her recommendations of the state properties that are to be offered for sale. Rather, authorize DOA to offer for sale any state-owned real property that is eligible to be sold under the Act 25 provisions. Require that if DOA receives an offer to purchase a property, the DOA Secretary may submit a report to the Secretary of the Building Commission recommending acceptance of the offer. The report would also be required to include a description of the property and the reasons for the DOA Secretary's recommendation. Specify that if during the period on or before June 30, 2007, or the period beginning on the effective date of the bill and ending on June 30, 2009, the Building Commission votes to approve an offer to purchase a property, DOA may sell the property.

Under Act 25, the DOA Secretary could include a property on the inventory of properties recommended to be offered for sale by the Commission without the approval of the agency having jurisdiction of the property. Under the bill, the DOA Secretary could recommend the sale of a specific property without agency approval.

Exclude Department of Natural Resources (DNR) central or district offices from the list of properties under the jurisdiction of the DNR Board that the Board may sell if it determines the property is no longer necessary for conservation purposes and is not subject to a petition for transfer by the Department of Commerce.

Include the following properties in the list of properties that DOA could not sell under these provisions:

a. property that is subject to sale by the Department of Military Affairs that was acquired or erected for state military purposes, but is no longer useful to the national guard or is for the purposes of a company-sized unit;

b. property that is conveyed by the Department of Corrections related to the construction of a sanitary sewer system in the area adjacent to the Taycheedah Correctional Institution;

c. any personal property turned over to the state treasurer as an escheat;

d. land that is not a part of the Kickapoo valley reserve that is sold or traded by the Kickapoo Reserve Management Board;

e. real property that is adjacent to the veterans memorial site located at the Highground in Clark County that is donated by the Department of Transportation; and

f. the sale of real property at the Northern Center for the Developmentally Disabled by the Department of Health and Family Services.

Delete any reference to DOA's authority to sell state property from the statutes relating to the Department of Veteran's Affairs authority to manage, sell, lease property passing to the state or members at the Veteran's Home at King. Specify that the Department of Transportation's (DOT's) authority related to the following types of land or property would be subject to DOA's authority to sell state-owned lands under the bill:

a. tracts, parcels or remnants of lands acquired through purchase or condemnation, or otherwise conveyed to DOT;

b. any disposal of rail property by DOT; and

c. property sold by DOT that that DOT Secretary determines is no longer necessary for the state's use for airport purposes.

Repeal two cross-references to provisions that were vetoed under 2005 Act 25.

*Sale of UW-System Properties.* Under current law, various provisions related to the sale of properties by the UW System are only in effect until June 30, 2007. To correspond with the proposed extension of DOA's authority to sell state-owned real property through the 2007-09 biennium, the bill would also extend the following current law provisions related to the sale of properties at the UW System for a period beginning on the effective date of the bill through June 30, 2009:

a. the provision that excludes the UW System from the list of agencies from which the DOA Secretary could sell state-owned real property;

b. the provision that excludes moneys from the sale of UW System real property from the revenues to be deposited to the UW System auxiliary services, gifts and donations, and sale

of real property appropriations; and

c. the provisions that require that if the Board of Regents of the UW System sells any real property during the period, the net proceeds from the sale are to be deposited to the UW System's general operations receipts appropriation to be used for general operations of the System.

**Assembly:** Retain the current law requirement that the DOA Secretary submit a report to the Building Commission containing an inventory of his or her recommendations of the state properties that are to be offered for sale, which would be deleted under Joint Finance. Modify this provision to require DOA to periodically provide the Commission with these property reports during the biennium. Include the UW System on the list of agencies from which DOA could sell state-owned real properties and deposit the net proceeds from the sale of UW System properties to the general fund. Under Joint Finance, the UW System could retain the net proceeds to be used for general operations of the system.

Increase estimated revenues to the general fund by \$20,000,000 GPR-Earned in 2007-08 attributable to property sales under these provisions. As a result, the estimated revenue to be deposited to the general fund from such sales would total \$50,000,000 in 2007-08.

**Conference Committee/Legislature:** Delete Assembly modification, except increase estimated revenues by \$10,000,000 GPR-Earned in 2007-08. As a result, the estimated revenue to be deposited to the general fund from such sales would total \$40,000,000 in 2007-08.

[Act 20 Sections: 9, 113, 114, 252, 254, 255, 258, 657, 694, 787, 2532, 2544, 2682, 3108, 3936, and 3937]

**4. EXCESS GENERAL OBLIGATION AUTHORITY [LFB Paper 178]**

BR	- \$18,319,700
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**Joint Finance/Legislature:** Decrease existing GPR-supported general obligation bonding by \$18,319,700 from the following purposes: (a) \$18,288,700 from the Department of Administration's (DOA) school educational technology infrastructure financial assistance bonding authorization; and (b) \$31,000 from DOA's public library educational technology infrastructure financial assistance bonding authorization.

Under prior law, DOA had the authority to make loans from these bonding authorizations to school districts and public libraries to assist in the financing of educational technology infrastructure. The loans could be made for the purpose of upgrading the electrical wiring of the school or library building and upgrading and installing computer wiring in the buildings. However, the loan program was sunset effective July 26, 2003, and therefore the remaining unissued bonding authority is no longer needed.

[Act 20 Sections: 596nd and 596np]

# BUILDING PROGRAM

## Budget Change Items

1. 2007-09 ENUMERATED PROJECTS [LFB Papers 180 thru 188, and 736]

	Bldg. Comm. (Chg. to Base)	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
All Funds	\$1,318,077,000	-\$436,416,000	\$249,339,000	\$1,131,000,000

**Building Commission:** Provide \$1,318,077,000 from all funding sources of enumerated 2007-09 financing authority for: (a) specific enumerated projects (\$1,027,162,200); and (b) all agency projects (\$290,914,800).

Specify that funding for these projects be drawn from the following sources: (a) \$1,055,590,500 from new general obligation bonding authority; (b) \$34,129,300 from general obligation bonding authority that is currently authorized; (c) \$6,121,600 from revenue bonding authority; (d) \$500,000 from revenue bonding authority that is currently authorized; (e) \$44,963,200 from agency operating funds; (e) \$48,788,400 from federal funds; and (f) \$127,984,000 from gifts, grants and other receipts.

The funding sources for the 2007-09 enumerated project authority by agency are shown in Table 1. A listing of individual major agency projects enumerated as part of the 2007-09 state building program, as recommended by the Building Commission, is provided in Table 2.

**Joint Finance:** Make the following modifications to the 2007-09 state building program as recommended by the Building Commission: (a) delete \$2,500,000 in GPR-supported bonding and \$2,500,000 in gifts, grants, and other receipts associated with the Hmong Cultural Center project; (b) delete \$500,000 in GPR-supported bonding and \$2,000,000 in gifts, grants, and other receipts associated with the Kenosha Civil War Exhibit project; (c) delete \$31,406,600 in PR-supported bonding, \$8,510,400 in existing general obligation bonding, and \$8,885,000 in agency operating funds associated with the UW-Eau Claire Davies Center project; (d) delete \$126,200,000 in PR-supported bonding and \$13,500,000 in gifts and grants associated with the UW-Madison Union South and Memorial Union projects; (e) delete \$67,227,000 in PR-supported bonding associated with the UW-Madison Lakeshore Residence Hall Development project; (f) delete \$138,387,000 in PR-supported bonding for suite style residence hall projects at UW-Oshkosh (\$34,000,000), UW-Parkside (\$17,740,000), UW-Stevens Point (\$36,205,000), UW-Whitewater (\$35,728,000), and UW-River Falls (\$14,714,000); (g) delete \$20,000,000 in PR-supported bonding associated with Building Commission all agency energy conservation projects; (h) delete \$9,500,000 in PR-supported bonding associated with the Department of Veterans Affairs Central Office purchase; and (i) delete \$5,300,000 in PR-supported bonding associated with the Pettit Ice Center purchase at State Fair Park.

**Senate:** Make the following modifications to the 2007-09 state building program as recommended by the Building Commission: (a) provide \$1,000,000 in GPR-supported bonding and \$3,000,000 in gifts, grants, and other receipts to make a grant to aid in the expansion of the Bond Health Center in the City of Oconto; (b) delete \$500,000 in GPR-supported bonding associated with construction of a satellite Hmong Cultural Center facility in Milwaukee (project enumeration would be \$2,000,000 in GPR-supported bonding and \$2,500,000 in gifts and grants); (c) delete \$20,000,000 in PR-supported bonding associated with Building Commission all agency energy conservation projects; (d) delete \$9,500,000 in PR-supported bonding associated with the Department of Veterans Affairs Central Office purchase; and (e) delete \$5,300,000 in PR-supported bonding associated with the Pettit Ice Center purchase at State Fair Park.

**Assembly:** Include the Joint Finance modifications to the 2007-09 state building program as recommended by the Building Commission and make the following additional modifications: (a) delete \$22,500,000 in GPR-supported bonding, \$2,950,000 in PR-supported bonding, and \$22,500,000 in gifts, grants, and other receipts for an addition to the School of Human Ecology addition at UW-Madison; (b) delete \$32,100,000 in GPR-supported bonding and \$2,076,000 in gifts, grants, and other receipts for a communication arts center at UW-Parkside; (c) delete \$24,143,000 in GPR-supported bonding, \$1,200,000 in building trust funds, and \$7,000,000 in gifts, grants, and other receipts for an academic building at UW-Superior; and (d) delete \$65,000,000 in GPR-supported bonding associated with Building Commission all agency projects.

**Conference Committee/Legislature:** Make the following modifications to the 2007-09 state building program as recommended by the Building Commission: (a) specify the \$52,000,000 UW-Madison Memorial Union theatre wing renovation project enumeration (\$40,500,000 PR-supported bonding and \$11,500,000 million in gifts and grants) would not be effective until July 1, 2009, and no funding would be provided at this time. (The \$52,000,000 associated with this project is excluded from the all funds total shown above); (b) provide an additional \$3,200,000 in GPR-supported bonding for the communication arts center project at UW-Parkside for a total project enumeration of \$37,376,000; (c) provide \$1,000,000 in GPR-supported bonding and \$3,000,000 in gifts, grants, and other receipts to make a grant to aid in the expansion of the Bond Health Center in the City of Oconto; (d) reduce funding for the Hmong Cultural Center by \$250,000 and include a satellite facility in La Crosse (rather than Milwaukee) as part of the Hmong Cultural Center project enumeration for a total project cost of \$4,750,000 (\$2,250,000 in GPR-supported bonding and \$2,500,000 in gifts and grants); (e) delete \$67,227,000 in PR-supported bonding associated with the UW-Madison Lakeshore Residence Hall Development project; (f) delete \$40,000,000 in GPR-supported bonding associated with Building Commission all agency projects; (g) delete \$20,000,000 in PR-supported bonding associated with Building Commission all agency energy conservation projects; (h) delete \$9,500,000 in PR-supported bonding associated with the Department of Veterans Affairs Central Office purchase; and (i) delete \$5,300,000 in PR-supported bonding associated with the Pettit Ice Center purchase at State Fair Park.

[Act 20 Sections: 9105(1) and 9405(1q)]

**TABLE 1**

**Building Commission Recommended Financing Sources for the 2007-09 Enumerated Projects**

	<u>New General Obligation Bonds</u>			<u>Revenue Bonds*</u>	<u>Existing General Obligation Bonds</u>	<u>Existing Revenue Bonds</u>	<u>Agency Operating Funds</u>	<u>Gifts, Grants and Other</u>	<u>Federal</u>	<u>Total</u>
	<u>GPR</u>	<u>PR</u>	<u>SEG</u>							
Administration	\$0	\$65,304,000	\$0	\$0	\$15,000,000	\$0	\$0	\$0	\$0	\$80,304,000
Building Commission	3,000,000	0	0	0	0	0	0	4,500,000	0	7,500,000
Corrections	10,256,500	0	0	0	0	0	0	0	0	10,256,500
Educational Communications Board	1,023,400	0	0	0	0	0	0	0	0	1,023,400
Health and Family Services	45,056,000	0	0	0	0	0	0	0	0	45,056,000
Medical College of Wisconsin	10,000,000	0	0	0	0	0	0	0	2,000,000	12,000,000
Military Affairs	5,308,600	0	0	0	0	0	0	0	35,249,000	40,557,600
Natural Resources	0	0	15,262,200	0	6,190,000	0	0	0	4,280,000	25,732,200
State Fair Park	0	5,300,000	0	0	0	0	0	0	0	5,300,000
State Historical Society	3,250,000	0	0	0	0	0	0	0	0	3,250,000
Transportation	100,000	0	250,000	3,277,500	0	500,000	0	0	0	4,127,500
University of Wisconsin System	205,365,000	422,120,600	0	0	12,217,400	0	16,285,000	119,027,000	0	775,015,000
Veterans Affairs	0	12,139,000	0	0	0	0	0	0	4,901,000	17,040,000
Subtotal	\$283,359,500	\$504,863,600	\$15,512,200	\$3,277,500	\$33,407,400	\$500,000	\$16,285,000	\$123,527,000	\$46,430,000	\$1,027,162,200
All Agency										
Facilities Repair and Renovation	\$90,000,000	\$17,568,300	\$5,537,200	\$2,844,100	\$721,900	\$0	\$12,832,000	\$0	\$2,216,400	\$131,719,900
Utilities Repair and Renovation	45,000,000	2,957,300	0	0	0	0	11,644,700	350,000	100,000	60,052,000
Health, Safety and Environmental Protection	10,000,000	870,400	0	0	0	0	1,827,000	0	0	12,697,400
Energy Conservation	0	50,000,000	0	0	0	0	0	0	0	50,000,000
Preventive Maintenance Program	3,000,000	0	0	0	0	0	1,000,000	0	0	4,000,000
Programmatic Remodeling and Renovation	5,000,000	4,922,000	0	0	0	0	1,084,500	3,432,000	42,000	14,480,500
Land and Property Acquisition	5,000,000	5,000,000	0	0	0	0	0	0	0	10,000,000
Capital Equipment and Acquisition	7,000,000	0	0	0	0	0	290,000	675,000	0	7,965,000
Subtotal	\$165,000,000	\$81,318,000	\$5,537,200	\$2,844,100	\$721,900	\$0	\$28,678,200	\$4,457,000	\$2,358,400	\$290,914,800
<b>TOTAL</b>	<b>\$448,359,500</b>	<b>\$586,181,600</b>	<b>\$21,049,400</b>	<b>\$6,121,600</b>	<b>\$34,129,300</b>	<b>\$500,000</b>	<b>\$44,963,200</b>	<b>\$127,984,000</b>	<b>\$48,788,400</b>	<b>\$1,318,077,000</b>

\*Transportation revenue bonds included under the Department of Transportation's 2007-09 operating budget.



TABLE 1 (continued)

Joint Finance Committee Recommended Financing Sources for the 2007-09 Enumerated Projects

	<u>New General Obligation Bonds</u>			<u>Revenue Bonds*</u>	<u>Existing General Obligation Bonds</u>	<u>Existing Revenue Bonds</u>	<u>Agency Operating Funds</u>	<u>Gifts, Grants and Other</u>	<u>Federal</u>	<u>Total</u>
	<u>GPR</u>	<u>PR</u>	<u>SEG</u>							
Administration	\$0	\$65,304,000	\$0	\$0	\$15,000,000	\$0	\$0	\$0	\$0	\$80,304,000
Building Commission	0	0	0	0	0	0	0	0	0	0
Corrections	10,256,500	0	0	0	0	0	0	0	0	10,256,500
Educational Communications Board	1,023,400	0	0	0	0	0	0	0	0	1,023,400
Health and Family Services	45,056,000	0	0	0	0	0	0	0	0	45,056,000
Medical College of Wisconsin	10,000,000	0	0	0	0	0	0	0	2,000,000	12,000,000
Military Affairs	5,308,600	0	0	0	0	0	0	0	35,249,000	40,557,600
Natural Resources	0	0	15,262,200	0	6,190,000	0	0	0	4,280,000	25,732,200
State Fair Park	0	0	0	0	0	0	0	0	0	0
State Historical Society	3,250,000	0	0	0	0	0	0	0	0	3,250,000
Transportation	100,000	0	250,000	3,277,500	0	500,000	0	0	0	4,127,500
University of Wisconsin System	205,365,000	58,900,000	0	0	3,707,000	0	7,400,000	105,527,000	0	380,899,000
Veterans Affairs	0	2,639,000	0	0	0	0	0	0	4,901,000	7,540,000
Subtotal	\$280,359,500	\$126,843,000	\$15,512,200	\$3,277,500	\$24,897,000	\$500,000	\$7,400,000	\$105,527,000	\$46,430,000	\$610,746,200
All Agency										
Facilities Repair and Renovation	\$90,000,000	\$17,568,300	\$5,537,200	\$2,844,100	\$721,900	\$0	\$12,832,000	\$0	\$2,216,400	\$131,719,900
Utilities Repair and Renovation	45,000,000	2,957,300	0	0	0	0	11,644,700	350,000	100,000	60,052,000
Health, Safety and Environmental Protection	10,000,000	870,400	0	0	0	0	1,827,000	0	0	12,697,400
Energy Conservation	0	30,000,000	0	0	0	0	0	0	0	30,000,000
Preventative Maintenance Program	3,000,000	0	0	0	0	0	1,000,000	0	0	4,000,000
Programmatic Remodeling and Renovation	5,000,000	4,922,000	0	0	0	0	1,084,500	3,432,000	42,000	14,480,500
Land and Property Acquisition	5,000,000	5,000,000	0	0	0	0	0	0	0	10,000,000
Capital Equipment and Acquisition	7,000,000	0	0	0	0	0	290,000	675,000	0	7,965,000
Subtotal	\$165,000,000	\$61,318,000	\$5,537,200	\$2,844,100	\$721,900	\$0	\$28,678,200	\$4,457,000	\$2,358,400	\$270,914,800
TOTAL	\$445,359,500	\$188,161,000	\$21,049,400	\$6,121,600	\$25,618,900	\$500,000	\$36,078,200	\$109,984,000	\$48,788,400	\$881,661,000

\*Transportation revenue bonds included under the Department of Transportation's 2007-09 operating budget.

TABLE 1 (continued)

Senate Recommended Financing Sources for the 2007-09 Enumerated Projects

	New General Obligation Bonds			Revenue Bonds*	Existing General Obligation Bonds	Existing Revenue Bonds	Agency Operating Funds	Gifts, Grants and Other	Federal	Total
	GPR	PR	SEG							
Administration	\$0	\$65,304,000	\$0	\$0	\$15,000,000	\$0	\$0	\$0	\$0	\$80,304,000
Building Commission	3,500,000	0	0	0	0	0	0	7,500,000	0	11,000,000
Educational Communications Board	1,023,400	0	0	0	0	0	0	0	0	1,023,400
Corrections	10,256,500	0	0	0	0	0	0	0	0	10,256,500
Health and Family Services	45,056,000	0	0	0	0	0	0	0	0	45,056,000
Medical College of Wisconsin	10,000,000	0	0	0	0	0	0	0	2,000,000	12,000,000
Military Affairs	5,308,600	0	0	0	0	0	0	0	35,249,000	40,557,600
Natural Resources	0	0	15,262,200	0	6,190,000	0	0	0	4,280,000	25,732,200
State Fair Park	0	0	0	0	0	0	0	0	0	0
State Historical Society	3,250,000	0	0	0	0	0	0	0	0	3,250,000
Transportation	100,000	0	250,000	3,277,500	0	500,000	0	0	0	4,127,500
Veterans Affairs	0	2,639,000	0	0	0	0	0	0	4,901,000	7,540,000
University of Wisconsin System	<u>205,365,000</u>	<u>422,120,600</u>	<u>0</u>	<u>0</u>	<u>12,217,400</u>	<u>0</u>	<u>16,285,000</u>	<u>119,027,000</u>	<u>0</u>	<u>775,015,000</u>
Subtotal	\$283,859,500	\$490,063,600	\$15,512,200	\$3,277,500	\$33,407,400	\$500,000	\$16,285,000	\$126,527,000	\$46,430,000	\$1,015,862,200
All agency										
Facilities Repair and Renovation	\$90,000,000	\$17,568,300	\$5,537,200	\$2,844,100	\$721,900	\$0	\$12,832,000	\$0	\$2,216,400	\$131,719,900
Utilities Repair and Renovation	45,000,000	2,957,300	0	0	0		11,644,700	350,000	100,000	60,052,000
Health, Safety and										
Environmental Protection	10,000,000	870,400	0	0	0		1,827,000	0	0	12,697,400
Energy Conservation	0	30,000,000	0	0	0		0	0	0	30,000,000
Preventative Maintenance Program	3,000,000	0	0	0	0		1,000,000	0	0	4,000,000
Programmatic Remodeling and Renovation	5,000,000	4,922,000	0	0	0		1,084,500	3,432,000	42,000	14,480,500
Land and Property Acquisition	5,000,000	5,000,000	0	0	0		0	0	0	10,000,000
Capital Equipment and Acquisition	<u>7,000,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>		<u>290,000</u>	<u>675,000</u>	<u>0</u>	<u>7,965,000</u>
Subtotal	\$165,000,000	\$61,318,000	\$5,537,200	\$2,844,100	\$721,900	\$0	\$28,678,200	\$4,457,000	\$2,358,400	\$270,914,800
TOTAL	\$448,859,500	\$551,381,600	\$21,049,400	\$6,121,600	\$34,129,300	\$500,000	\$44,963,200	\$130,984,000	\$48,788,400	\$1,286,777,000

\*Transportation revenue bonds included under the Department of Transportation's 2007-09 operating budget.

TABLE 1 (continued)

Assembly Recommended Financing Sources for the 2007-09 Enumerated Projects

	New General Obligation Bonds			Revenue Bonds*	Existing General Obligation Bonds	Existing Revenue Bonds	Agency Operating Funds	Gifts, Grants and Other	Federal	Total
	GPR	PR	SEG							
Administration	\$0	\$65,304,000	\$0	\$0	\$15,000,000	\$0	\$0	\$0	\$0	\$80,304,000
Building Commission	0	0	0	0	0	0	0	0	0	0
Educational Communications Board	1,023,400	0	0	0	0	0	0	0	0	1,023,400
Corrections	10,256,500	0	0	0	0	0	0	0	0	10,256,500
Health and Family Services	45,056,000	0	0	0	0	0	0	0	0	45,056,000
Medical College of Wisconsin	10,000,000	0	0	0	0	0	0	2,000,000	0	12,000,000
Military Affairs	5,308,600	0	0	0	0	0	0	0	35,249,000	40,557,600
Natural Resources	0	0	15,262,200	0	6,190,000	0	0	0	4,280,000	25,732,200
State Fair Park	0	0	0	0	0	0	0	0	0	0
State Historical Society	3,250,000	0	0	0	0	0	0	0	0	3,250,000
Transportation	100,000	0	250,000	3,277,500	0	500,000	0	0	0	4,127,500
Veterans Affairs	0	2,639,000	0	0	0	0	0	0	4,901,000	7,540,000
University of Wisconsin System	<u>126,622,000</u>	<u>55,950,000</u>	<u>0</u>	<u>0</u>	<u>3,707,000</u>	<u>0</u>	<u>6,200,000</u>	<u>73,951,000</u>	<u>0</u>	<u>266,430,000</u>
Subtotal	\$201,616,500	\$123,893,000	\$15,512,200	\$3,277,500	\$24,897,000	\$500,000	\$6,200,000	\$73,951,000	\$46,430,000	\$496,277,200
All agency										
Facilities Repair and Renovation	\$54,546,000	\$17,568,300	\$5,537,200	\$2,844,100	\$721,900	\$0	\$12,832,000	\$0	\$2,216,400	\$96,265,900
Utilities Repair and Renovation	27,273,000	2,957,300	0	0	0	0	11,644,700	350,000	100,000	42,325,000
Health, Safety and										
Environmental Protection	6,061,000	870,400	0	0	0	0	1,827,000	0	0	8,758,400
Energy Conservation	0	30,000,000	0	0	0	0	0	0	0	30,000,000
Preventative Maintenance Program	1,818,000	0	0	0	0	0	1,000,000	0	0	2,818,000
Programmatic Remodeling and Renovation	3,030,000	4,922,000	0	0	0	0	1,084,500	3,432,000	42,000	12,510,500
Land and Property Acquisition	3,030,000	5,000,000	0	0	0	0	0	0	0	8,030,000
Capital Equipment and Acquisition	4,242,000	0	0	0	0	0	290,000	675,000	0	5,207,000
	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Subtotal	\$100,000,000	\$61,318,000	\$5,537,200	\$2,844,100	\$721,900	\$0	\$28,678,200	\$4,457,000	\$2,358,400	\$205,914,800
TOTAL	\$301,616,500	\$185,211,000	\$21,049,400	\$6,121,600	\$25,618,900	\$500,000	\$34,878,200	\$78,408,000	\$48,788,400	\$702,192,000

\*Transportation revenue bonds included under the Department of Transportation's 2007-09 operating budget.

TABLE 1 (continued)

Conference Committee/Legislature Recommended Financing Sources for the 2007-09 Enumerated Projects

	New General Obligation Bonds			Revenue Bonds*	Existing General Obligation Bonds	Existing Revenue Bonds	Agency Operating Funds	Gifts, Grants and Other	Federal	Total
	GPR	PR	SEG							
Administration	\$0	\$65,304,000	\$0	\$0	\$15,000,000	\$0	\$0	\$0	\$0	\$80,304,000
Building Commission	3,750,000	0	0	0	0	0	0	7,500,000	0	11,250,000
Corrections	10,256,500	0	0	0	0	0	0	0	0	10,256,500
Educational Communications Board	1,023,400	0	0	0	0	0	0	0	0	1,023,400
Health and Family Services	45,056,000	0	0	0	0	0	0	0	0	45,056,000
Medical College of Wisconsin	10,000,000	0	0	0	0	0	0	0	2,000,000	12,000,000
Military Affairs	5,308,600	0	0	0	0	0	0	0	35,249,000	40,557,600
Natural Resources	0	0	15,262,200	0	6,190,000	0	0	0	4,280,000	25,732,200
State Fair Park	0	0	0	0	0	0	0	0	0	0
State Historical Society	3,250,000	0	0	0	0	0	0	0	0	3,250,000
Transportation	100,000	0	250,000	3,277,500	0	500,000	0	0	0	4,127,500
University of Wisconsin System**	208,565,000	314,393,600	0	0	12,217,400	0	16,285,000	107,527,000	0	658,988,000
Veterans Affairs	0	2,639,000	0	0	0	0	0	0	4,901,000	7,540,000
Subtotal	\$287,309,500	\$382,336,600	\$15,512,200	\$3,277,500	\$33,407,400	\$500,000	\$16,285,000	\$115,027,000	\$46,430,000	\$900,085,200
All Agency										
Facilities Repair and Renovation	\$68,000,000	\$17,568,300	\$5,537,200	\$2,844,100	\$721,900	\$0	\$12,832,000	\$0	\$2,216,400	\$109,719,900
Utilities Repair and Renovation	34,000,000	2,957,300	0	0	0	0	11,644,700	350,000	100,000	49,052,000
Health, Safety and Environmental Protection	9,000,000	870,400	0	0	0	0	1,827,000	0	0	11,697,400
Energy Conservation	0	30,000,000	0	0	0	0	0	0	0	30,000,000
Preventative Maintenance Program	2,000,000	0	0	0	0	0	1,000,000	0	0	3,000,000
Programmatic Remodeling and Renovation	3,500,000	4,922,000	0	0	0	0	1,084,500	3,432,000	42,000	12,980,500
Land and Property Acquisition	3,500,000	5,000,000	0	0	0	0	0	0	0	8,500,000
Capital Equipment and Acquisition	5,000,000	0	0	0	0	0	290,000	675,000	0	5,965,000
Subtotal	\$125,000,000	\$61,318,000	\$5,537,200	\$2,844,100	\$721,900	\$0	\$28,678,200	\$4,457,000	\$2,358,400	\$230,914,800
TOTAL	\$412,309,500	\$443,654,600	\$21,049,400	\$6,121,600	\$34,129,300	\$500,000	\$44,963,200	\$119,484,000	\$48,788,400	\$1,131,000,000

\*Transportation revenue bonds included under the Department of Transportation's 2007-09 operating budget.

\*\*No funding is provided for the \$52,000,000 UW-Madison Memorial Union theatre wing renovation project enumeration (\$40,500,000 in PR-supported bonding and \$11,500,000 in gifts and grants), which would be effective on July 1, 2009.

**TABLE 2**

**State Agency 2007-09 Enumerated Major Projects Total Project Authority (All Funding Sources)**

	<u>Bldg. Comm.</u>	<u>Jt. Finance</u>	<u>Senate</u>	<u>Assembly</u>	<u>Conf. Comm/ Legislature</u>
<b>Administration</b>					
Preservation and Storage Facility -- Dane County	\$25,000,000	\$25,000,000	\$25,000,000	\$25,000,000	\$25,000,000
General Executive Facility 3 Renovation -- Madison	5,304,000	5,304,000	5,304,000	5,304,000	5,304,000
State Transportation Building Replacement -- Madison	<u>50,000,000</u>	<u>50,000,000</u>	<u>50,000,000</u>	<u>50,000,000</u>	<u>50,000,000</u>
Total	\$80,304,000	\$80,304,000	\$80,304,000	\$80,304,000	\$80,304,000
<b>Building Commission</b>					
Hmong Cultural Center - Madison and Milwaukee	\$5,000,000	\$0	\$4,500,000	\$0	\$4,750,000
Kenosha Public Museums Civil War Exhibit	2,500,000	0	2,500,000	0	2,500,000
Oconto Bond Health Center	<u>0</u>	<u>0</u>	<u>4,000,000</u>	<u>0</u>	<u>4,000,000</u>
Total	\$7,500,000	\$0	\$11,000,000	\$0	\$11,250,000
<b>Corrections</b>					
Kettle Moraine Correctional Institution Health Services Unit	\$4,831,700	\$4,831,700	\$4,831,700	\$4,831,700	\$4,831,700
Racine Correctional Institution Food Preparation Building	<u>5,424,800</u>	<u>5,424,800</u>	<u>5,424,800</u>	<u>5,424,800</u>	<u>5,424,800</u>
Total	\$10,256,500	\$10,256,500	\$10,256,500	\$10,256,500	\$10,256,500
<b>Educational Communications Board</b>					
WHHI-FM Tower Replacement -- Highland	\$1,023,400	\$1,023,400	\$1,023,400	\$1,023,400	\$1,023,400
<b>Health and Family Services</b>					
Sand Ridge Secure Treatment Center 300-Bed Addition	\$34,000,000	\$34,000,000	\$34,000,000	\$34,000,000	\$3,400,000
Wisconsin Resource Center 45-Bed Female Treatment Unit	<u>11,056,000</u>	<u>11,056,000</u>	<u>11,056,000</u>	<u>11,056,000</u>	<u>11,056,000</u>
Total	\$45,056,000	\$45,056,000	\$45,056,000	\$45,056,000	\$14,456,000
<b>Medical College of Wisconsin</b>					
Translational Research Program Equipment Acquisition - Wauwatosa	\$12,000,000	\$12,000,000	\$12,000,000	\$12,000,000	\$12,000,000
<b>Military Affairs</b>					
Armed Forces Reserve Center Replacement - Dane County	\$38,308,600	\$38,308,600	\$38,308,600	\$38,308,600	\$38,308,600
Aircraft Maintenance Hangar Remodeling - West Bend	749,000	749,000	749,000	749,000	749,000
Motor Vehicle Storage Buildings - Rice Lake and Wausau	<u>1,500,000</u>	<u>1,500,000</u>	<u>1,500,000</u>	<u>1,500,000</u>	<u>1,500,000</u>
Total	\$40,557,600	\$40,557,600	\$40,557,600	\$40,557,600	\$40,557,600

TABLE 2 (continued)

## State Agency 2007-09 Enumerated Major Projects Total Project Authority (All Funding Sources)

	<u>Bldg. Comm.</u>	<u>It. Finance</u>	<u>Senate</u>	<u>Assembly</u>	<u>Conf. Comm/ Legislature</u>
<b>Natural Resources</b>					
Governor Thompson State Park Initial Development	\$3,524,900	\$3,524,900	\$3,524,900	\$3,524,900	\$3,524,900
Hank Aaron State Trail Western Extension	1,600,000	1,600,000	1,600,000	1,600,000	1,600,000
Park Entrance and Visitor Stations -- Blue Mound, Council Grounds and Wildcat Mountain State Parks	2,345,100	2,345,100	2,345,100	2,345,100	2,345,100
Northern Region Co-Headquarters - Spooner	4,494,600	4,494,600	4,494,600	4,494,600	4,494,600
Ranger Station Replacements - Plover, Prentice, and Tomah	4,122,700	4,122,700	4,122,700	4,122,700	4,122,700
Wild Rose Fish Hatchery Renovation - Phase 2.5	9,000,000	9,000,000	9,000,000	9,000,000	9,000,000
Wilson Nursery Expansion - Phase 2	<u>644,900</u>	<u>644,900</u>	<u>644,900</u>	<u>644,900</u>	<u>644,900</u>
Total	\$25,732,200	\$25,732,200	\$25,732,200	\$25,732,200	\$25,732,200
<b>State Fair Park</b>					
Pettit Ice Center Purchase	\$5,300,000	\$0	\$0	\$0	\$0
<b>State Historical Society</b>					
Shelving for Storage Facility - Dane County	\$3,250,000	\$3,250,000	\$3,250,000	\$3,250,000	\$3,250,000
<b>Transportation</b>					
Division of State Patrol/ECB Gap Filler Towers Statewide	\$2,398,900	\$2,398,900	\$2,398,900	\$2,398,900	\$2,398,900
Division of Motor Vehicles/Department of Natural Resources					
Office Renovation - Phase 2 - Wausau	642,700	642,700	642,700	642,700	642,700
Division of Motor Vehicles Service Center Remodeling - Eau Claire	559,700	559,700	559,700	559,700	559,700
Division of State Patrol Post Remodeling - Fond du Lac	<u>526,200</u>	<u>526,200</u>	<u>526,200</u>	<u>526,200</u>	<u>526,200</u>
Total	\$4,127,500	\$4,127,500	\$4,127,500	\$4,127,500	\$4,127,500
<b>University of Wisconsin System</b>					
-Davies Center Addition, Remodeling, or Replacement	\$48,802,000	\$0	\$48,802,000	\$0	\$48,802,000
-Lowell Hall Guest Room Remodeling - Madison	3,600,000	3,600,000	3,600,000	3,600,000	3,600,000
-Rose and Wood Halls Remodeling	6,734,000	6,734,000	6,734,000	6,734,000	6,734,000
-Academic Building	44,000,000	44,000,000	44,000,000	44,000,000	44,000,000
-Stadiums and Fields	14,612,000	14,612,000	14,612,000	14,612,000	14,612,000
-School of Human Ecology	47,950,000	47,950,000	47,950,000	0	47,950,000
-Union South Replacement and Memorial Union Renovation	139,700,000	0	139,700,000	0	139,700,000 *
-Music Performance Building	43,865,000	43,865,000	43,865,000	43,865,000	43,865,000
-Chadbourne Residence Hall - Phase 3 and Barnard Residence Hall	14,627,000	14,627,000	14,627,000	14,627,000	14,627,000
-Lakeshore Residence Hall Development Phases 1 and 2	67,227,000	0	67,227,000	0	0
-Parking Ramps 36 and 46 Expansion	7,132,000	7,132,000	7,132,000	7,132,000	7,132,000
-Academic Building	54,296,000	54,296,000	54,296,000	54,296,000	54,296,000
-Elmwood Center Remodeling and Addition, or Replacement	8,464,000	8,464,000	8,464,000	8,464,000	8,464,000
-Suite Style Residence Hall	34,000,000	0	34,000,000	0	34,000,000

TABLE 2 (continued)

State Agency 2007-09 Enumerated Major Projects Total Project Authority (All Funding Sources)

	<u>Bldg. Comm.</u>	<u>Jt. Finance</u>	<u>Senate</u>	<u>Assembly</u>	<u>Conf. Comm/ Legislature</u>
<b>University of Wisconsin System (continued)</b>					
-Softball Stadium	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000
-Communications Arts Center	34,176,000	34,176,000	34,176,000	0	37,376,000
-Suite Style Residence Hall	17,740,000	0	17,740,000	0	17,740,000
-Williams Field House Addition and Remodeling	3,727,000	3,727,000	3,727,000	3,727,000	3,727,000
-George Fields South Forks Residence Hall Addition	14,714,000	0	14,714,000	0	14,714,000
-Maintenance Building Remodeling and Addition	2,122,000	2,122,000	2,122,000	2,122,000	2,122,000
-Military Science Building Relocation	1,585,000	1,585,000	1,585,000	1,585,000	1,585,000
-Suite Style Residence Hall	36,205,000	0	36,205,000	0	36,205,000
-Residence Halls Renovation	19,995,000	19,995,000	19,995,000	19,995,000	19,995,000
-Harvey Hall Theater Renovation	5,139,000	5,139,000	5,139,000	5,139,000	5,139,000
-Price Commons 2nd Floor Renovation	3,079,000	3,079,000	3,079,000	3,079,000	3,079,000
-Academic Building	32,343,000	32,343,000	32,343,000	0	32,343,000
-Suite Style Residence Hall	35,728,000	0	35,728,000	0	35,728,000
-Drumlin Dining Hall	1,275,000	1,275,000	1,275,000	1,275,000	1,275,000
-Multi-Sport Facility - Phase 3	3,474,000	3,474,000	3,474,000	3,474,000	3,474,000
-Classroom Renovation/Instructional Technology	3,500,000	3,500,000	3,500,000	3,500,000	3,500,000
-Utility Improvements - Madison	<u>24,704,000</u>	<u>24,704,000</u>	<u>24,704,000</u>	<u>24,704,000</u>	<u>24,704,000</u>
Total	\$775,015,000	\$380,899,000	\$775,015,000	\$266,430,000	\$710,988,000
<b>Veteran's Affairs</b>					
Central Office Purchase - Madison	\$9,500,000	\$0	\$0	\$0	\$0
Wisconsin Veterans Home at King--45-Bed Assisted Living Facility	<u>7,540,000</u>	<u>7,540,000</u>	<u>7,540,000</u>	<u>7,540,000</u>	<u>7,540,000</u>
Total	\$17,040,000	\$7,540,000	\$7,540,000	\$7,540,000	\$7,540,000
<b>All Agency</b>					
Facility Maintenance and Repair	\$131,719,900	\$131,719,900	\$131,719,900	\$96,205,900	\$109,719,900
Utilities Repair and Renovation	60,052,000	60,052,000	60,052,000	42,325,000	49,052,000
Health, Safety, and Environmental Protection	12,697,400	12,697,400	12,697,400	8,758,400	11,697,400
Energy Conservation	50,000,000	30,000,000	30,000,000	30,000,000	30,000,000
Preventive Maintenance	4,000,000	4,000,000	4,000,000	2,818,000	3,000,000
Programmatic Remodeling and Renovation	14,480,500	14,480,500	14,480,500	12,510,500	12,980,500
Land and Property Acquisition	10,000,000	10,000,000	10,000,000	8,030,000	8,500,000
Capital Equipment Acquisition	<u>7,965,000</u>	<u>7,965,000</u>	<u>7,965,000</u>	<u>5,207,000</u>	<u>5,965,000</u>
Total	\$290,914,800	\$270,914,800	\$270,914,800	\$205,914,800	\$230,914,800
Total – All Projects	\$1,318,077,000	\$881,661,000	\$1,286,777,000	\$702,192,000	\$1,183,000,000

\*No funding is provided for the \$52,000,000 UW-Madison Memorial Union theatre wing renovation project enumeration (\$40,500,000 in PR-supported bonding and \$11,500,000 in gifts and grants) which would be effective on July 1, 2009.

**2. BONDING AUTHORIZATIONS IN BUILDING PROGRAM [LFB Papers 180 thru 188, and 736]**

**Building Commission:** Provide \$1,055,590,500 in new general obligation bonding authority for 2007-09 building program projects, as shown in Table 3.

**Joint Finance:** Provide \$654,569,900 in new general obligation bonding authority for 2007-09 building program projects as shown in Table 3.

**Senate:** Provide \$1,021,290,500 in new general obligation bonding authority for 2007-09 building program projects as shown in Table 3.

**Assembly:** Provide \$507,876,900 in new general obligation bonding authority for 2007-09 building program projects as shown in Table 3.

**Conference Committee/Legislature:** Provide \$877,013,500 in new general obligation bonding authority for 2007-09 building program projects as shown in Table 3.

[Act 20 Sections: 583g, 583r, 591m, 591p, 595g, 595r, 596c thru 596k, 596kd, 596o thru 596s, 597e, and 597s]



TABLE 3

2007-09 Building Program Bonding Authorizations

<u>Purpose</u>	<u>Bldg. Comm.</u>	<u>Jt. Finance</u>	<u>Senate</u>	<u>Assembly</u>	<u>Conf. Comm. Legislature</u>
<b>Administration</b>					
Energy Conservation Projects	\$50,000,000	\$30,000,000	\$30,000,000	\$30,000,000	\$30,000,000
<b>Building Commission</b>					
Other Public Purposes (All Agency Projects)	165,000,000	165,000,000	165,000,000	100,000,000	125,000,000
Housing State Agencies	69,264,500	69,264,500	69,264,500	69,264,500	69,264,500
Hmong Cultural Center	2,500,000	0	2,500,000	0	1,000,000
Civil War Exhibit at the Kenosha Public Museums	500,000	0	500,000	0	500,000
<b>Corrections</b>					
Correctional Facilities	10,256,500	10,256,500	10,256,500	10,256,500	10,256,500
<b>Educational Communications Board</b>					
Educational Communications Facilities	1,123,400	1,123,400	1,123,400	1,123,400	1,123,400
<b>Health and Family Services</b>					
Mental Health Facilities	45,056,000	45,056,000	45,056,000	45,056,000	45,056,000
<b>Medical College of Wisconsin</b>					
Biomedical Research and Technology Incubator	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000
<b>Military Affairs</b>					
Armories and Military Facilities	5,308,600	5,308,600	5,308,600	5,308,600	5,308,600
<b>Natural Resources</b>					
SEG Fund Supported Administration Facilities	18,199,600	18,199,600	18,199,600	18,199,600	18,199,600
Environmental Fund SEG Supported Facilities	2,849,800	2,849,800	2,849,800	2,849,800	2,849,800
<b>State Fair Park</b>					
Self-Amortizing Facilities	5,800,000	500,000	500,000	500,000	500,000
<b>State Historical Society</b>					
Historic Records	3,250,000	3,250,000	3,250,000	3,250,000	3,250,000
<b>University of Wisconsin</b>					
Academic Facilities	205,365,000	205,365,000	205,365,000	126,622,000	208,565,000
Self-Amortizing Facilities	448,478,100	85,257,500	448,478,100	82,307,500	340,751,100 *
<b>Veterans Affairs</b>					
Self-Amortizing Facilities	3,139,000	3,139,000	3,139,000	3,139,000	3,139,000
22 and 30 W. Mifflin Madison	<u>9,500,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
GRAND TOTAL	\$1,055,590,500	\$654,569,900	\$1,021,290,500	\$507,876,900	\$877,013,500

\*No funding is provided for the \$52,000,000 UW-Madison Memorial Union theatre wing renovation project enumeration (\$40,500,000 in PR-supported bonding and \$11,500,000 in gifts and grants) which would be effective on July 1, 2009.

**3. DELAYED BONDING AUTHORIZATIONS**

**Building Commission:** Specify that the following general fund supported bonding amounts authorized under the 2007-09 building program could not be contracted for until after June 30, 2009, for the following projects listed for the 2009-11 biennium, or until after June 30, 2011, for the projects listed for the 2011-13 biennium.

	General Fund <u>Supported Bonding</u>		<u>Total</u>
	<u>2009-11</u>	<u>2011-13</u>	
<b>University of Wisconsin System</b>			
Miscellaneous Projects (Academic Buildings at La Crosse, Oshkosh, and Superior and Communications Arts Center at Parkside)	\$69,139,000	\$0	\$69,139,000
UW-Madison School of Human Ecology	0	22,500,000	22,500,000
<b>Department of Health and Family Services</b>			
Sand Ridge Secure Treatment Center 300-Bed Addition	<u>12,500,000</u>	<u>0</u>	<u>12,500,000</u>
<b>Total</b>	<b>\$81,639,000</b>	<b>\$22,500,000</b>	<b>\$104,139,000</b>

For the UW System projects, the delayed bonding would represent approximately 49% of the general fund supported bonding for the four projects. While the summary of the Building Commission recommendations indicates that the academic building at UW-Oshkosh would be subject to the delayed bonding authorization, a corrective modification is needed to clarify that only the UW-Oshkosh academic facility is subject to this provision. According to Building Commission staff, the actual projects affected by the delay in the authorized bonding would depend on which projects move forward through the design and bidding process first.

**Assembly:** Delete \$78,743,000 in general fund supported bonding, \$2,950,000 in program revenue supported bonding, \$1,200,000 in building trust funds, and \$31,576,000 in gifts, grants, and other receipts, and the project enumerations associated with the following projects.

<u>Project</u>	<u>Bonding</u>		<u>Gifts and Trust Funds</u>	<u>Grants</u>	<u>Total</u>
	<u>GPR</u>	<u>PR</u>			
School of Human Ecology Addition - Madison	\$22,500,000	\$2,950,000	\$0	\$22,500,000	\$47,950,000
Communications Art Center - Parkside	32,100,000	0	0	2,076,000	34,176,000
Academic Building - Superior	<u>24,143,000</u>	<u>0</u>	<u>1,200,000</u>	<u>7,000,000</u>	<u>32,343,000</u>
	\$78,743,000	\$2,950,000	\$1,200,000	\$31,576,000	\$114,469,000

**Conference Committee/Legislature:** Delete Assembly modification.

[Act 20 Sections: 9105(1)(d),(1)(j),(7),(8)&(9)]

**4. UW-MILWAUKEE-COLUMBIA ST. MARY'S COLUMBIA CAMPUS MEDICAL FACILITIES PROJECT**

**Building Commission/Legislature:** Delay by two years the time periods in which general fund and program revenue supported borrowing may be issued for the Columbia St. Mary's Columbia Campus medical facilities project at UW-Milwaukee. The existing timeline for the issuance of bonding for this project was established under 2005 Act 25 when the project was enumerated as part of the 2005-07 state building program at a total cost of \$112,120,000. Specify that prior to July 1, 2009, no bonds may be issued for the project. Specify that beginning on July 1, 2009, and ending on June 30, 2011, not more than 50% (\$28,265,000) of the general fund supported borrowing and 50% (\$27,795,000) of the program revenue supported borrowing could be issued for the project. Provide that beginning on July 1, 2011, the remainder of the general fund supported borrowing and program revenue supported borrowing could be incurred.

[Act 20 Section: 3936m]

**5. ENERGY CONSERVATION CONSTRUCTION PROJECTS [LFB Paper 184]**

**Building Commission:** Provide \$50,000,000 in general obligation bonding to the Department of Administration (DOA) for state agency energy conservation construction projects. Authorize DOA to provide funding to agencies for energy conservation construction projects at state facilities under the jurisdiction of the agencies to enhance the energy efficiency of the facilities. Require DOA to prescribe standards for the evaluation of the proposed projects and the allocation of available moneys for those projects.

Authorize DOA to annually assess any agency that receives funding for an energy conservation project in an amount determined by DOA. Specify that the amount of the assessment could not exceed the agency's proportional share of debt service costs on the general obligation bonding issued to fund these projects or the amount of the agency's energy cost savings from the energy conservation project funded by DOA, whichever is greater. Require DOA to credit all revenues received from the assessments to a DOA debt service appropriation that would be created to pay debt service on the \$50 million in bonds issued for the energy conservation construction projects. Specify that this appropriation could also be used to provide additional funding for these energy conservation projects. Modify the Building Commission's debt service appropriation that guarantees the full payment of principal and interest costs on self-amortizing or partially self-amortizing facilities enumerated under the various state agencies to include the proposed DOA debt service appropriation.

Modify the existing fuel and utilities appropriations of the following state agencies to allow payments of assessments levied by DOA to pay debt service costs and energy cost savings generated at departmental facilities for energy conservation construction projects to be made from the appropriations:

- a. the Educational Communications Board;

- b. the State Historical Society;
- c. the Wisconsin Educational Services Program for the Deaf and Hard of Hearing and the Wisconsin Center for the Blind and Visually Impaired under the Department of Public Instruction;
- d. the University of Wisconsin System;
- e. the Department of Corrections;
- f. the Department of Health and Family Services;
- g. the Department of Military Affairs;
- h. the Department of Veterans Affairs veterans memorial cemeteries; and
- i. the Department of Administration.

**Joint Finance:** Reduce the amount of PR-supported bonding for energy conservation projects by \$20 million. As a result, \$30 million in authority would be available in the biennium. (The fiscal effect of this project is included in the totals under Items 1 and 2.) Modify the Building Commission's recommendation by creating a separate appropriation for the purposes of making loans or payments to agencies for additional energy conservation projects. Specify that any assessment of agency energy savings in excess of those amounts needed to cover the agency's annual debt service on the bonding issued for energy conservation projects would be deposited to this appropriation. (This would eliminate the dual purpose for the recommended appropriation.)

**Assembly/Legislature:** Include Joint Finance Committee provision. In addition, require all energy efficiency projects funded through the energy conservation construction program to be measured and verified by the Department of Administration in accordance with the performance measurement and verification guidelines adopted by the federal energy management program. Require the Department of Administration, to the extent feasible, to use the procedures under current law governing energy conservation audits and construction projects when implementing these energy efficiency projects. Specify that any contracts using those procedures include a provision stating a minimum savings amount in energy usage and that the contractor guarantees that level of savings will be realized.

The fiscal effect of this project is included in the totals under Items 1 and 2 under all agency projects.

[Act 20 Sections: 112g, 112r, 221s, 227m, 234m, 248m, 317d, 339m, 501m, 516c, 534m, 535m, 535n, 583, 596c, 608, and 9105(1)(o)]

**6. MEDICAL COLLEGE OF WISCONSIN TRANSLATIONAL RESEARCH EQUIPMENT**  
[LFB Paper 185]

**Building Commission/Legislature:** Enumerate the acquisition of \$12 million in translational research program equipment in Wauwatosa at the Medical College of Wisconsin. Authorize the Building Commission to issue up to \$10 million in general fund supported bonding to aid in the installation of the equipment.

Modify the following provisions of current law related to the Medical College of Wisconsin biomedical research and technology incubator as follows: (a) change the Medical College of Wisconsin's biomedical research and technology incubator debt service appropriation to allow for debt service payments to be made for grants, rather than just construction grants; (b) modify the legislative findings, which state that it is in the public interest and a policy concern of the state to assist Medical College of Wisconsin in the construction of a biomedical research and technology incubator, to also reference the installation of equipment; and (c) modify the grant requirements that have to be met before the Building Commission can make a grant to the Medical College of Wisconsin to refer to the cost of installation of equipment.

The fiscal effect of this project is included in the totals under Items 1 and 2 under Medical College of Wisconsin.

[Act 20 Sections: 9c thru 9n, 232, 596i, and 9105(1)(m)]

**7. HMONG CULTURAL CENTER** [LFB Paper 187]

**Building Commission:** Authorize the Building Commission to issue up to \$2,500,000 in general fund supported bonding for the purpose of making a grant to an organization designated by the DOA Secretary that represents the Hmong people for the construction of a center in Madison and Milwaukee. Specify that before approving any state funding commitment for the construction of the center, the Building Commission would be required to make a determination that the organization has secured additional funding commitments of at least \$2,500,000 from nonstate revenue sources for the construction of the center.

Specify that before awarding the grant, the Building Commission would be required to review and approve the initial budget and business plan. Specify that the Building Commission would not be allowed to make the grant, unless DOA has reviewed and approved the plans for the project although DOA could not supervise any services or work or let any contract for the project

As a condition of the grant, the organization would be required to enter into an agreement with the DOA Secretary guaranteeing that the center would be operated to serve the nonsectarian cultural interests of the Hmong people. Specify that if the Building Commission makes a grant for the construction of the facility, the state would retain an ownership interest in the facility equal to the amount of the state's grant if the facility is not used as a Hmong Cultural

Center in Madison and Milwaukee or is not operated to serve the nonsectarian interests of the Hmong people.

Create a GPR sum sufficient appropriation to fund the debt service payments and any payments on an agreement or ancillary arrangement associated with the bonding.

Specify that Legislature finds and determines the following related to the construction of and operation of a state Hmong Cultural Center: (a) that a significant number of Hmong people are citizens of this state; (b) that the Hmong people have a proud heritage that needs to be recognized and preserved and that Hmong people have experienced difficulties assimilating in Wisconsin; (c) that supporting the Hmong people in their efforts to recognize their heritage and to realize the full advantages of citizenship in this state is a responsibility of statewide dimension; and (d) because it would ensure that the heritage of the Hmong people is preserved and will better enable the Hmong people to realize the full advantages of citizenship, it will have a direct and immediate effect on a matter of statewide concern for the state to facilitate the construction and operation of a Hmong Cultural Center.

**Joint Finance/Assembly:** Delete provision.

**Senate:** Restore the Building Commission's recommendations, in part, to include a single Hmong cultural center facility as part of the 2007-09 building program, including the recommended statutory provisions governing this proposed project. Provide \$2,000,000 of GPR-supported bonding (rather than \$2,500,000, as under the Building Commission) to fund the main facility. The \$500,000 in GPR-supported funding for the proposed satellite facility in Milwaukee would not be provided. Specify that the project could involve the purchase of an existing building and authorize the project to be located anywhere in Dane County. The project enumeration would include at least \$2,500,000 from nonstate donations.

**Conference Committee/Legislature:** Include Senate modification. In addition, authorize the Building Commission to issue up to \$250,000 in GPR-supported bonding for the purpose of making a grant to an organization designated by the DOA Secretary that represents the Hmong people for the construction of a satellite Hmong cultural center in La Crosse. Include the LaCrosse Hmong cultural center facility as part of the Legislative findings and apply the same requirements to the facility that would be applied to the Dane County facility.

The fiscal effect of this project is included in the totals under Items 1 and 2 under the Building Commission.

[Act 20 Sections: 9nd, 583, 596kd, 602c, 9105(1)(L), and 9105(5i)]

## 8. CIVIL WAR EXHIBIT AT THE KENOSHA PUBLIC MUSEUMS [LFB Paper 188]

**Building Commission:** Authorize the Building Commission to issue up to \$500,000 in GPR-supported bonding for the purpose of making a grant to aid in the construction of a Civil War exhibit as part of the Kenosha Public Museums in the City of Kenosha. Require that the

state funding commitment be in the form of a grant to Kenosha Public Museums. Specify that before approving any state funding commitment and before awarding the construction grant, the Building Commission would be required to make a determination that the organization has secured additional funding commitments of at least equal to \$2,000,000 from nonstate donations for the purpose of constructing a Civil War Exhibit. Specify that if the Building Commission authorizes a grant to the Kenosha Public Museums, and if for any reason the facility that is constructed with the funds from the grant is not used as a Civil War exhibit, the state would retain an ownership interest in the facility equal to the amount of the state's grant. Include a legislative finding as to the public interest involved in assisting the construction of facilities that will be used for a Civil War exhibit.

Specify that the Building Commission could not make a grant to the Kenosha Public Museums for the construction of a Civil War exhibit unless DOA has reviewed and approved the plans for the project although DOA could not supervise any services or work or let any contract for the project.

Create a GPR sum sufficient appropriation to fund the debt service payments and any payments on an agreement or ancillary arrangement associated with the bonding.

**Joint Finance/Assembly:** Delete provision.

**Senate/Legislature:** Restore provision.

The fiscal effect of this project is included in the totals under Items 1 and 2 under the Building Commission.

[Act 20 Sections: 9nx, 583, 596k, 606lt, 9105(1)(n), and 9105(6i)]

## **9. OCONTO BOND HEALTH CENTER PROJECT**

**Senate:** Provide \$1,000,000 in GPR-supported bonding to make a grant to aid in the expansion of the Bond Health Center in the City of Oconto from 4 to 14 beds and enumerate the project as part of the 2007-09 building program as a \$4,000,000 project. Specify that the Building Commission could not issue the bonding or provide a grant to the Bond Health Center until it is determined that the project has received commitments for the non-state share of the project (up to \$3,000,000). Create a new bonding authorization for this purpose and a GPR debt service appropriation to make debt service payments on the bonds. Include the statutory provisions and findings similar to those for other projects of this type.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision. The fiscal effect of this project is included in the totals under Items 1 and 2 under the Building Commission.

[Act 20 Sections: 9nf, 583, 596hd, 606k, 9105(1)(mc), and 9105(7j)]

**10. REDUCE THE STERLING HALL PROJECT AT UW-MADISON**

**Assembly:** Modify the 2005-07 state building program to reduce the general fund supported bonding for the Sterling Hall project at UW-Madison from \$37,500,000 to \$20,000,000 by deleting \$17,500,000 of the \$20,000,000, that can only be issued after June 30, 2007. Adjust the 2005-07 building program project enumeration for the Sterling Hall project to reflect the \$17,500,000 reduction in project funding.

**Conference Committee/Legislature:** Delete provision.

**11. UW-PLATTEVILLE HOTEL FACILITY PURCHASE**

BR	- \$5,000,000
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**Assembly/Legislature:** Delete \$5,000,000 in program revenue supported bonding associated with the purchase and remodeling of a hotel facility at the UW-Platteville. Modify the 2005-07 state building program to delete the project enumeration.

[Act 20 Sections: 583r and 9105(9t)]

**12. RACINE DISCOVERY PLACE MUSEUM**

BR	- \$1,000,000
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**Assembly/Legislature:** Delete \$1,000,000 in unissued general fund supported bonding authority associated with the Racine Discovery Place Museum project, which was enumerated as part of the 2001-03 state building program. Delete the project from the 2001-03 state building program. In addition, delete the debt service appropriation associated with the bonding for this project and the Building Commission requirements related to making a grant to Racine County to aid in the construction of the project.

[Act 20 Sections: 9nb, 583, 596kb, 606d, 3934b, and 9105(9p)]

**13. BUILDING PROGRAM -- GPR-SUPPORTED BONDING LIMIT**

**Assembly:** Prohibit the Legislature from enacting any bill that would authorize any new general fund supported bonding in an amount exceeding \$430,000,000 in any biennium for projects enumerated as part of a biennial state building program.

**Conference Committee/Legislature:** Delete provision.

**14. STATEMENT OF BUILDING PROGRAM CONTINUATION**

**Building Commission/Legislature:** Continue the building and financing authority enumerated under the previous state building program into the 2007-09 biennium. Each building program is approved only for the current biennium; this provision would continue the



past state building program into the 2007-09 biennium.

[Act 20 Section: 9105(2)]

#### **15. PROJECT CONTINGENCY FUNDING RESERVE**

**Building Commission/Legislature:** Authorize the Building Commission, during the 2007-09 biennium, to use bonding provided for project contingencies for any project in the authorized building program. Generally, projects include an allowance of 5% to 7% of the total budget to cover unanticipated costs during construction.

[Act 20 Section: 9105(4)(a)]

#### **16. CAPITAL EQUIPMENT ACQUISITION BONDING**

**Building Commission/Legislature:** Authorize the Building Commission, during the 2007-09 biennium to use bonding provided for capital acquisition in connection with any project in the authorized building program.

[Act 20 Section: 9105(4)(b)]

#### **17. PROJECT LOANS**

**Building Commission/Legislature:** Authorize the Building Commission, during the 2007-09 biennium, to make loans from general fund-supported borrowing or the building trust fund to state agencies for any 2007-09 building program projects funded from non-GPR sources.

[Act 20 Section: 9105(3)]

## CHILD ABUSE AND NEGLECT PREVENTION BOARD

<b>Budget Summary</b>							
Fund	2006-07 Base Year Doubled	2007-09 Governor	2007-09 Jt. Finance	2007-09 Legislature	2007-09 Act 20	Act 20 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$680,000	\$680,000	\$2,120,100	\$2,120,100	\$2,120,100	\$1,440,100	211.8%
FED	1,234,800	1,234,800	1,234,800	1,234,800	1,234,800	0	0.0
PR	3,837,200	5,311,800	3,871,700	3,871,700	3,871,700	34,500	0.9
SEG	<u>186,800</u>	<u>46,200</u>	<u>46,200</u>	<u>46,200</u>	<u>46,200</u>	<u>- 140,600</u>	<u>- 75.3</u>
<b>TOTAL</b>	<b>\$5,938,800</b>	<b>\$7,272,800</b>	<b>\$7,272,800</b>	<b>\$7,272,800</b>	<b>\$7,272,800</b>	<b>\$1,334,000</b>	<b>22.5%</b>

<b>FTE Position Summary</b>						
Fund	2006-07 Base	2008-09 Governor	2008-09 Jt. Finance	2008-09 Legislature	2008-09 Act 20	Act 20 Change Over 2006-07 Base
GPR	0.00	0.00	1.00	1.00	1.00	1.00
FED	1.00	1.00	1.00	1.00	1.00	0.00
PR	6.00	6.00	5.00	5.00	5.00	- 1.00
SEG	<u>1.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>- 1.00</u>
<b>TOTAL</b>	<b>8.00</b>	<b>7.00</b>	<b>7.00</b>	<b>7.00</b>	<b>7.00</b>	<b>- 1.00</b>

### Budget Change Items

#### 1. STANDARD BUDGET ADJUSTMENTS

**Governor/Legislature:** Provide \$30,700 in 2007-08 and \$3,800 in 2008-09 and delete 1.0 position, beginning in 2007-08, to adjust the Board's base budget for: (a) removal of noncontinuing items (-1.0 position, beginning in 2007-08); and (b) full funding of salaries and fringe benefits (\$30,700 in 2007-08 and \$3,800 in 2008-09).

	Funding	Positions
PR	\$34,500	- 1.00

2. STATE PLAN FOR THE PREVENTION OF CHILD MALTREATMENT [LFB Paper 195]

	Governor (Chg. to Base)		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	\$0	0.00	\$1,440,100	1.00	\$1,440,100	1.00
PR	1,440,100	1.00	-1,440,100	-1.00	0	0.00
SEG	-140,600	-1.00	0	0.00	-140,600	-1.00
Total	\$1,299,500	0.00	\$0	0.00	\$1,299,500	0.00

**Governor:** Provide \$580,100 (\$650,400 PR and -\$70,300 SEG) in 2007-08 and \$719,400 (\$789,700 PR and -\$70,300 SEG) in 2008-09 to: (a) increase funding for grants distributed by the Board (\$562,900 PR in 2007-08 and \$702,200 PR in 2008-09) to implement the state plan for the prevention of child maltreatment; and (b) convert 1.0 SEG position, which is currently supported from the children's trust fund, to 1.0 PR position funded from revenue from birth certificate fees (\$70,300 PR and -\$70,300 SEG) annually; and (c) increase general program operations funding for the Board (\$17,200 PR annually).

The state plan includes hiring a consumer education director, addressing shaken baby syndrome through creating prevention materials for new parents and providing training for child care providers, implementing a child sexual abuse prevention campaign, and providing additional grants to organizations.

This item would be funded by additional revenues the Board would receive under the Governor's proposal to increase the search fee for birth certificates from \$12 to \$20. The Board currently receives \$7 of the \$12, but would receive \$10 of the \$20 under the Governor's bill. For more information, see "Health and Family Services -- Health."

**Joint Finance:** Delete provision. Instead, provide \$580,100 (\$650,400 GPR and -\$70,300 SEG) in 2007-08 and \$719,400 (\$789,700 GPR and -\$70,300 SEG) in 2008-09 and convert 1.0 SEG position to 1.0 GPR position, beginning in 2007-08, to increase support for activities for the prevention of child maltreatment.

**Assembly:** Delete provision.

**Senate/Legislature:** Restore Joint Finance modification.

3. ATTACH TO DEPARTMENT OF CHILDREN AND FAMILIES

**Governor:** Attach the Board to the new Department of Children and Families (DCF), effective July 1, 2008. A complete summary of the Governor's proposal to create DCF is provided under "Children and Families."

**Assembly:** Delete provision.

**Senate/Legislature:** Restore provision.

[Act 20 Sections: 39 thru 50]

#### 4. REAL ESTATE DONATIONS TO THE FOUNDATION

**Governor:** Repeal a provision that requires the Celebrate Children Foundation to donate any real property to the state within five years after acquiring the property unless holding the property for more than five years is consistent with sound business and financial practices and is approved by the Joint Committee on Finance. The foundation does not currently own any real estate.

The Celebrate Children Foundation is a nonprofit corporation the Board created to solicit and accept tax-deductible contributions, grants, gifts and bequests to the children's trust fund and to administer programs under contracts with the Board.

**Joint Finance:** Delete provision as a non-fiscal policy item.

## CHILDREN AND FAMILIES

<b>Budget Summary</b>							
Fund	2006-07 Base Year Doubled	2007-09 Governor	2007-09 Jt. Finance	2007-09 Legislature	2007-09 Act 20	Act 20 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$0	\$313,349,700	\$308,939,200	\$307,887,600	\$307,887,600	\$307,887,600	N.A.
FED	0	653,509,600	654,277,400	652,913,700	652,913,700	652,913,700	N.A.
PR	0	136,796,000	134,367,300	134,867,300	134,867,300	134,867,300	N.A.
SEG	<u>0</u>	<u>9,645,000</u>	<u>9,896,600</u>	<u>9,896,600</u>	<u>9,896,600</u>	<u>9,896,600</u>	N.A.
<b>Total</b>	<b>\$0</b>	<b>\$1,113,300,300</b>	<b>\$1,107,480,500</b>	<b>\$1,105,565,200</b>	<b>\$1,105,565,200</b>	<b>\$1,105,565,200</b>	N.A.

<b>FTE Position Summary</b>						
Fund	2006-07 Base	2008-09 Governor	2008-09 Jt. Finance	2008-09 Legislature	2008-09 Act 20	Act 20 Change Over 2006-07 Base
FED	0.00	237.91	245.23	237.48	237.48	237.48
PR	<u>0.00</u>	<u>128.44</u>	<u>122.44</u>	<u>122.44</u>	<u>122.44</u>	<u>122.44</u>
<b>Total</b>	<b>0.00</b>	<b>532.02</b>	<b>535.97</b>	<b>528.22</b>	<b>528.22</b>	<b>528.22</b>

### Budget Change Items

#### 1. CREATE DEPARTMENT OF CHILDREN AND FAMILIES [LFB Paper 200]

	Governor (Chg. to Base)		Jt. Finance (Chg. to Gov)		Legislature (Chg. to JFC)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions	Funding	Positions
GPR	\$313,349,700	168.30	-\$4,410,500	0.00	-\$1,051,600	0.00	\$307,887,600	168.30
FED	653,509,600	238.58	767,800	6.65	-1,363,700	-7.75	652,913,700	237.48
PR	136,796,000	128.44	-2,428,700	-6.00	500,000	0.00	134,867,300	122.44
SEG	<u>9,645,000</u>	<u>0.00</u>	<u>251,600</u>	<u>0.00</u>	<u>0</u>	<u>0.00</u>	<u>9,896,600</u>	<u>0.00</u>
<b>Total</b>	<b>\$1,113,300,300</b>	<b>535.32</b>	<b>-\$5,819,800</b>	<b>0.65</b>	<b>-\$1,915,300</b>	<b>-7.75</b>	<b>\$1,105,565,200</b>	<b>528.22</b>

**Governor:** Provide \$313,349,700 GPR, \$653,509,600 FED, \$136,796,000 PR, and \$9,645,000 SEG in 2008-09 and 168.30 GPR positions, 238.58 FED positions, and 128.44 PR positions, beginning in 2008-09, to establish a new Department of Children and Families (DCF) on July 1, 2008.

*Responsibilities and Duties.* The bill would establish DCF under the direction and supervision of the Secretary of Children and Families. The DCF Secretary position would be assigned to executive salary group 6, with a current salary range of \$86,424 to \$133,960 for the 2007-08 fiscal year.

The bill would establish five unclassified division administrator positions and authorize three additional unclassified positions for DCF. The bill would create the following divisions in DCF: (a) Division of Administrative Services; (b) Division of State Child Welfare; (c) Division of Milwaukee Child Welfare; (d) Division of Wisconsin Works; and (e) Division of Workforce Supports. The Division of Workforce Supports would include child care, child support, emergency assistance, and the special supplemental nutrition program for women, infants, and children (WIC).

The Department of Health and Family Services (DHFS) would transfer the following programs to the Divisions of State Child Welfare, Milwaukee Child Welfare, and Workforce Supports in DCF: (a) programs in the Division of Children and Families; (b) child abuse and neglect prevention; (c) food distribution and hunger prevention; and (d) WIC.

The Department of Workforce Development (DWD) would transfer the following programs to the Divisions of Wisconsin Works and Workforce Supports in DCF: (a) Wisconsin Works (W-2); (b) child care; (c) child support; and (d) other temporary assistance for needy families (TANF) related programs.

The bill would require the DCF Secretary to plan for and establish a program of research designed to determine the effectiveness of the treatment, curative, and rehabilitative programs of the various divisions of the department. The bill would authorize the DCF Secretary to inquire into any matter affecting children and families, hold hearings, subpoena witnesses, and make recommendations on those matters to the appropriate public or private agencies. The bill would also specify that DCF may sue and be sued.

*Groups, Boards, and Committees.* The bill would add a representative from DCF to the following groups, boards, and committees, which currently have representatives from DHFS, DWD, or both: (a) the technical advisory committee assisting the Special Committee on State-Tribal Relations; (b) the Small Business Regulatory Review Board; (c) groups that collaborate to develop and implement programs that receive grants from the Office of Justice Assistance for providing alternatives to prosecution and incarceration for criminal offenders who abuse alcohol or other drugs; and (d) oversight committees that advise counties in administering and evaluating a program established under (c).

In addition, the bill would add DCF to a list of agencies that: (a) may procure the exchange of public documents from other states and countries as may be needed for use in office; (b) receive an annual report from the Technical College System Board regarding pupils attending technical colleges; (c) receive contributions directed by court order for the support of a relative placed outside of the home in an institution; (d) in conjunction with the Department of Public Instruction develop and conduct training in suicide prevention and protective

behaviors; (e) may request information from the Department of Corrections regarding registered sex offenders; (f) the Department of Regulation and Licensing must cooperate with in developing and maintaining a computer linkup to provide access to information regarding the current status of a credential issued to any person, including whether that credential has been restricted in any way; and (g) may receive notice from a personal representative of the date of the deadline for filing a probate claim.

*Funding and Positions.* The bill would reduce funding and positions for DHFS related to the transfer of programs to DCF by \$152,956,300 GPR, \$212,727,500 FED, and \$68,559,100 PR in 2008-09, and by 151.19 GPR positions, 131.43 FED positions, and 87.4 PR positions, beginning in 2008-09. Of these 370.02 positions, 369.02 positions are classified positions, and 1.0 position is an unclassified position.

The bill would reduce funding and positions for DWD related to the transfer of programs to DCF by \$160,393,400 GPR, \$450,345,300 FED, \$58,423,700 PR, and \$9,645,000 SEG, and by 17.11 GPR positions, 137.54 FED positions, and 10.65 PR positions, beginning in 2008-09. Of these 165.3 positions, 2.0 positions are project positions, 162.30 positions are classified positions, and 1.0 position is an unclassified position.

It should be noted that total funding appropriated in DCF exceeds the total funding transferred from DHFS and DWD by \$250,000. This additional \$250,000 PR would be provided from vital records fees from an appropriation in DHFS to provide grants to the Boys and Girls Clubs of Greater Milwaukee. This funding for the Boys and Girls Clubs of Greater Milwaukee would be provided to DWD in 2007-08, and to DCF, beginning in 2008-09.

In addition, of the 535.32 positions provided for DCF, 2.0 positions are project positions, 525.32 positions are classified positions, and 8.0 positions are unclassified positions. The total number of positions in DCF would be the same as the number transferred from DHFS and DWD. However, 6.0 positions would be converted from classified positions to unclassified positions.

*Miscellaneous Provisions.* The bill would remove as an issue, from the issues that the Joint Legislative Council could direct the Special Committee on Strengthening Wisconsin Families to study, the following: the advantages and disadvantages of merging the Departments of Workforce Development and Health and Family Services to create a new Department of Family Supports to integrate family services currently administered by multiple departments.

**Joint Finance:** Decrease funding by \$4,410,500 GPR and \$2,428,700 PR in 2008-09, increase funding by \$767,800 FED and \$251,600 SEG in 2008-09, increase positions by 6.65 FED positions, and decrease positions by 6.0 PR positions, beginning in 2008-09, for the following:

a. Increase funding by \$187,000 (\$151,200 GPR and \$35,800 FED) to support child abuse prevention activities. Permit county departments to transfer funds between the two basic county allocations for the new split of community aids funds. Delete 0.10 FED position for WIC operations.

b. Increase funding by \$923,300 GPR, decrease funding by \$806,900 FED and \$2,087,200 PR, and delete 6.0 PR positions to reflect various funding and position changes made to child welfare-related programs during the 2007-09 biennium. These funding changes are described in more detail in separate entries under "Health and Family Services -- Children and Family Services," and "Health and Family Services -- Disability and Elder Services."

c. Decrease funding by \$5,500,000 GPR and \$91,500 PR, increase funding by \$270,700 FED and \$251,600 SEG, and delete 1.0 FED position to reflect various funding and position changes made to W-2, child care, child support, and other TANF-related programs during the 2007-09 biennium. These funding changes are described in more detail in separate entries under "Workforce Development -- Departmentwide," "Workforce Development -- Economic Support and Child Care," and "Workforce Development -- Child Support."

d. Decrease funding by \$250,000 PR to reflect that the provision to provide funds to the Boys and Girls Clubs of Greater Milwaukee from vital records fees was deleted.

e. Increase funding by \$1,283,200 (\$15,000 GPR and \$1,268,200 FED) and provide 7.75 FED positions, beginning in 2008-09, to reflect the transfer of funding and staff for the Wisconsin Council on Developmental Disabilities from the Department of Administration (as recommended by the Governor) to DCF. The Council's staff and funding is currently budgeted in the Department of Health and Family Services.

In addition, specify that the purpose of DCF is to focus on integrating the child welfare, child care, child support and W-2 services and on increasing collaboration and efficiency in providing those services. Also, specify that the creation of DCF and the merging of child welfare programs and W-2 do not alter the missions of these programs.

Finally, direct the Joint Legislative Council's Special Committee on Strengthening Families to advise the Secretaries of DOA, DHFS, and DWD in planning and implementing the creation of DCF and to advise DCF regarding the administration of the programs within DCF.

**Senate:** Increase funding by \$878,700 GPR and reduce funding by \$1,268,200 FED and delete 7.75 FED positions in 2008-09 to reflect: (a) restoring funding for the Allied Drive initiative (\$250,000 GPR); (b) transferring funding and positions for the Wisconsin Council on Developmental Disabilities to a separate agency, the Board for People with Developmental Disabilities (-\$15,000 GPR and -\$1,268,200 FED and -7.75 FED positions); and (c) beginning January 1, 2008, extending W-2 grants, in the amount \$673 per month, to women who do not have children and who are in their third trimester of an at-risk pregnancy (\$643,700 GPR).

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore the Senate provision, but reduce funding by \$1,930,300 GPR and \$95,500 FED and increase funding by \$500,000 PR to reflect the following changes: (a) delete funding for the skills enhancement program (-\$1,170,000 GPR); (b) delete funding to extend W-2 grants to women who do not have children and who are in their third



trimester of an at-risk pregnancy (-\$643,700 GPR); (c) delete the funding increase provided for post-adoption resource centers and the adoption exchange and adoption information center (-\$116,600 GPR and -\$95,500 FED); (d) delete funding for the Foster Youth Independence Center (-\$50,000 GPR); (e) provide \$500,000 PR from tribal gaming funds to support unexpected or unusually high-cost out-of-home placements of Indian children by tribal courts; and (f) increase funding for the Boys and Girls Clubs of America by \$50,000 GPR.

[Act 20 Sections: 1b, 1m, 2, 5, 11 thru 14, 15 thru 17a, 21, 38 thru 50, 53 thru 67, 95, 98, 103, 118, 123, 124, 161, 162, 166, 167, 327, 331, 335, 340, 341, 342 thru 381, 401, 404, 405, 411, 412, 418, 420 thru 424, 425 thru 437, 447, 448, 450, 451 thru 453, 453p, 454, 456 thru 458, 460e, 463, 465 thru 480, 527, 569, 612, 614, 622, 628, 633, 695, 696, 703 thru 706, 709 thru 711, 727, 737, 784, 785, 786, 793, 794, 796 thru 813, 815 thru 827, 829c, 830, 831, 833, 834, 836 thru 843, 845, 847 thru 849, 851 thru 857, 859 thru 867, 869 thru 879, 881 thru 903, 933, 1076 thru 1099, 1100, 1101, 1102, 1103, 1106 thru 1113, 1117 thru 1121, 1124 thru 1167, 1168 thru 1176f, 1179 thru 1200, 1204 thru 1233, 1239 thru 1241, 1245, 1246, 1254 thru 1261, 1267 thru 1295, 1297, 1299 thru 1321, 1323 thru 1329, 1331 thru 1345, 1348, 1350, 1357 thru 1361, 1363 thru 1366, 1368, 1369, 1371 thru 1390, 1394 thru 1396, 1408, 1409, 1411, 1412, 1420n, 1434, 1435, 1448, 1452, 1455, 1456, 1459 thru 1465, 1465p, 1466, 1470, 1472, 1474, 1477, 1480 thru 1510, 1512, 1532, 1553, 1626 thru 1629, 1656 thru 1659, 1670, 1672, 1677, 1681 thru 1705, 1710 thru 1751, 1753 thru 1759, 1810, 1811, 1817, 1820, 1821m, 1823, 1844 thru 1848, 1850, 1852 thru 1857, 1861 thru 1866, 1868 thru 1873, 1904, 1915 thru 1918, 2141, 2142, 2148, 2151, 2155 thru 2158, 2449, 2454d, 2549, 2550, 2590 thru 2592, 2609 thru 2613, 2644, 2648, 2649, 2685, 2687 thru 2691, 2711, 2712 thru 2717, 2736, 2738, 2760, 2769 thru 2777, 2862 thru 2866, 2906 thru 2909, 2914 thru 2919, 2922, 2931, 2936 thru 2993, 2998 thru 3002, 3007, 3008, 3013, 3016 thru 3018, 3029 thru 3033, 3036, 3039, 3040 thru 3055, 3059 thru 3066, 3091, 3095 thru 3099, 3104, 3105, 3112, 3129 thru 3131, 3133, 3178, 3210 thru 3214, 3244b, 3249, 3303, 3304, 3351, 3387m, 3391 thru 3395, 3436, 3454 thru 3456, 3468 thru 3470, 3478, 3480, 3492, 3559 thru 3562, 3639 thru 3646, 3650, 3651, 3661 thru 3664, 3667 thru 3676, 3689 thru 3694, 3703, 3704 thru 3706, 3720 thru 3725, 3727, 3730 thru 3732, 3735, 3736, 3737d thru 3746, 3747, 3748, 3758, 3760, 3761, 3765 thru 3771, 3776 thru 3778, 3779 thru 3784, 3789 thru 3792, 3795, 3796, 3809, 3818 thru 3824, 3826, 3828 thru 3836, 3885, 3886, 3916, 3927, 3934, 9121(5)&(6), 9130(2c), 9154(1), 9155(5k), and 9455(2)]

**2. CONSOLIDATION OF EXECUTIVE BRANCH ATTORNEYS AND LEGAL STAFF UNDER DOA [LFB Paper 110]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
GPR	-2.63	2.63	0.00
FED	<u>-0.67</u>	<u>0.67</u>	<u>0.00</u>
Total	-3.30	3.30	0.00

**Governor:** Delete 4.3 classified positions and create 1.0 unclassified position in 2008-09 to reflect the consolidation of the agency's attorneys and legal staff under DOA, effective July 1, 2008. Reallocate \$416,700 in 2008-09 from budgeted salaries and fringe benefits to the agency's

supplies and services budget to pay for legal services supplied by DOA. Authorize the Secretary of DOA to identify one attorney position in the Department of Children and Families as general counsel for the agency. The general counsel position would be funded from base level salary and fringe benefits amounts associated with the position identified by the Secretary of DOA.

Specify that all transferred attorneys and legal staff would have the same rights and status as in the agency in which they originated. Specify that attorneys and legal staff that have obtained permanent status would not have to undergo a probationary period in DOA. Provide that all equipment, supplies, and furniture related to the duties of the transferred employees, as specified by the Secretary of DOA, must be transferred to DOA on July 1, 2008. [See "Administration -- Transfers to the Department."]

**Joint Finance:** Delete provision.

**Senate:** Restore provision with the following modifications: (a) specify that the lead attorneys would be under classified service; and (b) exempt the Board on Aging and Long-Term Care, the Department of Military Affairs, and the Department of Public Instruction from the consolidation.

**Assembly/Legislature:** Delete provision.

## CIRCUIT COURTS

<b>Budget Summary</b>							
Fund	2006-07 Base Year Doubled	2007-09 Governor	2007-09 Jt. Finance	2007-09 Legislature	2007-09 Act 20	Act 20 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$167,157,400	\$177,650,500	\$177,650,500	\$177,880,700	\$177,880,700	\$10,723,300	6.4%
SEG	0	19,115,500	19,115,500	0	0	0	0.0
<b>TOTAL</b>	<b>\$167,157,400</b>	<b>\$196,766,000</b>	<b>\$196,766,000</b>	<b>\$177,880,700</b>	<b>\$177,880,700</b>	<b>\$10,723,300</b>	<b>6.4%</b>

<b>FTE Position Summary</b>						
Fund	2006-07 Base	2008-09 Governor	2008-09 Jt. Finance	2008-09 Legislature	2008-09 Act 20	Act 20 Change
						Over 2006-07 Base
GPR	511.00	511.00	511.00	513.00	513.00	2.00

### Budget Change Items

**1. STANDARD BUDGET ADJUSTMENTS**

GPR	\$9,961,600
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**Governor/Legislature:** Provide adjustments to the base budget for full funding of salaries and fringe benefits (\$4,980,800 annually).

**2. CIRCUIT COURT SUPPORT PAYMENTS FUNDING [LFB Paper 206]**

	Governor (Chg. to Base)	Legislature (Chg. to JFC)	Net Change
SEG	\$19,115,500	-\$19,115,800	\$0

**Governor:** Create a segregated appropriation under the circuit courts and provide \$9,103,000 in 2007-08 and \$10,012,500 in 2008-09 for increased circuit court payments to counties. Funding in the new SEG appropriation would be transferred from the county aid fund, with revenue generated from the real estate transfer fee [see "Shared Revenue and Tax Relief" and "General Fund Taxes"].

Current funding for circuit court payments is \$18,739,600 GPR annually. Payment amounts are awarded to counties as follows: (a) each county receives a base payment of \$42,275 per circuit branch (or a proportional amount of \$42,275 based on caseload if two counties share a branch); (b) each county with one or fewer circuit court branches receives an additional \$10,000; and (c) counties with more than one circuit court branch receive an additional payment equal to the county's proportion of the state population times the amount remaining after funding for base payments and payments to counties with one or fewer branches have been allocated. Under the bill, the payment formula would remain the same, but funding for payments would total \$27,842,600 (\$18,739,600 GPR and \$9,103,000 SEG) in 2007-08 and \$28,752,100 (\$18,739,600 GPR and \$10,012,500 SEG) in 2008-09.

**Joint Finance:** Include the Governor's recommendation. In addition, modify the circuit court support payments distribution method to be based on: (a) the amount determined by dividing the number of circuit court branches in the county by the total number of circuit court branches in the state, and multiplying that result by one-third of the total funding from the appropriations; (b) the amount determined by dividing the judicial officer need for the county by the total judicial officer need for all counties, and multiplying that result by one-third of the total funding from the appropriations; and (c) the amount determined by dividing the total amount of circuit court fees, fines, forfeitures, and surcharges, collected by the county in the previous calendar year by the total amount of circuit court fees, fines, forfeitures, and surcharges collected by all counties in the previous calendar year, and multiplying that result by one-third of the total funding from the appropriations.

**Assembly/Legislature:** Delete provision.

**3. COURT INTERPRETER REIMBURSEMENT [LFB Paper 205]**

GPR	\$531,500
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**Governor:** Provide \$233,500 in 2007-08 and \$298,000 in 2008-09 to increase state reimbursement to counties for court interpreter services. Modify statutory language to require that a court, in all criminal and civil proceedings, provide an interpreter for a party or witness who has limited English proficiency, regardless of indigence. Specify that the modification would first apply to actions commenced on the effective date of the bill.

Funding would be divided as follows: (a) \$43,900 in 2007-08 and \$82,400 in 2008-09 for projected increased use of interpreters under current law; and (b) \$189,600 in 2007-08 and \$215,600 in 2008-09 to reimburse counties for interpreters in all cases, regardless of indigence.

Under current law, the state provides reimbursement to counties for interpreter services for indigent persons in criminal, delinquency, protective services, Chapter 48 (children's code) and Chapter 51 (alcohol, drug abuse, developmental disabilities, and mental health) proceedings at a rate of \$40 per hour for certified interpreters and \$30 per hour for qualified interpreters.

Base funding for court interpreter reimbursements is \$827,100. Under the bill, total funding would be \$1,060,600 in 2007-08 and \$1,125,100 in 2008-09.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

[Act 20 Sections: 3773, 3774, and 9307(1)]

#### 4. NEW KENOSHA COUNTY CIRCUIT COURT BRANCH

**Senate/Legislature:** Create a new circuit court branch for Kenosha County. Provide 1.0 GPR circuit court judge position and 1.0 GPR court reporter position for Kenosha County. The initial election for the new circuit court branch will occur at the spring election of 2008 for a term commencing on August 1, 2009, and ending on July 31, 2015. Since the term does not begin until after the end of the 2008-09 fiscal year, costs associated with the positions will not occur until the 2009-11 biennium. Based on 2006-07 salary levels, total annual funding needed for the 2.0 positions is \$230,500 GPR and \$3,900 PR.

**Veto by Governor [C-2]:** Delete reference to 2008 for the spring election in order to establish the initial election date in the spring of 2009.

[Act 20 Sections: 3706g and 9107(1j),(1k)&(1L)]

[Act 20 Vetoed Section: 9107(1j)]

#### 5. NEW JUNEAU COUNTY CIRCUIT COURT BRANCH

**Assembly/Legislature:** Provide \$230,200 in 2008-09 and 1.0 circuit court judge position and 1.0 court reporter position to create a new circuit court branch for Juneau County. The initial election for the new circuit court branch will occur at the spring election of 2008 for a term commencing on August 1, 2008, and ending on July 31, 2014. Additional funding (\$34,400 in 2008-09) is provided under the Supreme Court to support supplies and services and computer costs associated with the new branch. [See "Supreme Court."]

	Funding Positions	
GPR	\$230,200	2.00

[Act 20 Sections: 3707b and 9107(3g)&(3h)]

## COMMERCE

<b>Budget Summary</b>							
Fund	2006-07 Base Year Doubled	2007-09 Governor	2007-09 Jt. Finance	2007-09 Legislature	2007-09 Act 20	Act 20 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$45,088,600	\$46,276,400	\$47,134,000	\$46,909,000	\$46,909,000	\$1,820,400	4.0%
FED	149,261,600	148,320,800	143,817,000	143,817,000	143,817,000	- 5,444,600	- 3.6
PR	106,004,800	107,966,000	99,936,200	99,961,200	99,961,200	- 6,043,600	- 5.7
SEG	<u>107,297,000</u>	<u>111,127,500</u>	<u>75,316,200</u>	<u>96,374,000</u>	<u>96,374,000</u>	<u>- 10,923,000</u>	<u>- 10.2</u>
<b>TOTAL</b>	<b>\$407,652,000</b>	<b>\$413,690,700</b>	<b>\$366,203,400</b>	<b>\$387,061,200</b>	<b>\$387,061,200</b>	<b>- \$20,590,800</b>	<b>- 5.1%</b>
BR			- \$49,076,000	- \$49,076,000	- \$49,076,000		

<b>FTE Position Summary</b>						
Fund	2006-07 Base	2008-09 Governor	2008-09 Jt. Finance	2008-09 Legislature	2008-09 Act 20	Act 20 Change Over 2006-07 Base
FED	54.35	45.35	49.30	49.30	49.30	- 5.05
PR	208.70	208.70	204.75	204.75	204.75	- 3.95
SEG	<u>72.80</u>	<u>71.80</u>	<u>72.80</u>	<u>73.80</u>	<u>73.80</u>	<u>1.00</u>
<b>TOTAL</b>	<b>397.65</b>	<b>389.65</b>	<b>388.65</b>	<b>389.65</b>	<b>389.65</b>	<b>- 8.00</b>

### Budget Change Items

### Economic Development

#### 1. STANDARD BUDGET ADJUSTMENTS

**Governor/Legislature:** Provide adjustments to the base budget of \$172,700 GPR, \$250,600 FED, -\$1,019,400 PR and \$609,600 SEG annually as standard budget adjustments. Adjustments are for: (a) turnover

GPR	\$345,400
FED	501,200
PR	- 2,038,800
SEG	<u>1,219,200</u>
<b>Total</b>	<b>\$27,000</b>

reduction (-\$244,400 PR annually); (b) removal of noncontinuing items from the base (-\$2,000,000 PR annually relating to a transfer from WHEDA for Commerce housing programs in the 2005-07 biennium); (c) full funding of continuing salaries and fringe benefits (\$172,700 GPR, \$250,600 FED, \$1,210,200 PR, and \$609,600 SEG annually); (d) position reclassifications (\$6,800 PR annually); (e) overtime (\$8,000 PR annually); and (f) minor transfers within the same alpha appropriation. In total, changes due to standard budget adjustments would increase funding by \$13,500 annually.

**2. WISCONSIN DEVELOPMENT FUND -- MANUFACTURING TECHNOLOGY GRANTS, AND ENTREPRENEURIAL AND TECHNOLOGY TRANSFER GRANTS [LFB Paper 211]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Legislature (Chg. to JFC)</b>	<b>Net Change</b>
GPR	\$3,250,000	-\$2,250,000	-\$225,000	\$775,000

**Governor:** Provide \$1,250,000 in 2007-08 and \$2,000,000 in 2008-09 to increase GPR funding for the Wisconsin Development Fund. Total funding for the WDF would be \$8,348,400 GPR in 2007-08 and \$9,098,400 GPR in 2008-09 and \$4,050,000 PR annually. The administration indicates that the additional funding would be generated by an increase in the securities agent license fee. [See "Financial Institutions."]

The bill would authorize Commerce to make manufacturing technology grants from the WDF of up to \$1.5 million in a biennium to technology-based non-profit organizations to provide funding to assist manufacturers in Wisconsin in adopting manufacturing process improvements that result in the production of more goods of higher quality with less effort. To receive a grant, the technology-based non-profit organization would be required to submit a plan detailing its proposed expenditures and performance measures related to the project to the Department, and the Secretary of Commerce would have to approve the plan. "Technology-based non-profit organization" would be defined as a nonprofit corporation or organization under state or federal law that is exempt from federal income tax and that has as a mission the transfer of technology to businesses in Wisconsin.

The bill would increase from \$500,000 to \$600,000 the maximum entrepreneurial and technology transfer center grant that could be awarded under the WDF technology commercialization grant and loan program.

The administration also indicates Commerce would provide annual funding of \$100,000 from the WDF to support a minority business development specialist in Milwaukee through the Wisconsin Entrepreneurs Network.

Under current law, the WDF is provided funding through a GPR appropriation and a program revenue repayments appropriation. Base level funding is \$7,098,400 GPR and \$4,050,000 PR. Statutory legislative designations require Commerce to make annual awards of \$100,000 to the Center for Advanced Technology and Innovation (CATI) of Racine County, and

\$100,000 to Urban Hope Corporation.

The manufacturing extension grant program provides financial assistance to technology-based nonprofit organizations. Specifically, grants are made to the Wisconsin Manufacturing Extension Partnership (WMEP) and the Northwest Wisconsin Manufacturing Outreach Center (NWMOC) to support their business services. In general the organizations provide process improvement and technology transfer services to small and medium-sized manufacturers in the state. Annual funding of \$850,000 GPR is provided for manufacturing extension grants.

The technology commercialization grant and loan program and related funding was incorporated into the WDF in 2005 Wisconsin Act 25. The program includes the following grant and loan programs: (a) technology assistance grants; (b) matching grants and loans; (c) bridge grants and loans; (d) venture capital grants and loans; and (e) entrepreneurial and technology transfer center grants. Entrepreneurial and technology transfer center grants provide financial assistance to support entrepreneurs through an entrepreneurial and technology transfer center. Grants can be used to fund center administrative costs and costs related to providing services including business planning, counseling, education, and technical assistance. The total amount of grants that may be awarded cannot exceed \$500,000 in a fiscal year.

**Joint Finance:** Reduce the WDF increase by \$250,000 (to \$1 million) in 2007-08 and \$2,000,000 in 2008-09. Further, delete the manufacturing technology grants earmark of up to \$1.5 million annually from the Governor's recommendation.

**Assembly:** Delete the Joint Finance provision that would provide an additional \$1,000,000 GPR to the Wisconsin Development Fund in 2007-08. Further, the WDF would be reduced by an additional \$209,800 GPR annually.

**Conference Committee/Legislature:** Delete Assembly provision. However, reduce the WDF increase by \$225,000 in 2007-08 (and provide this same amount for buy local grants through DATCP). The bill would provide \$775,000 in 2007-08 to increase GPR funding for the Wisconsin Development Fund. Total funding for the WDF would be approximately \$23.1 million for the biennium (\$7,873,400 GPR in 2007-08 and \$7,098,400 GPR in 2008-09 and \$4,050,000 PR annually).

[Act 20 Section: 3581]

### 3. WISCONSIN VENTURE CENTER [LFB Paper 212]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$2,000,000	-\$2,000,000	\$0

**Governor:** Require Commerce to organize and assist in maintaining an emerging industries development corporation as a nonstock, nonprofit corporation under state law for the purpose of facilitating raising capital to promote and support emerging industries in Wisconsin.



The corporation that was formed would be required to do all of the following:

- a. Establish and implement programs to prepare entrepreneurs of emerging industries for angel and venture capital investments.
- b. Strategically match entrepreneurs of emerging industries with sources of capital or management expertise or both.
- c. Work with technology transfer offices of universities and colleges to facilitate a match between entrepreneurs of emerging industries and sources of capital or management expertise or both.
- d. Provide research and analysis services regarding emerging industries in Wisconsin to prospective angel investors and venture capitalists.
- e. Provide a venue for bringing together prospective angel investors and venture capitalists with entrepreneurs of emerging industries.

The emerging industries development corporation would be governed by a board of directors that consisted of the Secretary of Commerce or his or her designee, and the Secretary of the Department of Financial Institutions or his or her designee. In addition there would be up to 12 members, one or more of whom represented each of the following categories: (a) entrepreneurs in Wisconsin; (b) high-technology businesses in Wisconsin; (c) research institutions in Wisconsin; (d) the state's venture capital industry; (e) the state's investment banking industry; (f) the state's business development community; and (g) professionals in Wisconsin who are experienced in providing services to these individuals. Initially, the Governor would appoint these board members for five-year terms. The emerging industries development corporation would be required to specify a method for replacing these appointees in its bylaws.

The emerging industries development corporation would be required to submit an annual report on its activities to the Governor.

Commerce would be provided \$1.0 million GPR annually in an annual appropriation for grants to the emerging industries development corporation. Commerce could make a grant to the emerging industries development corporation if all of the following applied:

- a. The corporation submits an expenditure plan to the Department detailing the proposed uses of the grant proceeds and the Secretary of Commerce approved the plan.
- b. The corporation enters into a written agreement with the Department that specifies the conditions for the use of the grant proceeds, including reporting and auditing requirements.
- c. The corporation provides matching funds equal to 50% of the grant proceeds.
- d. The corporation provides information requested by the Department about private funding the corporation has received or will receive for the purposes detailed in the

expenditure plan.

e. The corporation agrees in writing to submit to the Department, within six months after spending the full amount of the grant, a report detailing how the grant proceeds were used.

Commerce would be required to make a one-time grant of \$700,000 in 2007-08 to the emerging industries development corporation and no matching funds would be required if the corporation used the grant for start-up capital and reasonable administrative expenses. Beginning in 2008-09, the Department would be required to make an annual grant of \$500,000 to the corporation, and no matching funds would be required if the grants were used for operating expenses.

The assets transferred to, and assets and liabilities of, the emerging industries development corporation would be separate from all other assets and liabilities of the state, of all political subdivisions of the state, and of the Department. Neither the state, any political subdivision of the state, nor the Department would guarantee any obligation of, or would have any obligation to the emerging industries development corporation. Neither the state, any political subdivision of the state, nor the Department would be liable for any debt or liability of the emerging industries development corporation.

The high-technology business development corporation program was created by 1999 Wisconsin Act 106. Commerce is required to organize and assist in maintaining a high-technology business development corporation as a nonstock, nonprofit corporation under Wisconsin law for the exclusive purpose of promoting and supporting the creation, development, and retention of science-based and technology-based businesses in the state.

A board of directors consisting of the Secretary of Commerce, or a designee, the President of the University of Wisconsin System, or a designee, the director of the Wisconsin Technical College System (WTCS) Board or a designee, the president of the Wisconsin Association of Independent Colleges and Universities or a designee, and at least eleven other members governs the high-technology development corporation. Of the eleven other members, one or more must represent the following categories: (1) entrepreneurs in the state; (2) high-technology businesses in the state; (3) the state's venture capital industry; (4) the state's investment banking industry; (5) local governments in the state; (6) the state's business development community; and (7) professionals that provide services to these categories. The board members are appointed by the Governor or legislative leadership and serve five-year terms.

In November, 2000, the Governor first appointed members to the Wisconsin Technology and Entrepreneur's Council which was created to promote development of science- and technology-based businesses in Wisconsin. The Council was formed as a nonprofit corporation and the Council's board of directors approved the formation of the non-profit Wisconsin Technology Council in January, 2001. Commerce awarded the Council a grant of \$50,000 to fund start-up and administrative costs. The Wisconsin Technology Council is an independent,

nonprofit, tax-exempt corporation which serves as the leading policy adviser and catalyst for creation, development, and retention of science- and technology-based businesses in Wisconsin.

The Technology Council has the following main functions: (a) provide policy guidance to lawmakers, the governor, state agencies, and other state institutions through activities, and reports and white papers; (b) serve as an economic catalyst through programs such as the Wisconsin Early Stage Symposium, the Wisconsin Entrepreneurs Conference, and the Governor's Business Plan Conference; and (c) serve an in-state networking role through the Wisconsin Innovation Network (WIN) and other affiliates, such as the Wisconsin Biotechnology Association, Accelerate Madison, and eInnovate; and (d) provide out-of-state networking through the I-Q Corridor and national events such as the international BIO conference.

The Wisconsin Technology Council is staffed by an executive director and is funded by annual high-technology business development corporation grants from Commerce and by matching contributions from the private sector.

Commerce is authorized to make grants to the high-technology business development corporation if all of the following apply: (a) the corporation submits an expenditure plan to the Department detailing the proposed use of the grant proceeds and the Secretary of Commerce approves the plan; (b) the corporation enters into a written agreement with the Department that specifies the conditions for the use of grant proceeds, including reporting and auditing requirements; (c) the corporation provides matching funds equal to 50% of the grant proceeds; (d) the corporation provides Commerce with any information requested concerning private funding the corporation has received or will receive for the purposes detailed in the expenditure plan; and (e) the corporation agrees in writing to submit to the Department, within six months after spending the full amount of the grant, a report detailing how the grant proceeds were used. Annual base level funding of \$250,000 is provided for grants to the high-technology business development corporation.

**Joint Finance:** Delete provision.

**Assembly:** Specify that the state could not provide funding for a venture center, if a venture center was established, unless a venture center was established as a non-governmental organization with a mission to facilitate access to venture capital for Wisconsin-based businesses. The board of directors of the venture center would have to be comprised of high-level business executives, the presidents or chief operating officers of business associations, partners in institutional investment businesses, and executives from technology transfer organizations. The venture center organization would be required to collaborate with governmental and academic economic development organizations working for improvement of Wisconsin's technology business sectors. There would be no requirement that a venture center be formed.

**Conference Committee/Legislature:** Delete Assembly provision.

4. **ECONOMIC DEVELOPMENT PROMOTION [LFB Paper 213]**

	<b>Governor (Chg. to Base)</b>		<b>Jt. Finance/Leg. (Chg. to Gov)</b>		<b>Net Change</b>	
	<b>Funding</b>	<b>Positions</b>	<b>Funding</b>	<b>Positions</b>	<b>Funding</b>	<b>Positions</b>
GPR	\$1,180,000	2.00	-\$1,180,000	-2.00	\$0	0.00

**Governor:** Provide \$590,000 annually in a newly-created annual appropriation with 2.0 positions for advertising, marketing and promotional activities in the U. S. to contribute to economic development in, and business recruitment to, Wisconsin. Specify the two staff be appointed in the unclassified service. Currently, Commerce is provided \$30,000 GPR annually in a separate appropriation to fund economic development promotion and for plans and studies related to certain Department activities.

**Joint Finance:** Delete provision and, instead, place \$50,000 GPR in 2007-08 and \$700,000 GPR in 2008-09 in the Joint Committee on Finance supplemental appropriation. The \$50,000 could be released to Forward Wisconsin and the Department of Commerce to develop a plan, within six months after release, for using the \$700,000 to attract businesses to Wisconsin.

**Assembly:** Delete Joint Finance provision.

**Conference Committee/Legislature:** Restore Joint Finance provision. However, due to a technical error, a provision in the Governor's budget bill was not deleted as intended. The provision allows the Commerce Secretary to appoint two positions in the unclassified service relating to advertising, promotion, and marketing activities within the U.S. for economic development and business recruiting. (However, the 2.0 GPR positions and associated funding recommended by the Governor for this purpose are deleted from the bill.)

[Act 20 Section: 3014]

5. **ONE-STOP MINORITY AND WOMEN'S BUSINESS CERTIFICATION**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
	GPR	\$115,000	-\$115,000

**Governor:** Provide \$100,000 in 2007-08 and \$15,000 in 2008-09 to create an on-line one-stop certification system for minority and women-owned businesses. Currently, Commerce certifies minority and women-owned businesses as qualified businesses for certain preferences in contracting with federal, state, and local governments. The Department may charge a certification fee for certifying women-owned businesses. In addition to Commerce, other state agencies and local governments can certify minority or women-owned status to participate in procurement, including DOA, DOT, the City of Milwaukee, Milwaukee County, and the City of Madison.

**Joint Finance/Legislature:** Delete provision.

**6. WISCONSIN DEVELOPMENT FUND -- RENEWABLE ENERGY GRANTS AND LOANS [LFB Paper 210]**

	<b>Governor (Chg. to Base)</b>		<b>Jt. Finance (Chg. to Gov)</b>		<b>Legislature (Chg. to JFC)</b>		<b>Net Change</b>	
	<b>Funding</b>	<b>Positions</b>	<b>Funding</b>	<b>Positions</b>	<b>Funding</b>	<b>Positions</b>	<b>Funding</b>	<b>Positions</b>
SEG	\$30,108,700	1.00	-\$30,108,700	- 1.00	\$22,057,800	1.00	\$22,057,800	1.00

**Governor:** Create, under the Wisconsin Development Fund (WDF), a renewable energy grants and loans program. Under the program, Commerce could award a grant or loan to a business or researcher to fund the development of new technologies to increase renewable fuel or energy production or to fund the commercialization of new renewable fuel or energy technologies. Grants could not exceed 50% of the costs of an eligible project.

A biennial SEG appropriation would be created and \$15.0 million SEG in annual recycling fund revenues would be provided for grants and loans. The current WDF program revenue repayments appropriations could also be used for renewable energy awards. WDF recycling fund revenues could also be used for other WDF programs. A separate annual administrative appropriation would be established and recycling fund revenues of \$50,900 in 2007-08 and \$57,800 in 2008-09, with 1.0 position would be provided to administer the grant and loan program. The Department would be authorized to expend or encumber up to 1.0% of the grant and loan funding for evaluation costs, collection costs, foreclosure costs, and other costs associated with administering the renewable energy grant and loan program. Additional recycling fund revenues would be generated by a \$3 increase in the recycling tipping fee. [See "Natural Resources -- Air, Waste, and Contaminated Land."]

Commerce would be authorized to promulgate administrative rules necessary to administer the renewable energy grants and loans program. However, Commerce would be required to consult with the Department of Agriculture, Trade, and Consumer Protection (DATCP), the Department of Natural Resources (DNR), and the Public Service Commission (PSC).

The bill would delete the following two programs with related goals in other state agencies. Delete an agricultural chemical management fund SEG appropriation in the Department of Agriculture Trade & Consumer Protection and the related DATCP bio-industry grant program. One-time funding of \$1 million was provided for this program in the 2005-07 biennium. Further, delete the authority for DNR to award forestry resource and development grants from the forestry account of the segregated conservation fund to match federal monies. One-time funding of \$537,500 was provided in the 2005-07 biennium to match anticipated federal forestry biomass grants.

Under current law, the WDF provides financial assistance through the following

programs: (a) technology development and technology commercialization grants and loans; (b) customized labor training grants and loans; (c) major economic development grants and loans; (d) urban early planning grants; (e) entrepreneurial training grants; (f) Wisconsin trade project; (g) employee ownership assistance grants; (h) revolving loan fund capitalization grants; (i) the rapid response fund; and (j) technology commercialization grants and loans program.

**Joint Finance:** Delete provision.

**Senate:** Restore the Governor's recommendation to create a renewable energy grant and loan program under the Wisconsin Development Fund (WDF) with certain modifications. Under the provision, Commerce could award a grant or loan to a business or researcher to fund the development of new technologies to increase renewable fuel or energy production or to fund the commercialization of new renewable fuel or energy technologies. Grants could not exceed 50% of the costs of an eligible project.

Commerce would be required to award renewable energy grants and loans for the following types of projects:

- a. Research and development, including demonstration projects, into renewable energy technologies.
- b. Development of renewable energy sources and infrastructure in Wisconsin, including conversion from non-renewable to renewable energy sources.
- c. Commercial application of renewable energy technologies.
- d. Construction of cellulosic ethanol plants

In awarding grants and loans, Commerce would consider all of the following factors:

- a. The extent to which the project will assist in the research, development or use of renewable energy sources in Wisconsin.
- b. The extent to which the project will improve the competitive position of Wisconsin's renewable energy industry or enhance the capabilities of Wisconsin's renewable energy industries.
- c. Whether the technology or product is one which Wisconsin has a competitive advantage.
- d. The likelihood that the project will lead to the commercial application of new technologies or practices that involve the development, production, processing or distribution of renewable energy.
- e. The extent to which the project will utilize existing, surplus, or byproducts of natural resources in Wisconsin.

f. The extent to which the project will strengthen Wisconsin's existing industries by converting wastes or byproducts generated by existing industries streams into renewable energy.

g. The extent to which the project will develop technologies to increase the capacity of Wisconsin's manufacturing industries to utilize renewable energy sources.

Commerce could also consider the following factors in evaluating projects applying for a renewable energy grant or loan if appropriate:

a. Factors that would be considered in awarding other Wisconsin Development Fund grants and loans;

b. Whether the applicant is considered to be small business, minority owned business, locally owned business, or a farm; and,

c. The geographical distribution of grants and loans awarded.

The recycling fund would be renamed the "recycling and renewable energy fund." A biennial SEG appropriation would be created and \$15.0 million SEG in annual recycling fund revenues would be provided for grants and loans. The current WDF, GPR and program revenue repayments appropriations could also be used for renewable energy awards. WDF recycling fund revenues could also be used for other WDF programs. A separate annual administrative appropriation would be established and recycling fund revenues of \$50,900 in 2007-08 and \$57,800 in 2008-09, with 1.0 position would be provided to administer the program.

Commerce would be authorized to promulgate administrative rules necessary to administer the renewable energy grants and loans program. However, Commerce would be required to consult with the Department of Agriculture, Trade, and Consumer Protection (DATCP), the Department of Natural Resources (DNR), and the Public Service Commission (PSC).

**Assembly:** Delete Senate provision.

**Conference Committee/Legislature:** Restore the Senate provision with the following modifications:

a. Provide \$7.0 million recycling fund SEG in 2007-08 and \$15.0 million SEG in 2008-09.

b. Provide \$57,800 SEG and 1.0 SEG position beginning in 2008-09 to administer the program.

c. Only the WDF program revenue repayments appropriation could be used for renewable energy awards.

d. Commerce would be authorized (rather than required) to award grants or loans for

the specified purposes.

e. Commerce would be required to consider the specified factors in evaluating applications for grants and loans (rather than evaluating projects or simply awarding grants and loans).

[Act 20 Sections: 179j, 193h, 199j, 199k, 261r, 261t, 278g, 281g, 282nf, 282nh, 282nj, 302k, 302tk, 320f, 516d, 551r, 678n, 690t, 2483q, 3086p, 3088d, 3564x, and 9108(4t)]

## 7. AWARDS FOR PULP AND PAPER MILL

**Governor:** Require the Department to award renewable energy grants totaling not more than \$5.0 million to a person who plans to construct a cellulosic ethanol plant in Wisconsin if all of the following apply:

a. The person submits a plan to the Department specifying the proposed use of the grant, and the Secretary of Commerce approves the plan.

b. The Department enters into a written agreement with the person that specifies the conditions for the use of the grant, including auditing and reporting requirements.

c. The person agrees in writing to submit to the Department, within six months after spending the grant proceeds, a report detailing how the grant proceeds were spent.

**Joint Finance:** Delete provision.

**Senate:** Require Commerce to award renewable energy grants totaling not more than \$5.0 million to the first pulp and paper mill to be free of natural gas and coal usage in Wisconsin if all of the following apply:

a. The person submits a plan to the Department specifying the proposed use of the grant, and the Secretary of Commerce approves the plan.

b. The Department enters into a written agreement with the person that specifies the conditions for the use of the grant, including auditing and reporting requirements.

c. The person agrees in writing to submit to Commerce, within six months after spending the grant proceeds, a report detailing how the grant proceeds were spent.

**Assembly:** Delete Senate provision. Instead, provide \$2,500,000 recycling fund SEG in 2007-08 in a biennial appropriation. In addition, require WHEDA to transfer \$2,500,000 from its unencumbered reserves in 2007-08 to DATCP for deposit in a biennial PR appropriation. Direct DATCP to use funding provided in these appropriations to award a grant to the first pulp and paper mill to be free of natural gas and coal usage in Wisconsin if all of the following apply:

a. The person submits a plan to DATCP specifying the proposed use of the grant, and



the Secretary approves the plan.

b. The Department enters into a written agreement with the person that specifies the conditions for the use of the grant, including auditing and reporting requirements.

c. The person agrees in writing to submit to DATCP, within six months after spending the grant proceeds, a report detailing how the grant proceeds were spent.

Further, Commerce would be required to make two loans of \$1.0 million each from the Wisconsin Development Fund program revenue repayments appropriation, in the 2007-09 biennium, to the first person who operates a pulp and paper mill in Wisconsin without the use of natural gas or coal. Commerce would enter into an agreement with the mill owner that specifies the uses for the grant proceeds and reporting and auditing requirements.

**Conference Committee/Legislature:** Delete the Assembly provision that would provide recycling fund SEG revenues and WHEDA funds from its unencumbered reserves in separate appropriations administered by DATCP for a grant to a pulp and paper mill. Modify the Assembly provision that requires Commerce to make two loans of \$1.0 million each from the WDF program revenue appropriation in 2007-09 to require the loans be made to a pulp and paper mill that emerged from bankruptcy in Wisconsin (rather than to the first person operating a pulp and paper mill without the use of natural gas or coal). Finally, the Senate provision that requires Commerce to award renewable energy grants of \$5.0 million to a pulp and paper mill would be modified to require that the grants be made to a pulp and paper mill that emerged from bankruptcy in Wisconsin.

**Veto by Governor [B-1]:** Eliminate the specific requirement that two loans of \$1.0 million be made from the WDF repayments appropriation. Instead, in his veto message, the Governor requests that the Secretary of Commerce to make these loans from the renewable energy grant and loan appropriation.

[Act 20 Sections: 198, 199j, and 9108(4v)&(5x)]

[Act 20 Vetoed Sections: 198 and 9108(5x)]

## 8. WISCON PROGRAM TRANSFER

	Funding	Positions
FED	-\$1,442,000	- 9.00

**Governor/Legislature:** Delete \$721,000 and 9.0 positions annually from Commerce to reflect the transfer of the WISCon program to the University of Wisconsin System, State Laboratory of Hygiene. Program responsibility was transferred by the administration effective October 1, 2006.

The WISCon program is funded 90% with federal grant monies and provides services to help businesses comply with federal OSHA safety regulations. Consultants assess existing safety programs, evaluate work practices, identify assistance, and provide training for managers and employees. The consultants are separate from the OSHA enforcement function, and do not issue citations, propose penalties, or report safety violations to OSHA. The business

must commit to the timely correction of any serious deficiencies discovered during the consultation visit.

**9. CONSOLIDATION OF EXECUTIVE BRANCH ATTORNEYS AND LEGAL STAFF UNDER DOA [LFB Paper 110]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
SEG	-2.00	2.00	0.00

**Governor:** Delete 2.0 SEG and 1.0 PR classified positions (from the petroleum inspection fund and administrative services, respectively) and create 1.0 PR unclassified position in 2008-09 to reflect the consolidation of the agency's attorneys and legal staff under DOA, effective July 1, 2008. Reallocate \$148,000 in 2008-09 from budgeted salaries and fringe benefits to the agency's supplies and services budget to pay for legal services supplied by DOA. Authorize the Secretary of DOA to identify one attorney position in Commerce as general counsel for the agency. The general counsel position would be funded from base level salary and fringe benefits amounts associated with the position identified by the Secretary of DOA.

Specify that all transferred attorneys and legal staff would have the same rights and status as in the agency in which they originated. Specify that attorneys and legal staff that have obtained permanent status would not have to undergo a probationary period in DOA. Provide that all equipment, supplies, and furniture related to the duties of the transferred employees, as specified by the Secretary of DOA, must be transferred to DOA on July 1, 2008. [See "Administration -- Transfers to the Department."]

**Joint Finance:** Delete provision.

**Senate:** Approve the Governor's recommendation with the following modifications: (a) specify that the lead attorneys would be under classified service; and (b) exempt the Board on Aging and Long-Term Care, the Department of Military Affairs, and the Department of Public Instruction from the consolidation.

**Assembly/Legislature:** Delete provision.

**10. RESTRUCTURE WISCONSIN DEVELOPMENT FUND [LFB Paper 214]**

**Governor:** Eliminate current Wisconsin Development Fund (WDF) grant and loan programs and related administrative processes and establish more general program criteria and procedures for distributing financial assistance through the WDF. Under the restructured program, Commerce, at the request of the Development Finance Board (Board), would be authorized to make grants or loans to eligible recipients. Eligible recipients would include governing bodies or "persons" eligible to receive grants or loans. (The universal statutory definition of "person" includes all individuals, partnerships and bodies politic or corporate.)

Activities eligible for awards would include: (a) capital financing; (b) worker training; (c) entrepreneurial development; (d) providing assistance to technology-based business or to businesses at a foreign trade show or event; (e) promoting urban or regional economic development; (f) establishing revolving loan funds; (g) providing working capital; and (h) promoting employee ownership by conducting or implementing feasibility studies to investigate the reorganization or new incorporation of existing businesses as employee-owned businesses.

Commerce would be required to establish criteria for awarding WDF grants and loans, including the types of projects that would be eligible for funding and that would receive priority. The Department would determine conditions applicable to grants and loans awarded. An origination fee of not more than 2% of the amount of the award could be imposed on grants or loans of \$200,000 or more. Fees that were collected would continue to be placed in the program revenue, WDF administration appropriation. With Board approval, Commerce would be required to develop procedures, related to grants and loans for all of the following: (a) submitting applications for grants and loans; (b) evaluating applications; (c) monitoring project performance; and (d) auditing grants and loans. The current requirement that the Department, with Board approval, develop and implement procedures for monitoring grant use, economic growth, job creation, and new jobs would continue.

Provisions requiring Commerce and the Board to encourage and assist small businesses in applying for and obtaining financial assistance would be retained. However, a small business would be defined as a business with fewer than 100 employees, rather than the current definition of a business operating for profit with 250 or less employees.

Similarly, the Department could continue to retain 1% of WDF, GPR funding for: (a) evaluations of proposed technical research projects; (b) grants to small businesses for preparing proposals for the federal small business innovative research program; and (c) costs associated with administering the WDF loan portfolio.

When an application for financial assistance was received, the Board would consider a number of factors in determining whether to award a grant or loan. Most of these factors must be considered under current law. However, the Board could consider any, rather than all, of the factors. Specifically, in determining whether to make an award, the Board could consider any of the following:

- a. Whether the project serves a public purpose.
- b. Whether the project will retain or increase employment in the state.
- c. Whether the project "might not" (rather than "is not likely to" currently) occur without the grant or loan.
- d. Whether financing is available from another source on reasonably equivalent terms.
- e. The extent to which the project will be financed with funds not provided by the state.

- f. Whether funds from the grant or loan will be used to pay overhead costs or to replace funds from another source.
- g. Whether the project will displace any workers in the state.
- h. The extent to which the project will retain or increase employment in the state.
- i. The extent to which the project will contribute to the economic growth of the state and the well-being of residents of the state.
- j. Whether the project will be located in an area of high unemployment or low average income.
- k. The financial soundness of the eligible recipient.
- L. The intention of the eligible recipient to repay the grant or loan.
- m. Whether the project will be located in a targeted area.
- n. For an ethanol production facility on which construction begins after July 27, 2005, whether a competitive bidding process is used for the construction of the ethanol production facility.

When considering whether a project for which financial assistance was requested was located in a targeted area the Board could consider any of the following factors:

- a. Whether the area has high unemployment.
- b. Whether the area has a low median household income.
- c. Whether a significant number of workers in the area have been permanently laid off by their employers, or whether public notice has been given by an employer of either a plant closing or a substantial reduction in work force that will result in a significant number of workers in the area being permanently laid off.
- d. Whether the area is designated as a development or enterprise development zone.
- e. Any other factor the board considers to be an appropriate indicator of a targeted area.

Factors related to declining population and property values, and families receiving AFDC would be deleted. The requirement that 35% of total grants and loans be made to businesses in distressed areas would be retained.

The Board would have to require that, as a condition of receiving a grant or loan, a recipient would have to contribute to a project an amount equal to at least 25% of the grant or loan. The Board would continue to be responsible for developing a policy related to the repayment of grants and loans awarded under the WDF. Specific provisions would be deleted that required that priority be given to recipients with techniques that reduce or eliminate ozone-depleting substances, hire AFDC assistance recipients, or that projects be located in targeted

areas.

The current WDF programs that would be repealed include: (a) revolving loan fund capitalization grants; (b) the rapid response fund; (c) employee ownership assistance grants; (d) major economic development grants and loans; (e) urban early planning grants; (f) technology development and commercialization grants and loans; and (g) customized labor training grants. Two programs that have statutory provisions but are not funded, Wisconsin Procurement Institute grants and technology and pollution control and abatement grants and loans, would also be repealed. The Wisconsin trade project grant program would not be repealed, and the entrepreneurial training grant program does not have specific statutory provisions. In addition, the technology commercialization grant and loan programs that were incorporated into the WDF in 2005 Wisconsin Act 25 and related statutory provisions would not be affected by the restructuring.

WDF definitions of terms, including biotechnology, consortium, higher educational institution, major economic development project, technology, and technology-based nonprofit organization that are related to specific WDF programs, would be repealed. There would be cross-reference changes to reflect the repeal and modifications of statutory provisions.

Under current statutory provisions the WDF provides financial assistance through the following programs:

a. *Customized Labor Training Grants.* Customized labor training (CLT) grants fund labor training programs which provide employees with job training in new or more advanced technology, industrial and other employment-related skills, or job training in manufacturing processes to assist employers in maintaining a technologically advanced workforce. The Department can finance up to 50% of eligible project costs not to exceed \$2,500 per employee trained. Grant funds may be used to pay base wages of trainees and associated instructional costs.

b. *Technology Development and Commercialization Grants and Loans.* Technology development and commercialization grants and loans fund technical research by a business or consortium to develop new, or improve existing, industrial products or processes (technology development) and to assist businesses in infrastructure development and commercialization of a new, product or process. Awards can be granted for the following purposes: (1) a technology development grant or loan to a business or consortium to fund technical research to develop new or to improve existing industrial products or processes that have a high probability of commercial success within a relatively short time period (two to three years); or (2) a technology development loan to a business to provide working capital or fixed asset financing to develop the infrastructure of the business or for the initial commercialization of the new industrial product or process.

c. *Major Economic Development Grants and Loans.* Major economic development (MED) grants and loans fund projects that are not eligible for funding under criteria of any other WDF program, and that involve significant capital investment, or creation or retention of a significant number of jobs. The Board decides the amount of funding for a project and a determination as

to whether the award is a grant or loan. Historically, awards have ranged between \$3,000 and \$10,000 per full-time job created. Allowable uses generally include expenditures for: construction and expansion; acquisition of existing businesses, land, buildings and equipment; and working capital.

d. *Employee Ownership Assistance Grants.* Employee ownership assistance grants fund the cost of an independent third party to provide professional services to evaluate the feasibility of an employee buy-out. The maximum grant is 75% of eligible project costs up to \$15,000. Grants can fund expenditures for feasibility studies to investigate the reorganization or new incorporation of an existing business as an employee-owned business, and for professional services to implement the study.

e. *Urban Early Planning Grants.* Urban early planning grants provide financial assistance to entrepreneurs and small businesses to fund professional services related to business start-ups or expansion. The urban early planning grant program is administered by the Wisconsin Entrepreneur's Network (WEN) with funding from Commerce. Grants can be made for up to 75% of eligible project costs up to \$15,000 to a single business. Grants are generally limited to \$3,000 or less, unless it can be demonstrated that the project will have a statewide impact. The total amount of urban early planning grants that can be awarded is \$250,000 in a biennium. Grants must be used to fund early planning projects. An early planning project is the preliminary stages of considering and planning the expansion or start-up of a business that is or will be located in an urban area in the state.

f. *Entrepreneurial Training Grants.* Entrepreneurial training grants are awarded through a program developed in conjunction with the University of Wisconsin-Extension Small Business Development Center (SBDC) designed to help entrepreneurs by providing financial assistance to cover a portion of the cost of attending SBDC's Entrepreneurial Training Program. The urban entrepreneurial training grant program is administered by the Wisconsin Entrepreneur's Network (WEN) with funding from Commerce. Grants can be made for up to 75% of eligible tuition costs. Eligible tuition costs are limited to the tuition charged by the SBDC to attend the Entrepreneurial Training Program. Grants must be used to cover the cost of tuition charged for attending the course.

g. *Wisconsin Trade Project Program.* The Wisconsin trade project program provides reimbursement for attending international trade shows, U.S. trade shows (in certain circumstances), and U.S. Department of Commerce sanctioned "matchmaker" trade delegation events. Eligible applicants are businesses, including affiliates, with \$25,000,000 or less in gross annual sales that are operating in the state and manufacturing a product and/or performing a service with potential to be exported. The maximum reimbursement amount is \$5,000 a year, and not more than \$5,000 for participation in a single trade show or matchmaker trade delegation event. The following costs are eligible for reimbursement: (1) fees for participation in a trade show, a U.S. trade show, or a U.S. Department of Commerce sanctioned matchmaker trade delegation event; (2) costs associated with shipping displays, sample products, catalogs or advertising material to a trade show, a U.S. trade show, or matchmaker trade delegation event; (3) costs incurred at a trade show, a U.S. trade show, or matchmaker trade delegation event for

utilities, booth construction or necessary modifications, repairs, or other reasonable expenses associated with displays; and (4) costs associated with foreign language translation of brochures, or product information, or with the use of translation services and interpreters at a trade show, a U.S. trade show, or matchmaker delegation event.

h. *Rapid Response Fund.* The rapid response fund provides financial assistance to businesses or local governments to prepare sites for businesses to locate or expand, in communities that have experienced plant closings or substantial layoffs. Funding is provided in the form of loans. Loan recipients must provide matching funds equal to 25% of the cost of the project up to a maximum of \$250,000. The Department may not award more than \$2 million in total loans from the rapid response fund in a biennium. Loans can only be used for the following purposes: (1) the renovation or improvement of an existing building; (2) the purchase of land, an existing building, machinery or equipment; and (3) the construction of a new building. Commerce has not made any awards under this provision in recent years.

i. *Revolving Loan Fund Capitalization Grants.* Revolving loan fund capitalization grants provide funding for local revolving loan funds, which are used to promote local and regional economic development, primarily in areas that experience business closings or substantial layoffs. This program is, in part, intended to operate in conjunction with the rapid response fund. The maximum total amount of loan fund capitalization grants that can be made in a biennium is \$500,000. Grants must be used to establish or provide capital for local revolving loan funds. The revolving loan fund must be used to promote local or regional economic development. Commerce has not made any awards under this provision in recent years.

As noted, 2005 Act 25 incorporated the technology commercialization grant and loan programs and related funding into the WDF. As a result, WDF awards are also provided through the following programs.

a. *Technology Assistance Grants.* Technology assistance grants provide financial assistance to entrepreneurs and to start-up and early stage businesses to fund research and development or professional services related to obtaining early stage funding. The technology assistance grant program is administered by the Wisconsin Entrepreneur's Network (WEN) with funding from Commerce. To be eligible, applicants must be: (1) a small business, or individual entrepreneur who intends to form a small business, that is completing a grant application to be submitted to the federal government for the purpose of obtaining early stage research and development funding; or (2) an individual who is starting or developing a business that has significant growth potential, as evidenced by the potential to attract and receive early stage financing from third parties, but who needs assistance with a specific facet of starting or developing the business. The maximum grant or loan amount is 75% of eligible project costs up to a statutory maximum of \$15,000. However, in practice, the maximum award amount is \$3,000. Eligible project costs are professional services involved in: (1) preparation and review of a federal R&D grant application; (2) obtaining industry information, data or market research needed to complete applications for R&D or early-stage funding; or (3) meeting specific requirements to obtain seed or early-stage financing from outside sources.

b. *Matching Grants and Loans.* Matching grants and loans provide funding to

individuals, entrepreneurs, and small businesses for professional services related to developing or the accelerated commercialization of a technologically innovative product, process, or service. Eligible applicants include: (1) a small business, or an individual entrepreneur who intends to form a small business; or (2) an individual who is starting or developing a business which has significant growth potential, as evidenced by the potential to attract and receive early stage financing from third parties, but who needs assistance with a specific facet of starting or developing the business. The maximum award is the lesser of 20% of the project costs or \$250,000. Grants or loans can be used to fund the following activities: (1) professional services related to developing a proposed technologically innovative product, process, or service, if the applicant has received a grant from the federal government for a substantially similar purpose; or (2) professional services related to the accelerated commercialization of a technologically innovative product, process, or service, if the federal government has notified the applicant that the applicant will receive a grant from the federal government for a substantially similar purpose.

c. *Bridge Grants and Loans.* Bridge grants and loans provide financial assistance to individuals, entrepreneurs and small businesses experiencing financial hardship to cover expenses between early-stage and later-stage financing. To be eligible, the applicant must be: (1) a small business, or individual entrepreneur who intends to form a small business, that is completing a grant application to be submitted to the federal government for the purpose of obtaining early stage research and development funding; or (2) an individual who is starting or developing a business which has significant growth potential, as evidenced by the potential to attract and receive early stage financing from third parties, but who needs assistance with a specific facet of starting or developing the business. A bridge grant or loan may not exceed the lesser of 75% of project costs or \$100,000. The Department may make a bridge grant or loan to a person who has received early stage financing from third parties or a grant from the federal government to fund early stage research and development, and who has sought additional early stage financing from third parties or applied for an additional grant from the federal government to fund early stage research and development. Commerce may also make a bridge grant or loan for the purpose of funding professional activities necessary to maintain the project research and management team, and funding basic operations until the applicant's additional third party financing request or federal grant application is approved or denied.

d. *Venture Capital Grants and Loans.* Venture capital grants and loans provide financial assistance to individuals, entrepreneurs, and small businesses for early stage financing. To be eligible an applicant must be: (1) a small business or individual entrepreneur who intends to form a small business that is completing a grant application to be submitted to the federal government for the purpose of obtaining early stage research and development funding; or (2) an individual who is starting or developing a business which has significant growth potential, as evidenced by the potential to attract and receive early stage financing from third parties, but who needs assistance with a specific facet of starting or developing the business. The maximum venture capital grant or loan is the lesser of \$250,000 or 50% of project costs. Venture capital grants or loans may be made to provide funding that enhances the applicant's ability to obtain early stage financing from third parties.



e. *Entrepreneurial and Technology Transfer Center Grants.* Entrepreneurial and technology transfer center grants provide financial assistance to support an entrepreneurial and technology transfer center. Organizations, companies, or consortia that support entrepreneurs through an entrepreneurial and technology transfer center are eligible for grants. The maximum amount of grants that can be awarded in a fiscal year is \$500,000. Grants may be used to fund center administrative costs and costs related to providing services including business planning, counseling, education, and technical assistance. Core center services should involve assessing client needs and capabilities, and determining follow-up activities.

Commerce also makes business employees skills training (BEST) grants through the WDF.

WDF award recipients are currently required to provide a nonstate match of at least 25% of the eligible project costs. However, in practice, recipients typically must provide matching amounts that exceed the statutorily minimum requirement. In many cases, the match exceeds the amount of the award.

Currently, Commerce is authorized to charge an origination fee of up to 2% on MED and CLT grants and loans in excess of \$200,000. Fee collections are placed in a program revenue appropriation used to provide funding for administration of the WDF. In addition, the Department is authorized to use up to 1% of amounts appropriated for GPR, WDF awards for evaluation costs, collection costs, foreclosure costs, and other costs associated with administering the WDF loan portfolio.

The WDF is funded through a general purpose revenue (GPR) and a program revenue (PR) repayments appropriation. The program revenue repayments appropriation was established to operate similar to a revolving loan fund. Amounts received from WDF loan repayments are credited to the repayments appropriation and these monies can be used to fund WDF grants and loans. Base level funding for WDF grants and loans is \$7,098,400 GPR and \$4,050,000 PR.

**Joint Finance/Legislature:** Include provisions. In addition, the Wisconsin Development Finance Board would be expanded to include two legislative members, one appointed by the Speaker of the Assembly, and one appointed by the Majority Leader of the Senate. All other appointed members of the Board, including current members, would have to be confirmed by the State Senate.

[Act 20 Sections: 37e, 37f, 37g, 195, 198, 199j, 2533, 2534, 3024, 3093, 3094, 3564, 3566m, 3568 thru 3575, 3580, 3582 thru 3619, 3621 thru 3634, and 9308(1)&(2k)]

**11. MANUFACTURING EXTENSION CENTER GRANTS [LFB**  
Paper 214]

GPR	\$700,000
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**Joint Finance/Legislature:** Provide \$350,000 GPR annually to increase funding for manufacturing extension center grants. Total annual funding for program grants would be \$1,200,000 GPR.

**12. GAMING ECONOMIC DEVELOPMENT AND DIVERSIFICATION GRANT AND LOAN PROGRAM [LFB Paper 215]**

GPR-REV	\$1,350,000
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**Joint Finance/Legislature:** Delete \$1,000,000 PR in 2007-08 and \$350,000 PR in 2008-09 from the tribal gaming revenue economic development and diversification grants and loans appropriation, and provide expenditure authority of \$1,000,000 PR in 2007-08 and \$350,000 PR in 2008-09 in the repayments appropriation, to shift the funding source for gaming economic development and diversification grants and loans from tribal gaming revenues to award repayments. Decreasing the tribal gaming PR appropriation by \$1,350,000 for the biennium has the effect of increasing the general fund lapse from tribal gaming revenues by the same amount.

**13. ELIMINATE INACTIVE PROGRAMS**

**Joint Finance/Legislature:** Delete the following inactive programs and related appropriations: (a) mining economic development grants and loans; (b) certified capital companies, but retain current reporting requirements; (c) recycling rebates; and (d) brownfields general purpose revenue grants.

[Act 20 Sections: 194n, 195, 197f, 198, 198f, 198g, 555f, 2161n, 2161o, 2161p, 2161q, 2161r, 2161s, 2161t, 3563s, 3564m, 3565g, 3566m, and 3581a thru 3581za]

**14. BROWNFIELD GRANTS FUNDING REDUCTION**

SEG	-\$1,000,000
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**Conference Committee/Legislature:** Reduce funding for brownfields grants by \$1,000,000 SEG in 2007-08. As a result, a total of \$6,000,000 would be provided for grants in 2007-08. The \$1 million reduction is made to reduce an expected June 30, 2009, shortfall in the available balance of the segregated environmental management account.

The brownfields grant program provides financial assistance to businesses, governmental entities, and nonprofit organizations that conduct brownfields redevelopment and related environmental remediation projects. Brownfields redevelopment includes any work or undertaking to: (a) acquire a brownfields facility or site; and (b) to raze, demolish, remove, construct, renovate, or rehabilitate the facility or existing buildings, structures, or other improvements at the site. Ongoing funding of \$7,000,000 SEG from the environmental fund is maintained beginning in 2008-09 for brownfields grants.

**15. GRANT TO ALLIED PAINTERS UNION**

**Senate:** Require Commerce to make grants of \$125,000 from the Wisconsin Development Fund in 2007-08 and 2008-09 to the Painters and Allied Trades District Council 7 of the AFL-CIO for training. Commerce would enter into an agreement with the Painters Council that specifies the uses for the grant proceeds and reporting and auditing requirements.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

[Act 20 Sections: 195 and 9108(7f)]

#### **16. GRANT TO CHIPPEWA VALLEY TECHNICAL COLLEGE**

**Senate:** Require Commerce to make a grant of \$160,000 during the 2007-09 biennium from the Wisconsin Development Fund to the NanoRite Facility at Chippewa Valley Technical College. Commerce would enter into an agreement with the Chippewa Valley Technical College that specifies the uses for the grant proceeds and reporting and auditing requirements.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

[Act 20 Sections: 195 and 9108(4u)]

#### **17. GRANT FOR CORNERSTONE ICE ARENA**

**Senate:** Require Commerce to make a grant of \$50,000 from the Wisconsin Development Fund in the 2007-09 biennium to the Village of Ashwaubenon for maintenance and construction of the Cornerstone Ice Arena. Commerce would enter into an agreement with the village that specifies the uses for the grant proceeds and reporting and auditing requirements.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

[Act 20 Sections: 195 and 9108(9i)]

#### **18. GRANT FOR HOBBS ICE ARENA**

**Senate:** Require Commerce to make a grant of \$50,000 from the Wisconsin Development Fund in the 2007-09 biennium to the City of Eau Claire for renovation of the Hobbs Ice Arena. Commerce would enter into an agreement with the City of Eau Claire that specifies the uses for the grant proceeds and reporting and auditing requirements.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

[Act 20 Sections: 195 and 9108(8i)]

## **19. GRANT FOR FOX RIVER BOARDWALK**

**Conference Committee/Legislature:** Require Commerce to make a grant of \$2,800,000 from the Wisconsin Development Fund in the 2007-09 biennium to the City of Green Bay for the CityDeck -- Fox River boardwalk. Commerce would be required to enter into an agreement with the City that specifies the uses for the grant proceeds and reporting and auditing requirements.

[Act 20 Sections: 195 and 9108(6c)]

## **20. GRANT FOR COMMUNITY YOUTH CENTER**

**Conference Committee/Legislature:** Require Commerce to make a grant of \$25,000 from the Wisconsin Development Fund in the 2007-09 biennium to the City of Mondovi for a community youth center. Commerce would be required to enter into an agreement with the City that specifies the uses for the grant proceeds and reporting and auditing requirements.

[Act 20 Sections: 195 and 9108(7c)]

## **21. GRANT FOR ECONOMIC DEVELOPMENT**

**Conference Committee/Legislature:** Require Commerce to make a Wisconsin Development Fund grant of \$15,400 in 2007-08 to the City of Stevens Point for economic development. Commerce would be required to enter into an agreement with the City that specifies the uses for the grant proceeds and reporting and auditing requirements.

[Act 20 Sections: 195 and 9108(8c)]

## **22. GRANT FOR MANUFACTURING DEVALUATION PROPERTY TAX LOSS**

**Conference Committee/Legislature:** Require Commerce to make Wisconsin Development Fund grants of up to a total of \$360,000 in 2007-08 to municipalities that have experienced manufacturing devaluation property tax loss in Wood, Adams, and Portage Counties. Commerce would be required to enter into an agreement with each municipality that specifies the uses for the grant proceeds and reporting and auditing requirements.

[Act 20 Sections: 195 and 9108(10q)]

## **23. GPR BASE LEVEL FUNDING REDUCTION**

**Assembly:** Reduce the adjusted base level GPR funding in the Department's appropriations by 10% and 4.0 GPR positions as shown in the following table:

<u>GPR Appropriation</u>	<u>Appropriation Reductions</u>		<u>Annual</u>
	<u>2007-08</u>	<u>2008-09</u>	<u>Position</u>
			<u>Reductions</u>
Economic development general operations	\$415,300	\$415,300	2.00
Economic development promotion	3,000	3,000	0.00
Aid to Forward Wisconsin	32,000	32,000	0.00
High-technology business development corporation	25,000	25,000	0.00
Rural economic development program	60,700	60,700	0.00
Community-based economic development programs	71,200	71,200	0.00
Minority business development program	25,400	25,400	0.00
Wisconsin development fund	709,800	709,800	0.00
Housing general operations	61,500	61,500	1.00
Housing grants and loans	130,000	130,000	0.00
Shelter for homeless/transitional housing grants	150,600	150,600	0.00
Mental health for homeless	4,500	4,500	0.00
Private sewage system replacement grants	299,900	0	0.00
Administration general operations	<u>142,300</u>	<u>142,300</u>	<u>1.00</u>
Total	\$2,131,200	\$1,831,300	4.00

**Conference Committee/Legislature:** Delete provision.

#### 24. AMERICAN INDIAN LIAISON

**Assembly:** Delete \$112,800 PR annually with 1.0 PR position from tribal gaming revenues to eliminate the American Indian liaison and related funding. Since unspent tribal gaming revenues lapse to the general fund, this would increase GPR revenues by \$112,800, annually.

**Conference Committee/Legislature:** Delete provision.

#### 25. FINANCIAL ASSISTANCE PROGRAM AND REPORT CONSOLIDATION

**Assembly:** Eliminate and consolidate a number of Department of Commerce and other agency financial and technical assistance programs and reports. Specifically, the following programs would be eliminated:

- a. Department of Agricultural and Consumer Protection -- Sustainable agriculture grants.
- b. Wisconsin Housing and Economic Development Authority -- Beginning farmer program.
- c. Department of Commerce -- Minority nonprofit corporation grants; minority incubator grants; industrial building construction loan fund; community-based economic development revolving loan fund grants; rural economic development loans to businesses in low-income areas; minority business finance and education and training grants; gaming economic development grants and loans; and technology-based economic development

technical assistance general functions and information exchange. In addition, authority, to retain WDF funding for administrative costs would be deleted.

Current law economic development reporting requirements would be consolidated to require Commerce to file an annual consolidated report with the Chief Clerk of both houses of the Legislature by October 1, assessing economic development programs administered by the Department including investments that would enhance economic development, industrial revenue bond financing, new business formation, Forward Wisconsin, the Main Street program, clean air act compliance, brownfields grants, Business Employees' Skills Training program, Certified Capital Companies, the business development assistance center, an inventory of entrepreneurial assistance programs, and technology-based economic development activities. The Department would also be required to provide a report to the appropriate legislative standing committees on the disposition of funds from federal housing assistance programs.

In addition, all state agencies would be required to develop clear, measurable goals tied to the grant and loan programs they administer including: (a) establish specific programmatic goals and ensure that each goal is related to specific legislative policy objectives; (b) establish at least one quantifiable benchmark for each program goal; (c) specify in contracts with grant and loan recipients the type of information on actual performance that should be reported, and specifying the frequency and format for reporting requirements; (d) compare information on projected or anticipated results of each goal with actual outcomes; and (e) from a sample of grants and loans, independently verify information contained in the reports annually.

Also, Commerce would be required to include in its annual report; (a) the number of grants and loans awarded; (b) the amount of each grant and loan; (c) the recipient of each award; and (d) the total amount of grants and loans received by each recipient.

**Conference Committee/Legislature:** Delete provision.

## **26. NEW AND EXPANDED TAX CREDIT PROGRAMS**

**Governor/Legislature:** The bill would create or expand a number of programs offering state tax credits for various business activities including: (a) angel investment and early stage seed capital; (b) electronic medical records; (c) enterprise zones jobs; and (d) the Beloit development opportunity zone. Commerce duties relating to these programs include certifying businesses or areas eligible for the credits, monitoring compliance with program requirements and making credit allocations. These programs are described more fully under "General Fund Taxes."

## Housing, Buildings, and Environmental Regulation

### 1. WHEDA SURPLUS TRANSFER FOR HOUSING PROGRAMS

	Governor (Chg. to Base)	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
PR	\$4,000,000	\$2,000,000	\$25,000	\$6,025,000

**Governor:** Direct the Wisconsin Housing and Economic Development Authority (WHEDA) to transfer \$2,000,000 from its unencumbered reserves in 2007-08 and in 2008-09 to the Department of Commerce for housing grants and loans. Create a PR biennial appropriation for this purpose, authorize the payment of housing costs grants and loans from the new appropriation account, and provide expenditure authority of \$2,000,000 in 2007-08 and \$2,000,000 in 2008-09. Repeal this appropriation on June 30, 2009. Further, require Commerce to submit its budget request to the Governor for the 2009-11 biennium as though \$2,000,000 GPR was provided annually for housing grants and loans as base level funding (no GPR is provided for this purpose under the bill).

This provision is similar to a provision in the 2005-07 biennial budget act that required WHEDA to transfer \$3 million in 2005-06 and \$2 million in 2006-07 from its unencumbered reserves, on a one-time basis, to Commerce for housing grants and loans in order to offset equivalent GPR reductions for these purposes. Although 2005 Act 25 required Commerce to submit its 2007-09 budget request as though the \$2,000,000 was provided as GPR for base funding, Commerce did not do so. Rather, the \$2,000,000 PR provided in 2006-07 from WHEDA is removed under standard budget adjustments as noncontinuing funding.

**Joint Finance:** Include provision. Further, direct WHEDA to transfer an additional \$1,000,000 from its unencumbered reserves in each of 2007-08 and 2008-09 to Commerce for shelter for homeless and transitional housing programs. Create a PR biennial appropriation for this purpose, authorize the payment for shelter for homeless and transitional housing programs, and provide expenditure authority of \$1,000,000 in each of 2007-08 and 2008-09. Repeal this appropriation on June 30, 2009.

**Senate:** Increase the transfer from the Wisconsin Housing and Economic Development Authority (WHEDA) from its unencumbered reserves to Commerce for housing grants and loans by \$25,000 in 2007-08. Provide expenditure authority of \$25,000 PR in 2007-08, and specify that Commerce make a grant of \$25,000 to the City of Oshkosh for neighborhood improvement and stabilization. Commerce would enter into an agreement with the City of Oshkosh that specifies the uses for the grant proceeds and reporting and auditing requirements.

**Assembly:** Delete Senate provision. Further, include the Governor's recommendation, but not the Joint Finance modification, related to the additional transfer of Wisconsin Housing

and Economic Development Authority (WHEDA) unencumbered reserves to Commerce for homeless and transitional housing programs.

**Conference Committee/Legislature:** Include Joint Finance and Senate provisions.

[Act 20 Sections: 201 thru 202t, 3025 thru 3028f, 9108(1), 9408(1i)&(2i), and 9424(1i)&(2i)]

**2. AFFORDABLE HOUSING TRUST FUND [LFB Paper 220]**

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	-\$5,702,600	\$5,702,600	\$0
SEG	<u>7,702,600</u>	<u>- 7,702,600</u>	<u>0</u>
Total	\$2,000,000	-\$2,000,000	\$0

**Governor:** Convert \$2,851,300 annually for housing services programs from GPR to the segregated affordable housing trust fund, and provide an additional \$1,000,000 SEG annually for Commerce housing programs. Under the bill, \$3,851,300 SEG annually would be provided for the following housing programs: (a) \$1,300,300 for housing grants and loans (see the preceding entry which also provides \$2,000,000 PR annually for this program as a transfer from WHEDA); (b) \$2,506,000 for shelter for homeless and transitional housing programs; and (c) \$45,000 for mental health services for homeless individuals. The bill would not change the purpose or requirements of the housing programs, but rather, would change the funding source from GPR to SEG and increase overall funding for the programs by \$1 million annually.

Create a segregated affordable housing trust fund, which would consist of moneys transferred from a segregated county aid fund. The county aid fund would receive revenues from the real estate transfer fee. Other entries related to the county aid fund are located under Circuit Courts, Department of Corrections, General Fund Taxes, Miscellaneous Appropriations, and Shared Revenue and Tax Relief.

The current housing programs provide the following types of services. Housing grants and loans provide assistance to organizations, local governments, and local housing authorities to develop capacity to provide new or expanded housing, pay operational costs, perform housing counseling activities, and assist home buyers, homeowner, and renters. Shelter for homeless and transitional housing provides grants to organizations and local governments to operate transitional housing facilities or homeless shelter operations. Mental health services for homeless individuals provide a portion of the 25% non-federal match for the federal Projects for Assistance in Transition from Homelessness program. This program funds local agencies that provide services to people who have serious mental illness and are homeless.

**Joint Finance/Legislature:** Delete provision.



**3. HOUSING PROGRAMS REESTIMATE [LFB Paper 226]**

	<b>Funding</b>	<b>Positions</b>
FED	- \$4,503,800	3.95
PR	- 11,419,800	- 3.95
<b>Total</b>	<b>- \$15,923,600</b>	<b>0.00</b>

**Joint Finance/Legislature:** Delete \$2,251,900 FED and \$5,709,900 PR annually to reestimate the current housing program appropriations, as shown in the table, and convert 3.95 PR positions to FED to correctly reflect the federal source of funding. Further authorize a housing program services PR appropriation to receive funds from entities other than state agencies (such as housing service providers) to reflect current revenue sources. The prior housing program services PR appropriation receives funds from state agencies, and would continue to do so under the act.

**Housing Program Appropriation Reestimates, Annual Amount**

	<u>Governor Amount</u>	<u>Governor Positions</u>	<u>Reestimate Amount</u>	<u>Reestimate Positions</u>	<u>Change to Governor</u>	
					<u>Amount</u>	<u>Positions</u>
<b>Federal</b>						
Housing - federal aid, individuals and organizations	\$35,565,600	0.00	\$23,000,000	0.00	-\$12,565,600	0.00
Housing - federal aid, local assistance	0	0.00	10,000,000	0.00	10,000,000	0.00
Housing - federal aid, operations	<u>845,900</u>	<u>7.25</u>	<u>1,159,600</u>	<u>11.20</u>	<u>313,700</u>	<u>3.95</u>
Subtotal - Federal	\$36,411,500	7.25	\$34,159,600	11.20	-\$2,251,900	3.95
<b>Program Revenue</b>						
Housing program services	\$6,909,900	3.95	\$700,000	0.00	-\$6,209,900	-3.95
Funding for the homeless - interest on real estate trust accounts	<u>0</u>	<u>0.00</u>	<u>500,000</u>	<u>0.00</u>	<u>500,000</u>	<u>0.00</u>
Subtotal - Program Revenue	\$6,909,900	3.95	\$1,200,000	0.00	-\$5,709,900	-3.95
<b>Total, Annual Estimates</b>	\$43,321,400	11.20	\$35,359,600	11.20	-\$7,961,800	0.00
<b>Total Biennial Amount</b>	\$86,642,800		\$70,719,200		-\$15,923,600	0.00

[Act 20 Section: 200m]

**4. REPEAL REQUIREMENT TO PROVIDE EDUCATION REGARDING CONSTRUCTION STANDARDS [LFB Paper 221]**

**Governor:** Repeal the statutory requirements that Commerce: (a) contract with a private organization to provide education for builders of dwellings (one- and two-family homes) about construction standards and inspection requirements; (b) contract with a private organization to provide education regarding business practices to builders of dwellings, and allocate \$100,000 annually for the contract; and (c) contact with a private organization to provide education for consumers about the home building process, and allocate at least \$600,000 annually for the contract. Maintain authorization for Commerce to enter into a contract for education, under item (a) above, with an organization that is described in section 501 (c)(6) of the Internal Revenue Code and is exempt from federal income tax. The requirement in (a) existed prior to 2005 Act 25. In 2005 Act 25, requirements (b) and (c) were created, with \$650,000 in 2005-06 and \$700,000 in 2006-07 provided in the Safety and Buildings program revenue operations appropriation. The \$700,000 in base funding would remain under the bill. The administration

indicates that Commerce could choose to use the \$700,000 for contracts or other purposes of the Division, or that it could be used to help meet the bill's requirements that agencies lapse funds to the general fund.

**Joint Finance/Legislature:** Delete provision.

## 5. DISPLAY OF BUILDING PERMITS

**Joint Finance:** Require that, if a person is required to display more than one building permit at a building or building site, under Chapter 101 or 145 requirements, or administrative rules or local ordinances promulgated under those requirements, all of the building permits must be displayed at the same location at the building or building site.

**Assembly/Legislature:** Delete provision.

## 6. REGULATION OF ELEVATOR MECHANICS AND ELEVATORS

**Joint Finance:** Direct that the Department of Commerce issue an elevator mechanic's license under s. 101.985 to each individual who satisfies one of the following:

a. Meets both of the following: (1) during the three years preceding the date of application, was continuously employed in a position requiring the individual to perform work that is at a journeyman level and that is relevant to the erection, construction, alteration, replacement, maintenance, repair, removal, or dismantling of conveyances, as verified by the individual's employers; and (2) satisfactorily completes a written examination administered by the Department covering the provisions of this subchapter, and rules promulgated under this subchapter, that are relevant to the license applied for or satisfactorily completes an elevator mechanic's examination approved by the Department and administered by a nationally recognized training program established by the elevator industry.

b. Satisfactorily completes an elevator mechanic's apprenticeship program that is approved by the U.S. Department of Labor or by the Department of Workforce Development.

Delete the requirement that the individual applying for the elevator mechanics license would have to demonstrate to the satisfaction of the Department that the person is adequately qualified and able to perform the work of an elevator mechanic.

2005 Wisconsin Act 456 was enacted May 25, 2006, and many of the provisions go into effect June 1, 2007. Act 456 regulates elevators, escalators, and other similar conveyances, under which the Department would issue an elevator mechanic's license to each individual who satisfies all of the conditions listed above under (a) and (b), and would also have to meet the requirement that would be deleted under the bill.

**Assembly:** Include Joint Finance provisions related to regulation of elevator mechanics. Further, include the provisions of Assembly Substitute Amendment 1 to 2007 Assembly Bill 358,

which would modify provisions of 2005 Wisconsin Act 456, related to regulation of elevators as follows:

a. Exclude an elevator dumbwaiter, stairway chair lift, platform lift, conveyance, or other residential lift in a private residence from the provisions of 2005 Act 456. Act 456 would require that these types of conveyances in private residences be subject to safety code, and licensing and permitting requirements. Act 456 would also require that the owner of a conveyance in a private residence provide Commerce with an inspection report from a licensed elevator inspector demonstrating compliance with the conveyance statute and rules.

b. Delay, from June 1, 2007, to June 1, 2008, the date on which the licensing and permitting requirements of 2005 Act 456 go into effect. Act 456 requires that elevator contractors and mechanics be licensed by Commerce, and that elevators, escalators, and similar conveyances be issued a permit by Commerce before installation, alteration, or operation.

c. Authorize, rather than require, Commerce to promulgate emergency rules to implement Act 456, and delete the deadline for Commerce to promulgate the emergency rules. Act 456 required Commerce to promulgate emergency rules by February 1, 2007. Commerce promulgated emergency rules effective June 1, 2007, and is in the process of promulgating permanent rules.

d. The owner or lessee of any conveyance in operation on June 1, 2008, would have to obtain the required operation permit no later than January 1, 2009. Under 2005 Act 456, the owner or lessee of any conveyance in operation on June 1, 2007, would have to obtain the required operation permit no later than January 1, 2008.

**Conference Committee/Legislature:** Delete Assembly modification. (Include Joint Finance provision.)

[Act 20 Sections: 2641b thru 2641r]

**7. CONSTRUCTION CAREER ACADEMY GRANT PROGRAM**

PR	\$250,000
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**Joint Finance/Legislature:** Direct the Department of Commerce to create a Construction Career Academy Grant Program to provide grants to organizations to implement programs to provide high school students with training in construction-related careers. Include the following components:

a. Provide \$250,000 in 2007-08 in a biennial appropriation from Safety and Buildings Division general program revenues.

b. Authorize organizations to apply for grants to operate Construction Career Academies which: (1) combine a multi-year high school program with industry concepts into core academic areas; (2) include work experience in the construction-related industries; (3) develop a learning community; and (4) coordinate classroom credits with the Wisconsin

Technical College System or four-year colleges.

c. The grant recipient organization could receive a grant of up to \$900 per student in the local program for purchasing of materials, funding of field trips, equipment purchases, facility improvements, or other program specific needs.

d. The grant recipient organization could also receive a grant of up to \$50,000 for development of core curriculum, professional development, or other administrative needs of the organization. Commerce would be required to determine the amount of administrative funds that each grant recipient organization could receive.

e. Direct Commerce to establish eligibility criteria for grants, which include the following requirements: (1) a minimum three-year commitment between a high school, local business partner or sponsoring organization and a technical college or four-year university; (2) the grant recipient shall provide matching funds equal to 50% of the grant award amount; (3) the project must include a work experience component; and (4) students are awarded a certificate of recognition for completing the Construction Career Academy plan of study.

f. Direct Commerce to promulgate administrative rules for the program. Direct Commerce to consult with the Department of Public Instruction regarding the curriculum that grant recipients would be required to use. Require Commerce to submit proposed administrative rules to the Legislative Council staff for review by December 31, 2007.

[Act 20 Sections: 206e, 206f, 2634e, and 9108(2c)]

**8. GRANT TO CREX MEADOWS YOUTH CONSERVATION CAMP**

PR	\$80,000
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**Joint Finance:** Provide \$80,000 in 2007-08 in a biennial appropriation from Safety and Buildings Division general program revenues. Require Commerce to provide the \$80,000 as a grant for the Crex Meadows Youth Conservation Camp in Grantsburg (Burnett County). Require Commerce to provide the grant for the Crex Meadows Youth Conservation Camp in increments of \$40,000. Require the grant recipient to provide matching funds of \$10,000 for each \$40,000 grant received. Commerce would distribute each \$40,000 grant increment when the grant recipient demonstrates that it has contributed \$10,000 in matching funds. The Crex Meadows Youth Conservation Camp provides opportunities for certain high school-aged youth to work for wages in a camp setting with the Department of Natural Resources (DNR) to complete community-based projects. Each participant is mentored through DNR and Crex Camp staff.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

[Act 20 Sections: 206e, 206g, and 9108(3d)]

## **9. HEATED PEDESTRIAN WALKWAYS**

**Assembly:** Include the provisions of 2007 AB 229, which would eliminate the prohibition on heated exterior pedestrian walkways, including sidewalks, ramps, stairs, stoops, steps, entrance ways, plazas or pedestrian bridges not fully enclosed within a building. The current prohibition has been in existence since 1980.

**Conference Committee/Legislature:** Delete provision.

## **10. AUTOMATIC FIRE SPRINKLER SYSTEMS IN MULTIFAMILY DWELLINGS AND COMMUNITY-BASED RESIDENTIAL FACILITIES**

**Assembly:** Change the requirements for automatic fire sprinkler and fire resistance building materials in multifamily dwellings and community-based residential facilities (CBRFs) in the following ways:

a. Eliminate the minimum floor area requirements in multifamily dwellings for the sprinkler requirements to apply. Currently, the minimum requirements for sprinkler requirements include a total floor area of the dwelling units which exceeds 16,000 square feet, and a floor space of the common areas which exceeds a certain square footage based on the type of construction used in the complex.

b. Reduce the threshold number of multifamily dwelling units for which sprinklers are required from 21 to 13. Currently, a multifamily dwelling must have an automatic sprinkler system or two-hour fire resistance if it has more than 20 units.

c. Specify that the sprinkler requirements apply only to multifamily dwellings with more than 12 units that are served by a public water supply that has adequate pressure for the sprinklers and the fire resistance requirements only apply to complexes with more than 12 units that are not served by a public water system with adequate pressure for fire sprinklers.

d. Prohibit Commerce from requiring an automatic sprinkler system or two-hour fire resistance in any multifamily dwelling that has 12 or fewer dwelling units.

e. Specify that the changes in (a) through (d) take effect two years after enactment (first day of the 25<sup>th</sup> month).

f. Require that a CBRF that is initially licensed two years after the effective date of the bill must be equipped with a National Fire Protection Association 13, 13R, or 13D automatic sprinkler system, as specified in the most current automatic sprinkler systems handbook of the National Fire Protection Association, unless exempted by the Department of Health and Family Services under standards that DHFS would specify by rule. The sprinkler system would have to be equipped with residential sprinkler heads in all bedrooms, apartments, other habitable

rooms, and corridors of the CBRF and would have to be connected to the fire alarm system of the CBRF.

g. Repeal the authority of local units of government to enact or enforce ordinances that impose requirements for automatic fire sprinkler systems or fire resistance materials, including ordinances grandfathered in under current law that were in effect when the current sprinkler requirements were originally enacted. Currently, local governments are authorized to enact local ordinances that meet the state fire sprinkler systems, or that are stricter in that they cover a multifamily dwelling that is smaller in size than 21 units under the state requirements. The local ordinances grandfathered in under current law or applying to smaller multifamily dwellings would not apply when the changes in (a) through (d) take effect two years after enactment.

h. Require that a multifamily dwelling or a CBRF must be constructed so that any exterior point at the ground level of the multifamily dwelling or CBRF is not farther than 250 feet from a driveable surface. The driveable surface may not be paved unless the lack of pavement is impracticable. In addition, any interior point in the multifamily dwelling or CBRF may not be farther than 100 feet from the nearest emergency exit. For multifamily dwellings, the effective date would be dwellings for which initial construction is begun on or after the day after the effective date of the budget bill. (Current law and the provision do not define "initial construction.") For CBRFs, the effective date would be CBRFs for which initial construction is begun on or after the first day of the seventh month after the effective date of the budget bill.

i. Require that Commerce maintain records for each fire that involves a building and that results in one or more fatalities, which include all of the following information: (1) the age of the building; (2) what the building was used for; (3) the cause of the fire; and (4) any other relevant information concerning the building, as determined by Commerce. Currently, Commerce is required to maintain records of all fires occurring in the state, but the statutes do not specify what information must be included in the records.

**Conference Committee/Legislature:** Delete provision.

## **11. REPEAL PRIVATE SEWAGE SYSTEM GRANT PROGRAM**

**Assembly:** Delete \$2,999,000 GPR in 2008-09 and repeal the private sewage system replacement or rehabilitation grant program effective July 1, 2008. The program would provide grants in 2007-08, but would not provide grants beginning in 2008-09.

Grants are currently provided to assist eligible households and small business owners to cover a portion of the cost of repairing or replacing failing private sewage systems. The property owner is eligible for financial assistance if: (a) the system was installed before July 1, 1978; (b) the dwelling is not located in an area served by a municipal sewer; (c) the residence or small commercial establishment is occupied at least 51% of the year by the owner; (d) the annual family income of a residential property owner does not exceed \$45,000; (e) a small commercial establishment must have maximum daily wastewater flow rate of less than 5,000

gallons per day, the business is owner-occupied, and the gross revenue of the business does not exceed \$3652,500; and (f) the private sewage system failed by discharging sewage to surface water, groundwater, drain tiles, bedrock, zones of saturated soils or to the surface of the ground. In 2006-07, 829 grants were awarded totaling \$3,051,900 with an average grant of \$3,681. Since the program's creation in 1978-79, it has awarded \$83.2 million to assist over 36,100 residential owner-occupants and owners of small commercial establishments in replacing or repairing their private sewage system.

**Conference Committee/Legislature:** Delete provision.

**12. TRANSFER FROM THE PETROLEUM INSPECTION FUND TO THE GENERAL FUND [LFB Paper 222]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
GPR-REV	\$4,000,000	-\$4,000,000	\$0

**Governor:** Transfer \$4,000,000 in 2007-08 from the petroleum inspection fund to the general fund. The petroleum inspection fund primarily receives revenue from the 2¢ per gallon petroleum inspection fee that is assessed on all petroleum products that enter the state, including gasoline, diesel and heating oil. The first use of petroleum inspection fees is payment of debt service for revenue obligations that were issued to provide funds for the petroleum environmental cleanup fund award (PECFA) program. Remaining revenues are used for PECFA claims and several other programs.

**Joint Finance:** Delete provision.

**Senate:** Transfer \$14,576,500 in 2008-09 from the petroleum inspection fund to the general fund.

**Assembly/Legislature:** Delete provision.

**13. PECFA AWARDS [LFB Paper 222]**

SEG	-\$35,200,000
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**Governor/Legislature:** Decrease the PECFA program awards appropriation by \$17,600,000 SEG annually to provide \$20.0 million each year in the biennial appropriation for PECFA claims. The PECFA program reimburses owners and operators for a portion of the cleanup costs of discharges from petroleum product storage tank systems and home heating oil tank systems. PECFA awards are paid from a portion of the 2¢ per gallon petroleum inspection fee that is deposited in the segregated petroleum inspection fund. While \$37.6 million is appropriated for PECFA awards in 2006-07, it is anticipated that expenditures will be \$21.3 million.

**14. PECFA REVENUE OBLIGATION BONDING AUTHORITY**  
[LFB Paper 222]

BR	- \$49,076,000
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**Joint Finance/Legislature:** Delete \$49,076,000 in currently authorized, but unissued, PECFA revenue obligation bonding authority.

[Act 20 Section: 2629]

**15. PECFA PROGRAM SUNSET** [LFB Paper 222]

**Joint Finance/Legislature:** Specify the following to begin to phase-out the PECFA program:

a. Require that if the owner or operator does not notify Commerce of the initial petroleum product discharge by January 1, 2009, the site would not be eligible for PECFA reimbursement.

b. Require that if the owner or operator does not begin investigation or remedial activities by December 30, 2009, the site would not be eligible for PECFA reimbursement.

c. Require that any claim for reimbursement must be submitted within 12 months after DNR or Commerce determine that no further action is necessary at the site, or the costs would not be eligible for PECFA reimbursement, effective with no further action letters issued on or after the effective date of the bill.

d. Authorize Commerce and DNR to determine that no further action is necessary at a site, even if the site owner does not request the agency to make the determination, and that no cleanup costs incurred after the date that the agency notifies the owner of the determination would be eligible for PECFA reimbursement.

e. Require that an owner or operator must submit a claim for reimbursement within 365 days after incurring the eligible costs, or by the first day of the 13th month after the effective date of the budget, whichever is later, if at least \$50,000 in unreimbursed PECFA costs have been incurred, or else those costs would no longer be eligible for reimbursement. (This would not end PECFA eligibility for the site.)

**Veto by Governor [B-2]:** Delete provision.

[Act 20 Vetoed Sections: 2616c thru 2622p, and 9308(2f)]

**16. REPORT ON PECFA SITES AND PRIVATE INSURANCE**

**Assembly:** Direct Commerce to prepare a report related to the petroleum environmental cleanup fund award (PECFA) program, with the assistance of DNR, and to submit the report to the Legislature and Governor by October 1, 2008. Direct that the report include the following



information: (a) the number of PECFA sites closed with residual contamination since the PECFA program began; (b) the amount of residual contamination and conditions at each PECFA site closed with residual contamination, at the time that Commerce or DNR issued the determination that no further action was required at the site; (c) an estimate of the cost of testing all PECFA sites closed with residual contamination to determine the extent to which the residual contamination has changed since the site was closed; (d) the extent to which insurance offered by the private market for petroleum underground storage tanks differs from the coverage and benefits provided by the PECFA program, and how those differences impact the ability of petroleum underground storage tank owners or operators to operate their business; and (e) an analysis of the feasibility of developing a public and private petroleum underground storage tank risk financing program to pay for the cost of remediating future petroleum releases at closed PECFA sites.

**Conference Committee/Legislature:** Delete provision.

#### **17. USE OF PETROLEUM INSPECTION FUND**

**Assembly:** Direct that, in each year in which petroleum inspection revenue obligations are outstanding, DOA and Commerce shall periodically determine whether the balance in the petroleum inspection fund exceeds the amount necessary to make all of the expenditures required under the fund, and, if so, DOA shall expend the excess to retire outstanding petroleum inspection revenue obligations. Further, specify that petroleum inspection fund revenues that are not appropriated may not be transferred to any other funds or to any appropriation in any other fund. Finally specify petroleum inspection fund revenues may not be appropriated for purposes other than those currently made.

**Conference Committee/Legislature:** Delete provision.

#### **18. PECFA PAYMENTS FOR ABANDONED TANK REMOVAL [LFB Paper 223]**

**Governor:** Authorize Commerce to use the petroleum environmental cleanup fund award (PECFA) appropriation to pay for the removal of certain underground petroleum storage tanks.

Commerce would be authorized to contract with a certified tank removal contractor for the costs of emptying, cleaning, removing, and disposing of a tank that has not been properly closed, and to backfill the excavation, if any of the following applies: (a) the Department is unable to identify the owner of, or other person responsible for, the underground petroleum product storage tank system; (b) the Department determines, in the same way that it determines eligibility for waiver of the deductible due to financial hardship, that the owner of the underground petroleum product storage tank system is unable to pay for the activities; or (c) the Department determines that the owner or responsible party is unwilling to pay for the activities.

Under the bill, up to \$250,000 annually from the PECFA awards appropriation would be set aside for payment of the eligible tank removal costs. Any portion of the \$250,000 set aside that would not be used to pay for removal of abandoned tanks would be available for currently authorized PECFA payments.

Commerce estimates the average cost of removing a tank would be approximately \$2,500 to \$3,000, and that approximately 75 to 100 tanks could be removed annually under the provision. Commerce estimates that fewer than 10% (740) of the over 7,400 abandoned tanks on the Department's database may qualify for payments under the provision.

If the Department pays for removal of the tank, Commerce would be required to record a lien on the property with the register of deeds, and the property would remain subject to the lien until the amount is paid in full. Any payments received by Commerce from persons who make repayments in order to remove the lien would be deposited in the petroleum inspection fund.

**Joint Finance/Legislature:** Delete provision.

#### **19. PECFA ALTERNATIVE REIMBURSEMENT METHOD [LFB Paper 224]**

**Governor:** Authorize Commerce to create an alternative reimbursement method of paying for cleanup expenses under the PECFA program. Currently, the PECFA program reimburses owners or operators (claimants) for cleanup expenses after the owner or operator has paid for the cleanup costs. Under the bill, Commerce would be allowed to authorize an owner or operator to submit a claim to the Department for an award to be paid by the Department directly to consultants and contractors with whom the Department contracts to: (a) conduct an investigation to determine the extent of environmental damage caused by a petroleum product discharge from a petroleum product storage system or home oil tank system; (b) prepare a remedial action plan that identifies specific remedial action activities proposed to be conducted; and (c) conduct remedial action activities at the site of the discharge from the petroleum product storage system or home oil tank system. If Commerce determines that the owner or operator is eligible to submit a claim for costs to be paid to consultants and contractors, Commerce may approve the claim, contract with consultants and contractors for the investigation, remedial action plan, and remedial action activities, and pay the award to the service providers.

A consultant or contractor would not be eligible to receive an award under the bill for compensation to third parties for bodily injury and property damage caused by a petroleum products discharge from an underground petroleum product storage tank system. Currently, an owner or operator can receive reimbursement for such compensation.

The following current requirements would apply to a consultant or contractor receiving an award under the provision, instead of the owner or operator: (a) investigation of the extent of environmental damage caused by the petroleum product discharge; (b) recovery of any recoverable petroleum products from the tank; (c) disposal of any residual solid or hazardous

waste consistent with local, state and federal laws; and (d) groundwater restoration consistent with DNR groundwater rules, and restoration of the environment, to the extent practicable, according to the standards required for the site.

Commerce anticipates that the alternate payment method might be used: (a) at sites where the owner or operator is not able to obtain financing to undertake or complete cleanup work at the site; (b) when an owner or operator prefers that Commerce, rather than the owner or operator, enter into the contract for cleanup activities; or (c) when Commerce wants to take a more active role in managing cleanup activities at a specific site.

**Joint Finance/Legislature:** Delete provision.

## 20. PENALTIES FOR VIOLATIONS OF HAZARDOUS SUBSTANCE TANK REGULATIONS

**Governor/Legislature:** Increase the maximum civil penalty (forfeiture) that may be assessed to \$5,000, from the current \$1,000, for violations of regulations for tanks that store flammable, combustible, and hazardous liquids, including petroleum (each day of continued violation is a separate violation). In addition, increase the maximum forfeiture to \$5,000 (from \$2,000) for each day of violation of requirements that any owner or operator maintain records required by PECFA program rules. The U.S. Environmental Protection Agency removed \$50,000 from the federal leaking underground storage tank grant to Commerce in each of federal fiscal years 2005, 2006, and 2007, and withheld approval of state program approval status for state administration of federal tank regulations, because the state does not assess penalties of up to \$5,000 or more for each day of violation.

[Act 20 Sections: 2614 and 2630]

## 21. DIESEL TRUCK IDLING REDUCTION GRANT PROGRAM

SEG	\$2,000,000
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**Joint Finance:** Make the following changes in the diesel truck idling reduction grant program:

a. Provide an additional \$1,000,000 petroleum inspection fund SEG each year of the 2007-09 biennium for the grant program, to provide a total of \$2,000,000 SEG annually. This increase would be one-time funding in the 2007-09 biennium.

b. Change the percentage of eligible costs paid as a grant by the program to 50% (instead of the current 70%) and the percentage of eligible costs paid by the applicant to 50% (instead of the current 30%).

c. Specify that the maximum number of idling reduction units for which an applicant may receive grants is a cumulative maximum for grants awarded beginning in 2007-08 and including all grants awarded through 2010-11.

d. Specify that if the applicant owns and operates at least: (a) 501 but not more than 2,500 eligible truck tractors, the applicant could receive a grant for the greater of 30 (instead of 25 currently) units or 5% of the number of eligible truck tractors; and (b) if the applicant owns and operates at least 2,501 eligible truck tractors, the applicant could receive a grant for the greater of 125 units, or 3% of the number of eligible truck tractors (instead of the current 3%). This would increase the number of eligible units for applicants with 2,501 to 4,167 truck tractors to 125 units (the same number an applicant with 2,500 truck tractors is currently allowed).

The diesel truck idling reduction grant program was created in 2005 Act 25 (the 2005-07 biennial budget act) to provide grants to common, contract and private motor carriers that transport freight and are headquartered in Wisconsin, for the purchase and installation of idling reduction units. An idling reduction unit is a device that is installed on a diesel truck tractor to reduce the long-duration idling of the truck by providing heat, air conditioning, or electricity to the truck while the truck is stationary and the main drive engine of the truck is not operating. Truck tractors are eligible for grants if they contain a post-1998 diesel truck engine that complies with federal air pollutant emission standards promulgated by the U.S. Environmental Protection Agency. Use of the idling reduction unit must result in a decrease in the emissions of one or more air contaminant, or in a decrease in the use of energy by the truck tractor on which the idling reduction unit is installed. The grant program is authorized \$1,000,000 SEG annually from the petroleum inspection fund, beginning in 2006-07. Commerce is authorized to make grants for five fiscal years beginning on July 1, 2006, and ending on June 30, 2011.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

[Act 20 Sections: 3564p thru 3564t]

**22. FIRE DUES DISTRIBUTION [LFB Paper 227]**

PR	\$1,060,000
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**Joint Finance/Legislature:** In order to reflect anticipated revenues, reestimate the appropriation for fire dues distribution to local fire departments from \$14,100,000 to \$14,390,000 in 2007-08 (an increase of \$290,000) and \$14,870,000 in 2008-09 (an increase of \$770,000).

Further, require that the unencumbered balance in the Wisconsin Technical College System operations appropriation revert back to the fire dues distribution appropriation at the end of each fiscal year (beginning June 30, 2008). Any lapsed amounts would be available for distribution to fire departments in the following year.

[Act 20 Sections: 265m and 9346(3k)]

## CORRECTIONS

<b>Budget Summary</b>							
Fund	2006-07 Base Year Doubled	2007-09 Governor	2007-09 Jt. Finance	2007-09 Legislature	2007-09 Act 20	Act 20 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$1,872,798,800	\$2,161,081,400	\$2,154,424,300	\$2,167,424,300	\$2,167,424,300	\$294,625,500	15.7%
FED	5,179,800	5,179,800	5,179,800	5,179,800	5,179,800	0	0.0
PR	263,766,400	279,413,100	280,056,800	280,056,800	280,056,800	16,290,400	6.2
SEG	<u>576,400</u>	<u>18,290,200</u>	<u>17,390,200</u>	<u>590,200</u>	<u>590,200</u>	<u>13,800</u>	2.4
<b>TOTAL</b>	<b>\$2,142,321,400</b>	<b>\$2,463,964,500</b>	<b>\$2,457,051,100</b>	<b>\$2,453,251,100</b>	<b>\$2,453,251,100</b>	<b>\$310,929,700</b>	<b>14.5%</b>

<b>FTE Position Summary</b>						
Fund	2006-07 Base	2008-09 Governor	2008-09 Jt. Finance	2008-09 Legislature	2008-09 Act 20	Act 20 Change
						Over 2006-07 Base
GPR	9,249.62	9,493.87	9,494.22	9,494.22	9,494.22	244.60
FED	0.00	0.00	0.00	0.00	0.00	0.00
PR	917.07	880.35	895.65	895.65	895.65	- 21.42
SEG	<u>2.00</u>	<u>2.00</u>	<u>2.00</u>	<u>2.00</u>	<u>2.00</u>	<u>0.00</u>
<b>TOTAL</b>	<b>10,168.69</b>	<b>10,376.22</b>	<b>10,391.87</b>	<b>10,391.87</b>	<b>10,391.87</b>	<b>223.18</b>

### Budget Change Items

### Departmentwide

#### 1. STANDARD BUDGET ADJUSTMENTS [LFB Paper 228]

	Governor (Chg. to Base)		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	\$167,121,800	- 5.00	-\$961,500	0.00	\$166,160,300	- 5.00
PR	14,733,100	- 6.00	- 74,600	0.00	14,658,500	- 6.00
SEG	<u>10,000</u>	<u>0.00</u>	<u>0</u>	<u>0.00</u>	<u>10,000</u>	<u>0.00</u>
<b>Total</b>	<b>\$181,864,900</b>	<b>- 11.00</b>	<b>-\$1,036,100</b>	<b>0.00</b>	<b>180,828,800</b>	<b>- 11.00</b>

**Governor:** Provide \$91,042,000 and -4.25 positions in 2007-08 (\$83,624,700 GPR, \$7,412,300 PR and -4.25 PR positions, and \$5,000 SEG) and \$90,822,900 and -11.0 positions in 2008-09 (\$83,497,100 GPR and -5.0 GPR positions, \$7,320,800 PR and -6.0 PR positions, and \$5,000 SEG) for standard budget adjustments as follows: (a) turnover reduction of -\$8,394,200 GPR and -\$669,200 PR annually; (b) removal of non-continuing elements from base of -\$88,400 GPR and -\$222,500 PR and -4.25 PR positions in 2007-08, and -\$216,000 GPR and -5.0 GPR positions and -\$332,000 PR and -6.0 PR positions in 2008-09; (c) full funding of continuing salaries and fringe benefits of \$59,628,700 GPR and \$5,887,900 PR annually; (d) reclassifications of \$3,400 GPR annually; (e) overtime of \$24,672,700 GPR, \$1,889,300 PR, and \$4,900 SEG in 2007-08 and \$24,672,700 GPR, \$1,907,300 PR, and \$4,900 SEG in 2008-09; and (f) night and weekend differential of \$7,802,500 GPR, \$526,800 PR, and \$100 SEG annually. It should be noted that with overtime and night and weekend differential, these costs are removed when calculating full funding of salaries and fringe benefits. Thus, funding for overtime and night and weekend differential represent the estimated total funding for these items (not an increase from base funding).

**Joint Finance/Legislature:** Modify the Governor's recommendation by -\$482,100 GPR and -\$37,100 PR in 2007-08 and -\$479,400 GPR and -\$37,500 PR in 2008-09 associated with overtime funding.

2. RENT [LFB Paper 102]

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
GPR	\$2,384,400	-\$1,106,300	\$1,278,100
PR	76,200	0	76,200
Total	\$2,460,600	-\$1,106,300	\$1,354,300

**Governor:** Provide \$1,044,700 GPR and \$15,200 PR in 2007-08 and \$1,339,700 GPR and \$61,000 PR in 2008-09 for rental costs on a departmentwide basis. Funding would be divided as follows: (a) Division of Management Services (\$844,300 GPR and -\$66,700 PR in 2007-08 and \$964,000 GPR and -\$44,100 PR in 2008-09); (b) Division of Adult Institutions (-\$2,500 GPR and \$76,800 PR in 2007-08 and -\$2,300 GPR and \$83,300 PR in 2008-09); (c) Division of Community Corrections (\$201,800 GPR and \$1,300 PR in 2007-08 and \$376,500 GPR and \$2,500 PR in 2008-09); (d) Secretary's Office (\$900 GPR in 2007-08 and \$1,000 GPR in 2008-09); (e) Parole Commission (\$1,900 GPR in 2007-08 and \$2,000 GPR in 2008-09); and (f) Division of Juvenile Corrections (-\$1,700 GPR and \$3,800 PR in 2007-08 and -\$1,500 GPR and \$19,300 PR in 2008-09).

**Joint Finance/Legislature:** Reduce funding by -\$544,200 GPR in 2007-08 and -\$562,100 GPR in 2008-09 as a result of receiving rent reimbursements from the Department of Administration.

**3. DEBT SERVICE REESTIMATES [LFB Paper 175]**

GPR	- \$54,400
PR	26,900
Total	- \$27,500

**Governor/Legislature:** Provide \$439,100 GPR and -\$121,000 PR in 2007-08 and -\$493,500 GPR and \$147,900 PR in 2008-09 to reflect a reestimate of debt service costs in the Department. The reestimates include: (a) adult corrections, \$62,100 GPR in 2007-08 and -\$893,400 GPR in 2008-09; (b) juvenile corrections, \$377,000 GPR in 2007-08 and \$399,900 GPR in 2008-09; and (c) Badger State Industries, -\$121,000 PR in 2007-08 and \$147,900 PR in 2008-09.

In total, debt services for Corrections would be: (a) adult corrections, \$74,592,500 GPR in 2007-08 and \$73,637,000 in 2008-09; (b) juvenile corrections, \$4,877,500 GPR in 2007-08 and \$4,900,400 GPR in 2008-09; and (c) Badger State Industries, \$117,600 PR in 2007-08 and \$386,500 PR in 2008-09.

**4. FUEL AND UTILITIES REESTIMATES**

GPR	\$8,375,700
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**Governor/Legislature:** Provide \$3,634,300 in 2007-08 and \$4,741,400 in 2008-09 for estimated fuel and utilities costs in the Division of Adult Corrections. Current base funding for fuel and utilities is \$24,791,300 GPR.

**5. RESTORE POWER PLANT POSITIONS [LFB Paper 104]**

**Governor:** Provide 20.25 GPR positions and 24.0 PR positions associated with correctional power plants. Of the positions, 20.25 GPR positions and 19.0 PR positions are associated with adult corrections, while 5.0 PR positions are associated with juvenile corrections. The positions were deleted in the 2005-07 biennial budget act, however funding for the positions remained in the Department's base budget. [See "Administration -- General Agency Provisions."]

**Joint Finance/Legislature:** Delete provision. The power plant positions that were recommended by the Governor were provided under 2007 Wisconsin Act 5. These position counts (20.25 GPR and 24.0 PR positions annually) will be reflected in the adjusted base position counts.

**6. PROGRAM REVENUE REESTIMATES -- DEPARTMENTWIDE**

PR	- \$88,600
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**Governor/Legislature:** Provide \$9,200 in 2007-08 and -\$97,800 in 2008-09 associated with the following program revenue reestimates: (a) -\$22,800 in 2007-08 and -\$129,800 in 2008-09 associated with supplies and services in the administration of restitution appropriation; and (b) \$32,000 annually for increased sex offender honesty testing costs.

**7. CONSOLIDATION OF EXECUTIVE BRANCH ATTORNEYS AND LEGAL STAFF UNDER DOA [LFB Paper 110]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
GPR	-6.50	6.50	0.00
PR	<u>-0.30</u>	<u>0.30</u>	<u>0.00</u>
Total	-6.80	6.80	0.00

**Governor:** Delete 7.50 GPR and 0.30 PR classified positions and create 1.0 unclassified position in 2008-09 to reflect the consolidation of the agency's attorneys and legal staff under DOA, effective July 1, 2008. Reallocate \$790,400 GPR and \$15,400 PR in 2008-09 from budgeted salaries and fringe benefits to the agency's supplies and services budget to pay for legal services supplied by DOA. Authorize the Secretary of DOA to identify one attorney position in Corrections as general counsel for the agency. The general counsel position would be funded from base level salary and fringe benefits amounts associated with the position identified by the Secretary of DOA.

Specify that all transferred attorneys and legal staff would have the same rights and status as in the agency in which they originated. Specify that attorneys and legal staff that have obtained permanent status would not have to undergo a probationary period in DOA. Provide that all equipment, supplies, and furniture related to the duties of the transferred employees, as specified by the Secretary of DOA, must be transferred to DOA on July 1, 2008. [See "Administration -- Transfers to the Department."]

**Joint Finance:** Delete provision.

**Senate:** Restore provision with the following modifications: (a) specify that the lead attorneys would be under classified service; (b) exempt the board on Aging and Long-Term Care, the Department of Military Affairs, and the Department of Public Instruction from the consolidation.

**Assembly/Legislature:** Delete provision.

**8. INFORMATION TECHNOLOGY POSITIONS**

	<b>Funding</b>	<b>Positions</b>
GPR	-\$540,800	20.00

**Governor/Legislature:** Provide 20.0 positions annually to replace contracted consults in the Department's information technology (IT) operations. Delete \$1,321,100 in 2007-08 and \$1,761,400 in 2008-09 from supplies and services, and provide \$1,089,300 in 2007-08 and \$1,452,400 in 2008-09 for salary and fringe benefit costs for the requested 20.0 positions. In total, funding would be reduced by \$231,800 in 2007-08 and \$309,000 in 2008-09. The positions would replace IT consulting staff performing such functions as IT systems development, IT supervision, applications specialist, applications development, and help desk services. The positions would replace 29 contractors utilized by the Department.



**9. REASSIGN EXECUTIVE POSITION TO NEW EXECUTIVE SALARY GROUP LEVEL**  
[LFB Paper 606]

**Governor:** Reassign the executive salary group (ESG) classification of the Department of Corrections Secretary from ESG 6 to ESG 8. Under current law, state agency executive positions are assigned to one of ten 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. Currently, the annual salary range for ESG 6 is from \$82,864 to \$128,441. The range for ESG 8 is from \$96,654 to \$149,814. The Governor's provision would affect other executive positions in a number of state agencies. [See "Office of State Employment Relations."]

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

[Act 20 Section: 623]

**10. ELIMINATE VACANT GPR POSITIONS**

**Assembly:** Delete \$1,794,900 and 25.83 positions annually associated with the salary and fringe benefits of GPR positions which are been vacant for 12 months or more.

**Conference Committee/Legislature:** Delete provision.

**11. DELETE ADMINISTRATIVE FUNDING**

**Assembly:** Delete \$12.6 million GPR annually associated with administrative funding. Create non-statutory language specifying that the funding reductions cannot be made from funding for: (a) correctional facilities; (b) contract bed funding; (c) the sex offender registry; (d) GPS tracking of child sex offenders; (e) the monitoring center; and (f) probation, parole, and extended supervision. The funding deletion represents a 30% reduction to administrative costs under the Department.

**Conference Committee/Legislature:** Delete provision.

**12. DELETE FUNDING FOR EXECUTIVE ASSISTANT SALARY AND FRINGE BENEFITS**

**Assembly:** Delete \$159,600 GPR annually associated with the salary and fringe benefits for the Department's executive assistant position. Allow the Department to retain the currently authorized position. As a result, Corrections would be required to fund the position utilizing base resources.

**Conference Committee/Legislature:** Delete provision.

### 13. CONTRACTING FOR HEALTH CARE SERVICES

**Assembly:** Require the Department of Corrections to solicit requests for proposals (RFPs) for contracting for departmentwide health care services. Specify that, if cost savings would result from contracting, the Department must contract for health care services. Require that any contractor be an accredited correctional health care provider and that each institution at which contracted services are provided must also meet accreditation standards. Direct the Department to provide the Joint Committee on Finance and the appropriate standing committee in each house with a copy of the RFP for health care services when it is issued. Further, specify that when a bid is selected, or when all bids are rejected, the Department must notify the Joint Committee on Finance and the appropriate standing committee in each house, and provide a complete copy of all submitted bids. If all RFPs are rejected, direct the Department to report to the Joint Committee on Finance and the appropriate standing committees in each house on the reasons for rejection.

**Conference Committee/Legislature:** Delete provision.

### 14. RELEASE OF PRISONER HEALTH CARE RECORD INFORMATION

**Assembly:** Modify current law to provide that a prisoner's health care information can be released to certain correctional or county jail employees if the prisoner has a communicable disease and disclosure of the information is necessary to protect the health and safety of individuals at the correctional facility or jail. Individuals to whom information would be disclosed include: (a) a correctional officer who has custody of or is responsible for the supervision of the prisoner; (b) a person designated with custodial authority of the prisoner; or (c) a law enforcement officer or other person responsible for transferring the prisoner to or from prison or jail.

**Conference Committee/Legislature:** Delete provision.

## Adult Corrections

### 1. ADULT CORRECTIONAL FACILITY POPULATIONS [LFB Paper 230]

**Governor:** Estimate an average daily population in adult correctional facilities (correctional institutions and centers) and contract beds of 22,827 in 2007-08 and 23,143 in 2008-09. The following table identifies the estimated distribution of this population.

	<u>Average Daily Population</u>	
	<u>2007-08</u>	<u>2008-09</u>
Institutions*	19,004	19,012
Centers	2,511	2,526
Contract Beds**	<u>1,312</u>	<u>1,605</u>
Total	22,827	23,143

\*Includes inmates placed at the Wisconsin Resource Center, operated by DHFS (344 for each year in 2007-09).

\*\*Contract bed populations include 30 inmates held in federal facilities, and do not factor in estimated contract bed reductions included in some budget provisions [see Item #3].

**Joint Finance/Legislature:** Reestimate the average adult daily population to be 22,940 in 2007-08 and 23,241 in 2008-09, as identified in the below table.

	<u>Average Daily Population</u>	
	<u>2007-08</u>	<u>2008-09</u>
Institutions*	19,004	19,012
Centers	2,511	2,526
Contract Beds**	<u>1,425</u>	<u>1,703</u>
Total	22,940	23,241

\*Includes inmates placed at the Wisconsin Resource Center, operated by DHFS (344 for each year in 2007-09).

\*\*Contract bed populations include 30 inmates held in federal facilities who do not factor into estimated contract bed funding, summarized below [see Item #3].

## 2. POPULATION AND INFLATIONARY COST INCREASES [LFB Paper 230]

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
GPR	\$21,347,500	-\$44,000	\$21,303,500

**Governor:** Provide \$9,546,600 in 2007-08 and \$11,800,900 in 2008-09 to reflect population-related cost adjustments for prisoners in facilities operated by the Division of Adult Institutions as follows: (a) \$1,963,800 in 2007-08 and \$2,483,700 in 2008-09 for food costs; (b) \$258,600 in 2007-08 and \$283,400 in 2008-09 for variable non-food costs, such as clothing, laundry, inmate wages, and other supplies; and (c) \$7,324,200 in 2007-08 and \$9,033,800 in 2008-09 for inmate health care. The request for inmate health services assumes that per capita annual inmate costs will increase from an estimated \$2,409 in 2006-07 to \$2,482 in 2007-08 and \$2,557 in 2008-09. Health care costs include pharmaceutical costs, and contracting costs with the University Hospital and Clinics, the UW Medical Foundation, Waupun Memorial Hospital, and other community hospitals.

**Joint Finance/Legislature:** Modify funding by -\$21,800 in 2007-08 and -\$22,200 in 2008-09

associated with a recalculation of food costs.

**3. PRISON CONTRACT BED FUNDING [LFB Paper 230]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
GPR	\$47,576,400	\$3,968,500	\$51,544,900

**Governor:** Provide \$21,061,400 in 2007-08 and \$26,515,000 in 2008-09 related to prison contract beds. The Department projects a need for 1,293 contract prison beds in 2007-08 and 1,586 contract beds in 2008-09. The bill assumes the majority of contract beds would be in county jails and/or out-of-state facilities at a daily contract rate of \$51.46. In addition, the contract beds appropriation funds the costs of some offenders in federal beds (five annually), youthful adult offenders (six annually) in juvenile facilities, the temporary lock-up of correctional center system inmates, and inmate transportation costs from contracted facilities. As of February 23, 2007, there were 636 inmates in federal prisons and Wisconsin county jails.

Under the bill, funding for the contract beds appropriation would be reduced by three other budget items, as indicated in the below table.

	<u>2007-08</u>		<u>2008-09</u>	
	<u>Amount</u>	<u>Beds</u>	<u>Amount</u>	<u>Beds</u>
<b>Contract Bed Appropriation</b>				
Base Funding	\$4,521,800	165	\$4,521,800	165
Prison Contract Bed Funding	<u>21,061,400</u>	<u>1,128</u>	<u>26,515,000</u>	<u>1,421</u>
	\$25,583,200	1,293	\$31,036,800	1,586
<b>Funding Reductions</b>				
Earned Release Program (Item #7)	-\$1,657,400	-88	-\$11,570,300	-616
Community Alternatives to Revocation (Community Corrections, Item #1)	-1,224,200	-65	-3,474,800	-185
Earned Release Review Commission -- Sentence Modifications	<u>---</u>	<u>---</u>	<u>-464,900</u>	<u>-25</u>
	\$22,701,600	1,140	\$15,526,800	760

**Joint Finance/Legislature:** Modify the Governor's recommendation by \$2,127,900 GPR in 2007-08 (113 beds) and \$1,840,600 GPR in 2008-09 (98 beds) associated with increased population estimates. [Provisions related to the Earned Release Review Commission, which estimated contract bed savings of \$464,900 in 2008-09, were removed from Joint Finance budget deliberations as a non-fiscal policy item.]

Funding for the contract beds appropriation would be reduced by two other budget items, as indicated in the below table.

	2007-08		2008-09	
	<u>Amount</u>	<u>Beds</u>	<u>Amount</u>	<u>Beds</u>
<b>Contract Bed Appropriation</b>				
Base Funding	\$4,521,800	165	\$4,521,800	165
Prison Contract Bed Funding	<u>23,189,300</u>	<u>1,241</u>	<u>28,355,600</u>	<u>1,519</u>
	\$27,711,100	1,406	\$32,877,400	1,684
<b>Contract Bed Funding Reductions</b>				
Earned Release Program (Item #7)	-\$1,657,400	-88	-\$11,570,300	-616
Community Alternatives to Revocation (Community Corrections, Item #3)	<u>-1,224,200</u>	<u>-65</u>	<u>-3,474,800</u>	<u>-185</u>
Total Prison Contract Bed Funding	\$24,829,500	1,253	\$17,832,300	883

4. FULL FUNDING FOR SECURITY POSITIONS [LFB Paper 231]

	Funding	Positions
GPR	\$3,098,600	39.00

**Governor:** Provide \$1,549,300 and 39.0 positions annually to restore security personnel deleted as part of a general funding and position reduction item in the 2005-07 biennial budget.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

5. OVERTIME FUNDING [LFB Paper 231]

	Governor (Chg. to Base)		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	\$20,344,000	0.00	-\$2,445,800	50.00	\$17,898,200	50.00

**Governor:** Provide \$10,172,000 annually for increased funding for overtime costs in adult correctional facilities. Funding is in addition to \$24.7 million annually provided on a departmentwide basis for overtime under standard budget adjustments. The increased costs are associated with two collective bargaining modifications: (a) the 2.25% salary increase beginning April 1, 2007 (\$6,294,200 annually); and (b) three extra days of vacation each year (\$3,877,800).

**Joint Finance:** Modify the Governor's recommendation by -\$1,257,800 in 2007-08 and -\$1,188,000 in 2008-09 and 50.00 correctional officer positions annually. Also, direct the Department to utilize 14.0 positions vacant for more than a year for additional needed correctional officers. The positions would replace overtime funding provided to cover the additional 24 hours of vacation provided under the collective bargaining agreements.

Further, require Corrections to submit a report to the Joint Committee on Finance, by January 1<sup>st</sup> of each odd-numbered year, regarding the usage of overtime in the correctional institutions. Specify that the report identify, by institution, the amount and costs of overtime utilized, categorized by reason for overtime.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore Joint Finance provision.

[Act 20 Section: 3100g]

**6. FUNDING AND POSITIONS FOR INMATE HEALTH CARE [LFB Paper 232]**

	<b>Governor (Chg. to Base)</b>		<b>Jt. Finance/Leg. (Chg. to Gov)</b>		<b>Net Change</b>	
	<b>Funding</b>	<b>Positions</b>	<b>Funding</b>	<b>Positions</b>	<b>Funding</b>	<b>Positions</b>
GPR	\$3,419,000	43.00	-\$1,155,300	-5.00	\$2,263,700	38.00

**Governor:** Provide \$1,472,300 and 30.25 positions in 2007-08 and \$1,946,700 and 43.0 positions in 2008-09 associated with prison health care. Funding and positions would be provided as follows: (a) for expansion of mental health services at Taycheedah Correctional Institution -- 1.0 supervising psychiatrist, 2.0 psychologists, 1.5 psychologist supervisors, 7.0 licensed practical nurses, 5.25 psychological associates, and 1.5 office operations associates; (b) additional staffing at Taycheedah for assessments and evaluations, primary care at the health service unit, and nursing care -- 1.0 nurse practitioner, 2.5 licensed practical nurses, 4.5 nurse clinicians, 3.5 medical assistants, and 3.5 associate medical program assistants; (c) for additional infirmary positions at Dodge Correctional Institution -- 2.0 nurse clinicians, 0.25 nursing supervisor, and 1.5 hemodialysis technicians; (d) 1.0 correctional officer at Fox Lake Correctional Institution associated with a revised post shift analysis; and (e) 1.0 physician supervisor, 1.0 psychologist manager 1.0 financial program supervisor, and 2.0 financial specialists associated with reorganization under the Bureau of Health Services.

**Joint Finance/Legislature:** Delete the funding and positions provided for the Bureau of Health Services reorganization (-\$539,400 in 2007-08 and -\$615,900 in 2008-09 and 5.0 positions annually).

**7. EARNED RELEASE PROGRAM EXPANSION [LFB Paper 233]**

	<b>Funding</b>	<b>Positions</b>
GPR	-\$9,766,200	31.50

**Governor:** Modify current law to require the Departments of Corrections and Health and Family Services to provide a substance abuse treatment program for inmates at any correctional facility that the Departments determine is appropriate for the purposes of the earned release program. Provide \$1,565,000 in 2007-08 and \$1,896,500 in 2008-09 and 31.5 positions annually to

expand utilization of the earned release program. As a result of the changes, the Department estimates contract bed savings of \$1,657,400 and 88 beds in 2007-08 and \$11,570,300 and 616 contract beds in 2008-09.

Funding and positions would be associated with the following facilities: (a) Chippewa Valley Correctional Treatment Facility, \$651,700 in 2007-08 and \$790,800 in 2008-09 and 13.0 positions annually; (b) Racine Correctional Institution, \$625,900 in 2007-08 and \$756,100 in 2008-09 and 13.0 positions annually; and (c) Taycheedah Correctional Institution, \$287,400 in 2007-08 and \$349,700 in 2008-09 and 5.5 positions annually.

Under current law, the Departments may designate a section of a mental health institution as a correctional treatment facility for the treatment of substance abuse of inmates, known as the Wisconsin substance abuse program, where inmates made eligible by a court may be released to parole or extended supervision if Corrections determines that the inmate has successfully completed the program ("earned release program"). Currently, the Drug Abuse Correctional Center is the only correctional facility meeting this statutory requirement. In addition to DACC, statutory language provides that the Robert E. Ellsworth Correctional Center operate a substance abuse treatment program for female inmates for the earned release program.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

[Act 20 Section: 3168]

**8. RENAME PAROLE COMMISSION THE EARNED RELEASE REVIEW COMMISSION AND EXPAND AUTHORITY OF COMMISSION TO MODIFY BIFURCATED SENTENCES**

**Governor:** Rename the Parole Commission the Earned Release Review Commission. Provide that the Commission may release to extended supervision a person sentenced to a bifurcated sentence for a Class F (a maximum sentence of 7.5 years in prison and 5 years extended supervision) to a Class I (a maximum sentence of 18 months in prison and 2 years extended supervision) felony after the person has served at least 75% of the prison confinement portion of his or her sentence. Also, provide that the Commission may terminate the person's extended supervision for a Class F to Class I felony after the person has completed 75% of his or her extended supervision. Statutory provisions related to extended supervision for Class A to Class E felonies would remain the same.

As a result, estimated contract bed savings are \$464,900 in 2008-09, assuming that prison populations will be reduced by approximately five offenders a month beginning in September, 2008.

Provide that the Commission may consider any of the following as a ground for petition for sentence reduction: (a) the inmate's conduct, efforts at and progress in rehabilitation, or

participation and progress in education, treatment, or other correctional programs since sentencing; (b) a change in law or procedure effective after the inmate was sentenced that would have resulted in a shorter term of confinement in prison, if the change had been applicable when the inmate was sentenced; (c) the inmate is subject to confinement in another state or the inmate is in the United States illegally and may be deported; or (d) sentence adjustment is otherwise in the interests of justice.

For an inmate in prison, provide that the Commission may adjust a person's bifurcated sentence for a Class F to Class I felony by reducing the confinement term by the amount of time remaining in prison, less up to 30 days, and providing a corresponding increase in the term of extended supervision.

If a sentence adjustment is based on a change in law or procedure, and the total sentence length of the adjusted sentence is greater than the maximum sentence length that the offender could have received if the change in law or procedure had been applicable when the offender was originally sentenced, the Commission may reduce the length of the term of extended supervision so that the total sentence length does not exceed the updated maximum sentence length.

If a sentence adjustment is based on a change in law or procedure, and the adjusted term of extended supervision is greater than the maximum term of extended supervision that the offender could have received if the change in law or procedure had been applicable when the offender was originally sentenced, the Commission may reduce the length of the term of extended supervision so that the term does not exceed the updated maximum term for extended supervision.

Provide that an inmate sentenced to a bifurcated sentence for a Class F to Class I felony may only submit one petition to the Commission for sentence adjustment for each bifurcated sentence.

The Commission would also assume the current duties of the Parole Commission related to release under the state's former indeterminate sentencing structure.

Under current law, an inmate serving a sentence for a crime other than a Class B felony, may petition the sentencing court to adjust the sentence if: (a) the inmate has served at least 85% of the term of confinement for a Class C to E felony; or (b) the inmate has served at least 75% of the term of confinement for a Class F to I felony. The court may deny the petition or may hold it for further consideration. If the court holds the petition for further consideration, the court must notify the district attorney of the inmate's petition. If the district attorney objects to the adjustment of the sentence within 45 days of receiving the court's notification, the court must deny the petition. Under this modification, sentence modification decisions would be made by the Earned Release Review Commission.

**Joint Finance/Legislature:** Delete provision as non-fiscal policy item.



**Senate:** Restore Governor's provision.

**Assembly/Legislature:** Delete provision.

**9. PROGRAM REVENUE REESTIMATES -- ADULT CORRECTIONS [LFB Paper 234]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
PR	\$7,241,800	-\$497,000	\$6,744,800

**Governor:** Provide \$3,470,500 in 2007-08 and \$3,771,300 in 2008-09 associated with the following program revenue reestimates: (a) \$2,500,000 annually associated with increased contracting costs at the Waupun Central Warehouse for canned goods; (b) \$47,200 in 2007-08 and \$56,100 in 2008-09 for increased LTE expenditures for canteen operations; (c) \$674,800 in 2007-08 and \$966,700 in 2008-09 for increased utility costs at the Department's central generating plant; and (d) \$248,500 annually for increased supplies and services for general PR operations funded from room, board, and medical services fees collected from inmates.

**Joint Finance/Legislature:** Delete \$248,500 annually associated with program revenue from room, board, and medical services fees collected from inmates based on more recent expenditure and revenue data.

**10. PROGRAM REVENUE REESTIMATES -- PRISON INDUSTRIES**

PR	-\$3,995,500
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**Governor/Legislature:** Delete \$1,927,400 in 2007-08 and \$2,068,100 on 2008-09 associated with reduced costs for raw materials in prison industries.

**11. COMPUTER RECYCLING PROGRAM REESTIMATE**

SEG	\$3,800
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**Governor:** Provide \$2,600 in 2007-08 and \$1,200 in 2008-09 associated with reestimated revenue under the Department's computer recycling program appropriation. Current base funding for the computer recycling program is \$288,200 SEG with 2.0 SEG positions.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

**12. PENALTY SURCHARGE FUNDING REDUCTIONS [LFB Paper 501]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
PR	-\$150,200	\$150,200	\$0

**Governor:** Reduce expenditure authority by \$150,200 in 2007-08, as follows: (a) -\$136,400 under the correctional officer training appropriation; and (b) -\$13,800 under the victim services and programs appropriation. According to the Executive Budget Book, the reductions reflect current projections for penalty surcharge funding.

**Joint Finance/Legislature:** Delete provision.

### 13. AUDIT LIMIT FOR STATE AND COUNTY-PURCHASED CORRECTIONAL SERVICES

**Governor:** Create a threshold that determines whether or not a provider of care or services must submit a certified financial and compliance audit report biennially, or annually if required by federal law, to the Department. The bill would create a threshold amount of \$100,000, or any higher threshold determined by the Department. Specify the change would first apply to contracts entered into or renewed on the bill's general effective date. Current law allows the Department to waive the audit requirement.

**Joint Finance/Legislature:** Delete provision as non-fiscal policy item.

### 14. PROVISION OF STATE IDENTIFICATION

**Joint Finance:** Require the Department to provide a state identification card to individuals released from prison who do not possess another form of state identification. Specify that an offender would be required to pay for the state identification card from the balances in his or her general fund account and that such payment would be a first draw on that account. Specify that, to the extent that funding was unavailable in an inmate's account, Corrections would fund these costs.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

[Act 20 Section: 3128m]

### 15. FOODSHARE APPLICATIONS

**Joint Finance:** Require the Department to assist offenders prior to release in applying for assistance under the FoodShare program. Specify that an institution's address may be initially utilized in the application process. Allow an authorized correctional employee to receive telephone calls on an offender's behalf for matters related to the FoodShare program.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

[Act 20 Section: 1667f]

#### **16. TREATMENT ALTERNATIVES AND DIVERSION PROGRAM**

**Joint Finance:** Direct the Department of Corrections to submit a report to the Joint Committee on Finance by May 1, 2008, on the impact of the treatment alternatives and diversion program on the Department's 2009-11 biennial budget. Specify that Corrections evaluate the impact of increased community treatment and diversion programs for non-violent offenders on the Department's institutional and community corrections populations, and on the Department's costs of operation.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

[Act 20 Section: 9109(2k)]

#### **17. PRAIRIE DU CHIEN CORRECTIONAL INSTITUTION REPORT**

**Joint Finance:** Direct the Department of Corrections to evaluate the current capacity and usage of its segregation unit at the Prairie du Chien Correctional Institution, and submit a report to the Joint Committee on Finance by July 1, 2008 on the Department's findings. Require that the report specifically address the issue of inmate overcrowding at the segregation unit.

**Assembly:** In addition, direct the Department to evaluate the need for expanding North Hall to provide more inmate housing, program space, and a servery.

**Conference Committee/Legislature:** Delete Assembly modification.

[Act 20 Section: 9109(3j)]

#### **18. DELETE UNIT SUPERVISOR POSITIONS**

**Assembly:** Delete \$3,631,100 GPR and 40.0 GPR positions annually associated with corrections unit supervisor positions. Create statutory language prohibiting the Department from employing unit supervisors or comparable positions unless the person reports directly to the institution's security director.

**Conference Committee/Legislature:** Delete provision.

**19. DELETE COMPENSATION FOR INMATE EDUCATION AND PROGRAM ASSIGNMENTS**

**Assembly:** Delete \$835,200 GPR annually associated with inmate compensation for participating in education and program assignments. Inmates are currently compensated at 15 cents per hour. Create statutory language prohibiting the Department from compensating inmates for education and program assignments.

**Conference Committee/Legislature:** Delete provision.

**20. DELETE COMPENSATION FOR "INVOLUNTARILY UNASSIGNED" INMATES**

**Assembly:** Delete \$635,700 GPR annually associated with inmate compensation for inmates who wish to work or participate in education or program assignments but for whom no assignment is available. Inmates are currently compensated at 5 cents per hour. Create statutory language prohibiting the Department from compensating inmates who are involuntarily unassigned.

**Conference Committee/Legislature:** Delete provision.

**21. DELETE FUNDING FOR INMATE POSTAGE AND WRITING MATERIALS**

**Assembly:** Delete \$67,700 GPR annually associated with stamps and writing materials the Department provides inmates when they are admitted to the prison system.

**Conference Committee/Legislature:** Delete provision.

**22. DELETION OF CERTAIN TRAINING REQUIREMENTS FOR CORRECTIONAL OFFICERS WHO ARE EMERGENCY MEDICAL TECHNICIANS**

**Assembly:** Create statutory language to provide that correctional officers who are also certified emergency medical technicians not be required to participate in annual certifications courses for CPR & AED training. Under the Department's current administrative rules, all correctional officers are required to participate in certain annual training courses, including CPR & AED training.

**Conference Committee/Legislature:** Delete provision.

## Community Corrections

### 1. FUNDING AND POSITIONS FOR GPS TRACKING OF CERTAIN CHILD SEX OFFENDERS [LFB Paper 240]

	Governor (Chg. to Base)		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	\$10,426,500	122.25	-\$4,633,300	- 51.15	\$5,793,200	71.10
PR	<u>520,700</u>	<u>0.00</u>	<u>-55,900</u>	<u>0.00</u>	<u>464,800</u>	<u>0.00</u>
Total	<u>\$10,947,200</u>	<u>122.25</u>	<u>-\$4,689,200</u>	<u>- 51.15</u>	<u>\$6,258,000</u>	<u>71.10</u>

**Governor:** Modify current law related to global positioning system (GPS) tracking of certain child sex offenders, as follows:

a. Repeal provisions associated with tracking offenders who have been discharged from either the Department of Corrections or Department of Health and Family Services custody;

b. Repeal provision associated with tracking offenders who have been placed on probation for committing a serious child sex offense;

c. Repeal provision associated with tracking individuals who have been convicted under of a comparable serious child sex offense crime under federal or another state's law, and are residing in Wisconsin and are employed, carrying on vocations, or are students. Instead, require the Department to track individuals who have been convicted of a comparable serious child sex offense crime under federal or another state's law, and the Department begins supervision of the individual on or after January 1, 2008, under the interstate corrections compact;

d. Require that all offenders who are placed on lifetime supervision for serious sex offenses also be tracked using GPS as a condition of lifetime supervision;

e. Modify definition of "global positioning system tracking" to mean tracking using a system that can monitor, identify, and record a person's location and that records the person's presence in an exclusion zone or the person's departure from an inclusion zone.

f. Delete provisions associated with "lifetime tracking" and "passive positioning system tracking;"

g. Create an appropriation in the Department for monies collected for costs relating to GPS tracking of offenders. Specify that monies received be utilized for expenditures related to GPS tracking;

h. Repeal the provision allowing the Department to petition for termination of an offender's tracking if the offender is permanently physically incapacitated. Instead, provide that the Department may petition for termination if the Department determines that tracking is no longer necessary to protect the public;

i. Repeal the requirement that a physician who examines an offender, pursuant to a petition for termination, include in his or her report the opinion of whether or the person is permanently physically incapacitated. Instead, require a physician or psychologist to include his or her opinion in the report of whether the person is a danger to the public;

j. Repeal the provision that the Department may terminate a person's GPS tracking after 10 years if the victim of the serious child sex offense was a relative of the person tracked. Instead, allow the Department to terminate the person's tracking if the victim of the serious child sex offense was a relative, if the Department determines the person would not be a danger to the public if not tracked;

k. Provide that the Department may contract for escort services for persons on supervised release who are restricted during the first year of their supervised release; and

l. Modify the effective date of the GPS tracking provisions from July 1, 2007 to January 1, 2008.

In addition to statutory modifications to the GPS tracking provisions, provide \$2,589,100 GPR and 52.5 GPR positions and \$155,400 PR in 2007-08 and \$7,837,400 GPR and 122.25 GPR positions and \$365,300 PR in 2008-09 to track serious child sex offenders. Under the bill, staffing in 2008-09 would include: (a) 52.75 communications operators; (b) 3.0 corrections communications supervisors; (c) 42.25 probation and parole agents; (d) 4.25 correctional field supervisors; (e) 2.0 program support supervisors; (e) 12.5 office operations associates; (f) 5.0 sex registry corrections program specialists; and (g) 0.5 corrections services supervisor.

Under current law (effective on or after July 1, 2007), the Department of Corrections must:

a. Maintain lifetime tracking of persons placed on probation, parole, extended supervision, conditional release, or supervised release for committing a serious child sex offense;

b. Maintain lifetime tracking of persons discharged from prison, conditional release, or supervised release for a serious child sex offense;

c. Track an individual using GPS if all the following apply: (i) the person was convicted under federal law or another state's law, or found not guilty of or not responsible for by reason of mental disease or defect, of a crime comparable to a serious child sex offense; and (ii) the person resides in the state, is employed or carrying on a vocation, or is a student.

Lifetime tracking is defined as using GPS tracking to track a person for the remainder of

the person's life or until terminated. GPS tracking is defined as a system that "actively monitors and identifies a person's location and timely reports or records the person's presence near or at a crime scene or in an exclusion zone or the person's departure from an inclusion zone."

The Department may track a person using passive positioning system tracking if the person completes his or sentence, including any probation, parole or extended supervision. Passive positioning system tracking is defined as a system that monitors, identifies, and records a person's location.

**Joint Finance:** Delete the Governor's recommendation. Maintain the current law provisions, except for the following modifications:

- a. Modify the effective date of the provisions to January 1, 2008.
- b. Modify lifetime tracking to include the following individuals:

- (1) Persons placed on supervised release (Chapter 980) or conditional release (Chapter 971), or discharged under Chapters 980 and 971 of the statutes, for a serious child sex offense on or after the effective date of the provisions;

- (2) Persons placed on lifetime supervision under s. 939.615 of the statutes for a serious child sex offense on or after the effective date of the provisions;

- (3) Persons for whom a special bulletin notification has been issued on or after the effective date of the provision. Special bulletin notifications are issued when an offender is released to the community, who was convicted, or found not guilty or not responsible by reason of mental disease or defect, on two or more separate occasions of a sex offense;

- (4) Persons released from prison, or to extended supervision or parole, on or after the effective date of the provisions, for one of the following serious child sex offenses: (a) sexual contact or intercourse with a person who has not attained the age of 13 years and causes great bodily harm, if the person is not a relative; and (b) sexual intercourse with a person who has not attained the age of 12 years, if the person is not a relative;

- (5) Persons convicted, on or after the effective date of the provisions, who are release from prison, or to extended supervision or parole, for one of the following serious child sex offenses: (a) sexual intercourse with a person who has not attained the age of 16 years by use or threat of force or violence, if the person is not a relative; and (b) sexual contact with a person who has not attained the age of 16 years by use or threat of force or violence, if the person is not a relative.

- c. Require the Department to utilize a risk assessment instrument for serious child sex offenders for whom lifetime tracking is not required. If the risk assessment results in a determination that GPS monitoring is appropriate for the individual, the Department will maintain lifetime tracking of the individual. Further, require the Department to utilize a risk

assessment instrument for individuals under supervision of the interstate corrections compact for a serious child sex offense.

d. Specify that the terms of any contract(s) for GPS monitoring services not exceed three years. Specify that the contracted services include the installation, removal, and technical maintenance of all GPS devices through local staff onsite in Wisconsin. Specify that the tracking devices utilized for active GPS monitoring must provide real-time alerts to the Department.

e. Create an appropriation in the Department for monies collected for costs related to GPS tracking of offenders. Specify that monies received be utilized for expenditures related to GPS tracking.

f. Provide that the Department may contract for services to escort persons on supervised release who are restricted during the first year of their release.

Provide \$1,469,800 GPR and 30.10 GPR positions and \$149,100 PR in 2007-08 and \$4,323,400 GPR and 71.10 GPR positions and \$315,700 PR in 2008-09 for the GPS monitoring program. (As a result, funding and positions provided under the Governor's recommendation is modified by -\$1,119,300 GPR and 22.40 GPR positions and -\$6,300 PR in 2007-08 and -\$3,514,000 GPR and -51.15 GPR positions and -\$49,600 PR in 2008-09.)

**Senate/Legislature:** Adopt the Joint Finance provision, except specify that GPS tracking applies to persons for whom a special bulletin notification (SBN) is issued on or after the effective date of the provision. [This modification clarifies the statutory language adopted by the Joint Committee on Finance by deleting the phrase "has received" and substituting "receives."] As a result, GPS tracking applies beginning January 1, 2008, to offenders for whom a police chief or sheriff receives (rather than "has received") a SBN.

[Act 20 Sections: 319, 3134m thru 3165m, 3929, 3930, and 9409(1)&(2)]

**2. SEX OFFENDER REGISTRY FEE [LFB Paper 241]**

	<b>Governor (Chg. to Base)</b>	<b>Legislature (Chg. to Gov)</b>	<b>Net Change</b>
PR-REV	\$580,500	\$1,238,500	\$1,819,000
PR	\$580,500	\$0	\$580,500

**Governor:** Modify statutory language to allow the Department to require a person who must register as a sex offender, regardless of whether they are in Corrections' custody or supervision, to pay an annual fee of up to \$50 to offset costs of monitoring persons who are required to register. Under the bill, the Department estimates generated revenue to be \$288,500 PR in 2007-08 and \$292,300 in 2008-09. Provide increased expenditure authority of \$193,500 in 2007-08 and \$387,000 in 2008-09.



Under current law, the Department may assess the annual fee on individuals who are required to register as a sex offender and are either in the Corrections' custody or under supervision on probation, parole, or extended supervision.

**Joint Finance:** Adopt the Governor's recommendation and also specify that revenue generated from the fee be utilized to support enhanced sex offender management costs for polygraph testing and community treatment.

**Assembly/Legislature:** In addition, increase the annual fee to be up to \$100, rather than \$50. As a result, the additional revenue to be generated is estimated at \$911,500 PR in 2007-08 and \$907,500 PR in 2008-09.

[Act 20 Sections: 318 and 3132]

**3. EXPANSION OF COMMUNITY ALTERNATIVES TO REVOCATION [LFB Paper 242]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
GPR	\$1,441,000	-\$354,000	\$1,087,000

**Governor:** Provide \$1,922,500 in 2007-08 and \$4,217,500 in 2008-09 for purchased services for offenders to expand community alternatives to revocation, as follows: (a) \$709,100 in 2007-08 and \$998,400 in 2008-09 for community alcohol and other drug abuse treatment; (b) \$125,000 in 2007-08 and \$625,000 in 2008-09 for five day reporting centers (two to open in January, 2008 and three to open in July, 2008); (c) \$410,600 in 2007-08 and \$821,300 in 2008-09 for temporary living placements (75 placements opening in January, 2008); (d) \$1,095,000 in 2008-09 for increased costs associated with existing halfway house contracts; and (e) \$677,800 annually for 57 four-month placements in transitional jobs training.

Create a non-statutory provision specifying that \$500,000 of the funding provided for transitional jobs training is earmarked for the New Hope Project, Inc., a Milwaukee-based nonprofit organization. As a result of expanding community alternatives to revocation, reduce contract bed funding by \$1,224,200 and 65 beds in 2007-08 and \$3,474,800 and 185 beds in 2008-09.

**Joint Finance:** Modify the Governor's recommendation by -\$177,000 annually associated with funding for the New Hope Project, Inc. Direct the Department to provide the \$177,000 annually utilizing existing base resources.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore Joint Finance provision.

[Act 20 Section: 9109(2)]

**4. FULL FUNDING FOR COMMUNITY CORRECTIONS POSITIONS**

GPR	\$79,000
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**Governor:** Provide \$39,500 annually to fully fund non-salary costs associated with 14.25 community corrections positions created in 2005 Act 25. Supplies and services funding for these positions was not funded in 2006-07 because the positions were created for less than 12 months that year.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

**5. PROGRAM REVENUE REESTIMATES - COMMUNITY CORRECTIONS [LFB Paper 234]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
PR	\$1,618,400	-\$60,000	\$1,558,400

**Governor:** Provide \$774,200 in 2007-08 and \$844,200 in 2008-09 associated with the following program revenue reestimates: (a) \$43,600 annually associated with increased costs for limited-term employees (LTEs) at the Department's Monitoring Center (a net result of an increase in \$300,000 annually for LTEs and a decreased of \$256,400 annually for supplies and services); (b) -\$38,900 annually for reduced supplies and services associated with drug testing costs; (c) -\$6,000 annually for the loans to persons on probation, extended supervision or parole to reduce funding to \$0 annually; (d) \$114,800 in 2007-08 and \$184,800 in 2008-09 for expenditures associated with sex offender management, including LTEs, rent, polygraph testing, sex offender notifications, and supplies and services; and (e) \$660,700 annually for projected increased in LTE and supplies and services costs for probation, parole and extended supervision funded from supervision fees.

**Joint Finance/Legislature:** Modify the Governor's recommendation by -\$30,000 annually based on updated expenditure data related to the Department's Monitoring Center.

**6. SPECIAL BULLETIN RELEASE NOTIFICATION**

**Joint Finance/Legislature:** Modify current special bulletin notification provisions to require that the police chief and the sheriff of any county in which a person regularly travels to or through also be notified if Corrections or the Department of Health and Family Services (DHFS) releases a sexually violent person or offender who has been convicted on two or more occasions of a sex offense.

Under current law, if an agency with jurisdiction (Corrections or DHFS) places a person

in community confinement, or releases a person from confinement in a state correctional institution or institutional care, and the person has been found to be a sexually violent person (Chapter 980) or has, on two or more separate occasions, been convicted or found not guilty or not responsible by reason of mental disease or defect for a sex offense or for a violation of a Wisconsin law that is comparable to a sex offense, the agency with jurisdiction is required to notify the police chief of any community and the sheriff of any county in which the person will be residing, employed or attending school. Once notified a police chief or sheriff who receives a bulletin may provide any of the information in the bulletin to an entity in the police chief's community or the sheriff's county that is entitled to request information, to any person requesting information (if, in the opinion of the police chief or sheriff, providing the information is necessary to protect the public and if certain conditions are met) or to members of the general public if, in the opinion of the police chief or sheriff, providing that information is necessary to protect the public.

[Act 20 Section: 3132r]

## **7. PLACEMENTS FOR NINETY-DAY SANCTIONS**

**Governor:** Modify current law to provide the following additional locations for confinement as a sanction if a person released to extended supervision signs a statement admitting a violation of a condition of extended supervision: (a) a facility owned or operated by the Department; (b) a Huber facility; or (c) a work camp.

Under current law, if a person released to extended supervision signs a statement admitting a violation of a condition of extended supervision, Corrections may, as a sanction for the violation, confine the person in regional detention facility or, with the approval of the sheriff, in a county jail.

**Joint Finance/Legislature:** Delete provision as a non-fiscal policy item.

**Senate:** Restore Governor's provision.

**Assembly/Legislature:** Delete provision.

## **8. LICENSE PLATE REQUIREMENTS FOR CERTAIN CHILD SEX OFFENDERS**

**Assembly:** Include the provisions of 2007 Assembly Bill 226 to require child sex offenders, who are required to be monitored using GPS tracking, to utilize special registration plates on their vehicles that would have a chartreuse-colored background so as to readily apprise law enforcement officers that the vehicle is owned by a sex offender. A fee of \$30, in addition to the prescribed registration fee, would be charged for the issuance or renewal of these plates. Provide that it is a Class G felony (a maximum of five years in prison and five years extended supervision) for a person to intentionally fail to utilize the special registration

plates. Provide that it is a Class H felony (a maximum of three years in prison and three years extended supervision) for a person to operate a motor vehicle on a highway without the special registration plates.

**Conference Committee/Legislature:** Delete provision.

## Juvenile Corrections

### 1. JUVENILE POPULATION ESTIMATES [LFB Paper 246]

**Governor:** Reestimate the juvenile secured correctional facility average daily population (ADP) from 660 in 2006-07 to 771 in both 2007-08 and 2008-09, as shown in the following table. On February 23, 2007, 585 juveniles were under state supervision in a secured correctional facility. The population projections include juveniles funded under the serious juvenile offender (SJO) program. Under the bill, the population projections in the table are used in the calculation of daily rates for each type of care.

#### Average Daily Population

	February 23, 2007 <u>Actual Population*</u>	<u>Projected ADP</u>	
		<u>2007-08</u>	<u>2008-09</u>
Juvenile Correctional Facilities	585	560	560
Other Placements			
Corrective Sanctions	125	136	136
Aftercare Services	<u>90</u>	<u>75</u>	<u>75</u>
Subtotal -- Other	215	211	211
<b>Total ADP</b>	<b>800</b>	<b>771</b>	<b>771</b>
Alternate Care	80	54	54

\*Except alternate care, which reflects actual ADP through January, 2007.

The juvenile detention facilities include Ethan Allen School, Lincoln Hills School, Southern Oaks Girls School, the SPRITE Program, and the Mendota Juvenile Treatment Center.

Under the corrective sanctions program, juveniles are placed in the community, following a period in a secured correctional facility, and are provided with intensive surveillance. In addition, for each corrective sanctions slot, an average of not more than \$3,000 annually is provided to purchase community-based treatment services.

Aftercare services include juveniles under state supervision following release from a juvenile correctional facility. Placement may be in an alternate care setting, a relative's home, or the juvenile's own home.

Alternate care includes residential care centers for children and youth, group homes, foster homes, and treatment foster homes. The average daily population for alternate care is a subset of aftercare services.

**Joint Finance/Legislature:** Reestimate the average daily populations from 560 juveniles to 583 annually for juvenile correctional facilities and from 75 juveniles to 85 annually for aftercare supervision services.

	<u>Projected ADP</u>	
	<u>2007-08</u>	<u>2008-09</u>
Juvenile Detention Facilities	583	583
Other Placements		
Corrective Sanctions	136	136
Aftercare Services	<u>85</u>	<u>85</u>
Subtotal -- Other	221	221
Total ADP	804	804

## 2. STATUTORY DAILY RATES [LFB Paper 246]

**Governor:** Under current law, daily rates for juvenile care in a given biennium are specified in statute by fiscal year for juvenile detention facilities, state aftercare supervision, and for each type of alternate care setting, including residential care centers for children and youth, group homes, treatment foster homes and foster homes.

Under the bill, the following statutory daily rates would be established for juvenile correctional services provided or purchased by the Department that would be charged to counties and paid through counties' youth aids allocations, or paid by the state through the serious juvenile offender appropriation.

	Statutory Rates 7-1-06 thru <u>6-30-07</u>	Governor	
		7-1-07 thru <u>6-30-08</u>	7-1-08 thru <u>6-30-09</u>
Juvenile Detention Facilities*	\$209.00	\$269.00	\$279.00
Corrective Sanctions	82.00	99.00	101.00
Aftercare Supervision	33.00	40.00	41.00
Residential Care Centers	244.00	277.00	296.00
Group Homes	163.00	165.00	172.00
Treatment Foster Homes	87.00	132.00	145.00
Regular Foster Homes	50.00	67.00	74.00

\*Including transfers from a juvenile detention facility to the Mendota Juvenile Treatment Center.

The proposed daily rates for juvenile facilities, corrective sanctions, and aftercare supervision are calculated on the basis of budgeted funding levels, anticipated average daily populations, and the number of days in the year. Daily rates for alternate care settings (residential care centers, group homes, regular foster homes, and treatment foster homes) are determined by applying percentage adjustments to prior daily rates for each type of care (see the "Alternate Care" entry below).

**Joint Finance/Legislature:** Revise the daily rates for juvenile correctional care, as shown in the below table. The table reflects changes to the daily rates relating to the Joint Committee on Finance's actions on: (a) modifications of standard budget adjustments; and (b) revised population estimates and certain budget adjustments that affect the cost basis for calculating the daily rates.

### Statutory Daily Rates

Type of Care	Governor		Legislature		Net Change	
	2007-08	2008-09	2007-08	2008-09	2007-08	2008-09
Juvenile Correctional Facilities*	\$269	\$279	\$259	\$268	-\$10	-\$11
Corrective Sanctions	99	101	99	101	--	--
Aftercare Supervision	40	41	35	37	-5	-4
Residential Care Centers	277	296	277	296	--	--
Group Homes	165	172	165	172	--	--
Treatment Foster Homes	132	145	132	145	--	--
Regular Foster Homes	67	74	67	74	--	--

\*Including transfers from a juvenile detention facility to the Mendota Juvenile Treatment Center.

[Act 20 Sections: 3113 and 3114]

### 3. YOUTH AIDS ALLOCATIONS [LFB Paper 245]

	Governor (Chg. to Base)	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR	\$10,000,000	\$0	\$13,000,000	\$23,000,000
SEG	17,700,000	- 900,000	- 16,800,000	0
Total	\$27,700,000	-\$900,000	-\$3,800,000	\$23,000,000

**Governor:** Revise the calendar year allocations of community youth and family aids (youth aids) funding to reflect distributions for the 2007-09 biennium, as follows: (a) \$46,645,100 from the last six months of 2007, \$93,290,200 for 2008, and \$46,695,100 for the first six months of 2009. In 2007-08 and 2008-09, continue to allocate additional funding provided under previous legislative actions on the same basis.

Create a segregated appropriation under the Department and provide \$7,400,000 SEG in 2007-08 and \$10,300,000 SEG in 2008-09 for increased youth aids funding for distribution to

counties. Funding in the new SEG appropriation would come from the county aid fund with revenues derived from the real estate transfer fee [see, "Shared Revenue and Tax Relief" and "General Fund Taxes."] Specify that the SEG funding be distributed to counties based on each county's proportion of the number of juveniles statewide who are placed in a juvenile correctional facility or a secured residential care center for children and youth during the most recent three-year period for which information is available. Funding is intended to be used for the improvement and provision of juvenile delinquency-related services and for reimbursing counties with a population of less than 500,000 for the cost of court-attached intake services.

Provide \$5,000,000 GPR annually to increase youth aids funding, to be allocated as follows: (a) \$2,500,000 for the last six months of 2007, (b) \$5,000,000 for 2008; and (c) \$2,500,000 for the first six months of 2009. Specify that this funding would be allocated based on each county's proportion of the number of juveniles statewide who are placed in a juvenile correctional facility during the most recent three-year period for which information is available.

Under current law, calendar year youth aids allocations are provided for the 2005-07 biennium. Statutory provisions specify allocations for youth aids funding in the following areas: (a) youth aids funding appropriated in the biennium for distribution to counties (\$75,826,300 GPR and \$2,449,200 PR); (b) youth aids increases provided under 1999 Act 9, which are required to be distributed to counties according to a three-factor formula (\$4,000,000 GPR); (c) youth aids increases provided under 2001 Act 16, which are required to be distributed to counties according to the three-factor formula and an additional override factor (\$2,106,500 GPR); (d) youth aids funding earmarked for emergency funding and arrest supplements for small counties (\$450,000 GPR); (e) youth aids funding earmarked for counties participating in the corrective sanctions program (\$2,124,800 GPR); and (f) youth aids funding earmarked for alcohol and other drug abuse treatment programs (\$1,333,400 GPR).

**Joint Finance:** Approve the Governor's recommendation with two modifications: (a) delete \$900,000 SEG associated with an reestimate of costs; and (b) revise the statutory amounts for youth aids funding to include total amounts, as follows: (i) \$50,345,100 from the last six months of 2007; (ii) \$101,690,200 for 2008; and (iii) \$51,345,100 for the first six months of 2009.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Provide \$10,500,000 GPR in 2007-08 and \$12,500,000 GPR in 2008-09 to increase youth aids funding, to be allocated as follows: (a) \$5,250,000 for the last six months of 2007, (b) \$11,500,000 for 2008; and (c) \$6,250,000 for the first six months of 2009. Specify that this funding be allocated based on each county's proportion of the number of juveniles statewide who are placed in a juvenile correctional facility during the most recent three-year period for which information is available.

Revise the calendar year allocations, as follows: (a) \$49,395,100 from the last six months of 2007; (b) \$99,790,200 for 2008; and (c) \$50,395,100 for the first six months of 2009. In 2007-08 and 2008-09, continue to allocate additional funding provided under previous legislative actions on

the same basis.

[Act 20 Sections: 3116 thru 3124]

**4. SERIOUS JUVENILE OFFENDER FUNDING [LFB Paper 247]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
GPR	\$4,255,000	-\$390,300	\$3,864,700

**Governor:** Increase funding by \$1,746,000 in 2007-08 and \$2,509,000 in 2006-07 to reflect increased costs associated with state-funded serious juvenile offenders (SJO).

The SJO appropriation reimburses juvenile correctional institutions, secured child caring institutions, alternate care providers, aftercare supervision providers and corrective sanctions supervision providers for costs incurred for juveniles who receive an SJO disposition. All components of the SJO disposition are state funded; counties have no financial responsibility for a juvenile placed in the SJO program. A juvenile is subject to an SJO placement for certain acts committed on or after July 1, 1996, as follows: (a) if the juvenile is 14 years of age or more and has been adjudicated delinquent for committing a delinquent act that is equivalent to certain Class A, Class B, or Class C felony offenses; or (b) the juvenile is 10 years of age or more and has been adjudicated delinquent for attempting or committing first-degree intentional homicide or for committing first-degree reckless homicide or second-degree intentional homicide. An SJO disposition may only be made for these juveniles if the judge finds that the only other disposition that would be appropriate is placement in a secured correctional facility.

For a juvenile receiving a disposition as a Serious Juvenile Offender, the court is required to make the order apply for a period of five years if the adjudicated act was a Class B or Class C felony offense, or until the juvenile reaches 25 years of age if the adjudicated act was a Class A felony offense. The disposition includes the concept of Type 2 status, which allows the Department to administratively transfer a juvenile through an array of component phases, including both juvenile detention facility and community placements.

The adjusted base funding for the SJO appropriation is \$14,401,200 annually. Under the bill, the following average daily populations (ADPs) for the SJO appropriation, are projected for the 2007-09 biennium:



### Average Daily Population

<u>Type of Care</u>	<u>Serious Juvenile Offenders</u>	
	<u>2007-08</u>	<u>2008-09</u>
Juvenile Detention Facilities	104	105
Corrective Sanctions Program	68	69
Aftercare Supervision	<u>51</u>	<u>52</u>
Total ADP	223	226
Alternate Care*	41	41

\*A subset of aftercare supervision that includes residential care centers, group homes, treatment foster homes, and certain supplemental living arrangements.

**Joint Finance/Legislature:** Modify the Governor's recommendation by -\$309,900 in 2007-08 and -\$80,400 in 2008-09 to reflect reestimated statutory daily rates and SJO populations for juvenile correctional facilities, corrective sanctions, aftercare supervision, and alternate care placements.

### Average Daily Population

<u>Type of Care</u>	<u>Serious Juvenile Offenders</u>	
	<u>2007-08</u>	<u>2008-09</u>
Juvenile Correctional Facilities	98	102
Corrective Sanctions Program	76	77
Aftercare Supervision	<u>58</u>	<u>58</u>
Total ADP	232	232
Alternate Care	46	46

#### 5. ALTERNATE CARE [LFB Paper 248]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
PR	-\$350,300	\$1,094,300	\$744,000

**Governor:** Reduce base funding by \$311,700 in 2007-08 and \$38,600 in 2008-09 for juvenile residential aftercare (alternate care) to reflect decreasing population estimates. The residential aftercare appropriation funds the costs of care for juveniles placed in residential care centers for children and youth, foster care homes, treatment foster care homes, group homes, and certain other living arrangements. Base funding for the residential aftercare appropriation is \$4,869,800 (based on an estimated average daily population of 80.5 juveniles in 2006-07). The year-to-date ADP for alternate care (through January, 2007) is 76.3. Under the bill, the alternate care ADP is projected at 54 in both 2007-08 and 2008-09.

Alternative care placements include placements in residential care centers for children and youth, group homes, treatment foster homes, and foster homes. Alternate care rates are estimated under the bill by taking the actual average rates paid for each type of care for the first five months in 2006, and applying annual percentage rates of increase (7% for residential care centers for children and youth, 4% for group home placements, and 10% for foster homes) to estimate 2006-07, 2007-08, and 2008-09 average rates. The estimated 2007-08 and 2008-09 average rates and projected ADP of 54 juveniles are then used to calculate the budget recommendation for alternate care.

While a single rate for each type of alternate care is established by statute, facilities providing each type of care vary in the daily rates that are charged. It is the Department's responsibility to manage these costs within the alternate care budget calculated on the basis of a single, average rate and estimated juvenile populations. The following table shows the statutory alternate care rates for 2006-07 and the average rates projected under the bill for 2007-08 and 2008-09.

	Statutory Rates 7-1-06 thru 6-30-07	Governor	
		7-1-07 thru 6-30-08	7-1-08 thru 6-30-09
Residential Care Centers	\$244.00	\$277.00	\$296.00
Group Homes	163.00	165.00	172.00
Treatment Foster Homes	87.00	132.00	145.00
Regular Foster Homes	50.00	67.00	74.00

**Joint Finance/Legislature:** Modify the Governor's recommendation by \$530,200 in 2007-08 and \$564,100 in 2008-09 to reflect modified population estimates of 59.5 juveniles annually (the estimated daily rates for alternate care remain the same).

**6. MENDOTA JUVENILE TREATMENT CENTER**

PR	\$565,900
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**Governor/Legislature:** Modify statutory provisions to reflect increased funding of \$249,200 in 2007-08 and \$316,700 in 2008-09 in the Department's juvenile correctional services appropriation for payments to the Department of Health and Family Services' (DHFS) interagency and intra-agency programs appropriation, for services for juveniles placed at the Mendota Juvenile Treatment Center (MJTC). Base funding for MJTC is \$1,379,300 GPR and \$2,390,600 PR. Under the bill, total funding would be \$1,379,300 GPR and \$2,639,800 PR in 2007-08 and \$1,379,600 GPR and \$2,707,300 in 2008-09.

The Mendota Juvenile Treatment Center is a secure correctional facility located on the grounds of the Mendota Mental Health Institute that provides evaluation of and treatment services to male adolescents transferred from Division of Juvenile Corrections institutions. Under current law, Corrections is required to transfer certain funds specified in statute to DHFS for those services. The bill adjusts those amounts for the 2007-09 biennium.

[Act 20 Section: 832]

**7. POSITION REDUCTIONS AND TRANSFERS IN JUVENILE CORRECTIONAL INSTITUTIONS AND CORRECTIVE SANCTIONS [LFB Paper 249]**

	<b>Governor (Chg. to Base)</b>		<b>Jt. Finance/Leg. (Chg. to Gov)</b>		<b>Net Change</b>	
	<b>Funding</b>	<b>Positions</b>	<b>Funding</b>	<b>Positions</b>	<b>Funding</b>	<b>Positions</b>
PR	-\$3,117,400	-29.92	\$0	15.00	-\$3,117,400	-14.92

**Governor:** Reduce funding by \$1,558,700 and 29.92 positions annually associated with long-term vacancies in juvenile correctional institutions and corrective sanctions. The position reductions include: (a) 8.0 positions budgeted in the Division of Juvenile Corrections central office; (b) 12.0 positions at Ethan Allen School; (c) 3.5 positions at the Lincoln Hills School; and (d) 6.42 positions at the Southern Oaks Girls School. In addition, the bill would transfer of 7.0 positions from the juvenile aftercare program to juvenile corrective sanctions.

**Joint Finance/Legislature:** Modify the Governor's recommendation by restoring 15.0 positions but not funding associated with those positions.

**8. POPULATION-RELATED COST ADJUSTMENTS [LFB Paper 246]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
PR	-\$1,806,700	\$86,700	-\$1,720,000

**Governor:** Delete \$938,300 in 2007-08 and \$868,400 in 2008-09 to reflect population-related cost adjustments as follows: (a) -\$132,900 in 2007-08 and -\$119,200 in 2008-09 for food costs at juvenile correctional institutions; (b) -\$109,900 annually for variable non-food costs (such as laundry, clothing, and personal items) for institutionalized juveniles; and (c) -\$695,500 in 2007-08 and -\$639,300 in 2008-09 to reflect juvenile health cost reductions.

**Joint Finance/Legislature:** Modify the Governor's recommendation by \$42,500 in 2007-08 and \$44,200 in 2008-09 based on more recent population and placement data (-\$10,700 in 2007-08 and -\$10,900 in 2008-09 for food costs, \$25,200 annually for variable non-food costs, and \$28,000 in 2007-08 and \$29,900 in 2008-09 for juvenile health care costs.)

**9. PROGRAM REVENUE REESTIMATES -- JUVENILE CORRECTIONS**

PR	\$2,031,300
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**Governor/Legislature:** Provide \$851,500 in 2007-08 and \$1,179,800 in 2008-09 associated with the following program revenue reestimates: (a) \$816,700 in 2007-08 and \$1,145,100 in 2008-09 for juvenile utilities and heating supplies and services; and (b) \$34,800 in 2007-08 and \$34,700 in 2008-09 for supplies and services under the juvenile corrective sanctions program.

**10. TRANSFER OF YOUTH DIVERSION PROGRAM FROM THE DEPARTMENT OF CORRECTIONS [LFB Paper 121]**

	Funding	Positions
GPR	-\$760,000	0.00
PR	<u>- 2,239,400</u>	<u>- 0.50</u>
Total	-\$2,999,400	- 0.50

**Governor/Legislature:** Transfer the administration and grant funding of the youth diversion program from the Department of Corrections to OJA by: (a) transferring a 0.5 PR grant specialist position and its associated funding of \$24,800 PR annually from Corrections' youth diversion administration appropriation to OJA's law enforcement programs-administration appropriation; (b) revising the title of this OJA appropriation to reflect the transfer of youth diversion administration to OJA; (c) transferring \$300,000 PR annually in grant funding from the Juvenile Correctional Services' interagency and intra-agency aids appropriation to OJA's interagency and intra-agency aids appropriation; (d) transferring the GPR and PR youth diversion grant appropriations and funding of \$380,000 GPR and \$794,900 PR annually from Corrections to OJA; and (e) renumbering the statutory language governing the administration of the program to OJA.

In addition, specify that a \$150,000 annual grant that is currently provided to an organization in the City of Racine's Ward 1, will instead be provided to an organization in Racine's Ward 2. The grant would continue to be provided to the George Bray Neighborhood Center.

Under 2001 Wisconsin Act 16, the youth diversion program was initially transferred from Corrections to OJA. The provisions of 2005 Wisconsin Act 25 transferred the program back to Corrections. The program is currently being administered by OJA under a memorandum of understanding between Corrections and OJA. Under the bill, the Governor recommends that the program again be transferred back to OJA.

*Transition Provisions.* On the general effective date of the biennial budget act, transfer the assets and liabilities, tangible personal property, and contracts of Corrections primarily related to its youth diversion program, as determined by the Secretary of DOA, to OJA. Specify that all incumbent employees of Corrections having duties primarily related to its youth diversion program, as determined by the Secretary of DOA, would be transferred to OJA. Provide that all transferred employees would retain the same rights and employee status in OJA that they enjoyed in Corrections immediately prior to the transfer, and no transferred employee who had attained permanent status in his or her classified position would be required to serve a new probationary period. Specify that the pending matters, and rules and orders of Corrections primarily related to its youth diversion program, as determined by the Secretary of DOA, would become the pending matters, rules and orders of OJA.

[Act 20 Sections: 102, 323, 325, 326, 487, 488, 539, 3125 thru 3128, 9101(5), and 9109(1)]

**11. JUVENILE CORRECTIONAL SERVICES APPROPRIATION DEFICIT [LFB Paper 250]**

**Joint Finance/Legislature:** Provide that all available program revenue balances in the juvenile residential aftercare and corrective sanctions appropriations be transferred to the juvenile correctional services appropriation on June 30, 2007.

Create a statutory mechanism to authorize the Departments of Administration and Corrections, prior to the end of each odd-numbered year, to: (a) estimate the unexpended revenues, less encumbrances, that will remain in the juvenile correctional services appropriation on June 30<sup>th</sup> of that year; and (b) if the estimated balance is projected to be negative, include the amount of the estimated deficit in the cost basis for the calculation of the proposed secured correctional facilities daily rates for the subsequent biennium. Require that 50% of the deficit amount be added to the cost basis for the calculation of daily rates for the first year of the subsequent biennium and 50% of the deficit amount be added to the cost basis for the calculation of daily rates for the second year of the subsequent biennium. Require that the share of the daily rate revenue that is proportionate to the share of the increased cost basis associated with the estimated deficit be reserved for the purpose of retiring the deficit. Provide that any revenue reserved for this purpose that exceeds the amount of the deficit on June 30<sup>th</sup>, of the odd-numbered year of the subsequent biennium, be reimbursed to the counties and the state, on before September 30, of that calendar year, in a manner proportionate to the total number of days of juvenile placements at the facilities for each county and the state.

**Veto by Governor [C-3]:** Delete the language related to creating a statutory mechanism to include deficit amounts in the cost basis for calculating the daily rates.

[Act 20 Sections: 324g, 324i, 324k, 9209(1f), and 9409(2f)]

[Act 20 Vetoed Sections: 324g, 324h, 3114m, and 9409(2f)]

**12. DEPARTMENTAL RESPONSE TO AUDIT OF JUVENILE COURT JURISDICTION FOR 17 YEAR OLDS [LFB Paper 250]**

**Joint Finance:** Direct the Department to submit a response to the audit of the effect of providing juvenile court jurisdiction for 17 year-olds to the Joint Legislative Audit Committee and Joint Committee on Finance by March 31, 2008.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

[Act 20 Section: 9109(1f)]

## COURT OF APPEALS

<b>Budget Summary</b>							
Fund	2006-07 Base Year Doubled	2007-09 Governor	2007-09 Jt. Finance	2007-09 Legislature	2007-09 Act 20	Act 20 Change Over Base Year Doubled Amount	Percent
GPR	\$17,634,200	\$19,054,000	\$19,054,000	\$19,054,000	\$19,054,000	\$1,419,800	8.1%

<b>FTE Position Summary</b>						
Fund	2006-07 Base	2008-09 Governor	2008-09 Jt. Finance	2008-09 Legislature	2008-09 Act 20	Act 20 Change Over 2006-07 Base
GPR	75.50	75.50	75.50	75.50	75.50	0.00

### Budget Change Item

#### 1. STANDARD BUDGET ADJUSTMENTS

GPR	\$1,419,800
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**Governor/Legislature:** Provide adjustments to the base budget including: (a) \$702,200 annually for full funding of salaries and fringe benefits; and (b) \$7,700 annually for full funding of lease costs.

## DISTRICT ATTORNEYS

<b>Budget Summary</b>							
Fund	2006-07 Base Year Doubled	2007-09 Governor	2007-09 Jt. Finance	2007-09 Legislature	2007-09 Act 20	Act 20 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$82,424,600	\$85,220,400	\$85,270,800	\$85,589,100	\$85,589,100	\$3,164,500	3.8%
PR	<u>3,670,200</u>	<u>6,521,200</u>	<u>6,521,200</u>	<u>6,651,800</u>	<u>6,651,800</u>	<u>2,981,600</u>	81.2
<b>TOTAL</b>	<b>\$86,094,800</b>	<b>\$91,741,600</b>	<b>\$91,792,000</b>	<b>\$92,240,900</b>	<b>\$92,240,900</b>	<b>\$6,146,100</b>	<b>7.1%</b>

<b>FTE Position Summary</b>						
Fund	2006-07 Base	2008-09 Governor	2008-09 Jt. Finance	2008-09 Legislature	2008-09 Act 20	Act 20 Change
						Over 2006-07 Base
GPR	376.40	376.40	376.40	380.90	380.90	4.50
PR	<u>43.75</u>	<u>40.25</u>	<u>40.25</u>	<u>41.50</u>	<u>41.50</u>	<u>-2.25</u>
<b>TOTAL</b>	<b>420.15</b>	<b>416.65</b>	<b>416.65</b>	<b>422.40</b>	<b>422.40</b>	<b>2.25</b>

### Budget Change Items

#### 1. STANDARD BUDGET ADJUSTMENTS [LFB Paper 260]

	Governor (Chg. to Base)		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	\$2,795,800	0.00	\$50,400	0.00	\$2,846,200	0.00
PR	<u>2,824,300</u>	<u>-3.50</u>	<u>0</u>	<u>0.00</u>	<u>2,824,300</u>	<u>-3.50</u>
<b>Total</b>	<b>\$5,620,100</b>	<b>-3.50</b>	<b>\$50,400</b>	<b>0.00</b>	<b>\$5,670,500</b>	<b>-3.50</b>

**Governor:** Provide standard adjustments totaling \$1,397,900 GPR and \$1,441,700 PR and -3.5 PR positions in 2007-08, and \$1,397,900 GPR and \$1,382,600 PR and -3.5 PR positions in 2008-09. Adjustments are for: (a) turnover reduction (-\$214,700 GPR annually); (b) removal of noncontinuing elements from the base (-\$177,300 PR and -3.5 PR positions in 2007-08, and -\$236,400 PR and -3.5 PR positions in 2008-09); (c) full funding of continuing salaries and fringe benefits (\$1,514,700 GPR and \$1,619,000 PR annually); and (d) night and weekend differential (\$97,900 GPR annually).

**Joint Finance/Legislature:** Provide an additional \$25,200 GPR annually to the salaries and fringe benefits appropriation for full funding of continuing salaries and fringe benefits.

**2. FULL FUNDING FOR MILWAUKEE COUNTY CLERKS**

PR	\$26,700
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**Governor/Legislature:** Provide \$8,800 in 2007-08 and \$17,900 in 2008-09 to fully fund the salary and fringe benefits costs of 6.5 clerks in the Milwaukee County District Attorney's Office that provide clerical services to prosecutors handling violent crime and felony drug violation cases in Milwaukee County's speedy drug and violent crime courts and unlawful possession or use of firearms cases. Program revenue funding is generated from the \$3.50 special prosecution clerks surcharge which is only collected in Milwaukee County.

**3. MULTIJURISDICTIONAL ENFORCEMENT GROUP ASSISTANT DISTRICT ATTORNEY POSITIONS [LFB Paper 261]**

**Governor:** Direct DOA's Office of Justice Assistance (OJA) to provide federal Byrne funding in each year of the biennium, in an amount to be determined by DOA, to partially support the following multijurisdictional enforcement group (MEG) prosecutor positions: (a) 2.0 prosecutor positions in Milwaukee County; and (b) 0.75 prosecutor position in Dane County. Further, direct the Department of Justice (DOJ) to provide state penalty surcharge funding in each year of the biennium, in an amount to be determined by DOA, to provide the remaining funding for the identified MEG prosecutor positions in Milwaukee and Dane counties. Finally, direct DOJ to provide state penalty surcharge funding in each year of the biennium, in an amount to be determined by DOA, to fund 1.0 MEG prosecutor position in St. Croix County.

Multijurisdictional enforcement groups are cooperative law enforcement efforts to prosecute criminal violations of Chapter 961 (the Uniform Controlled Substances Act). The funds supporting these positions are provided under the federal Justice Assistance Grant (Byrne) Program and from state penalty surcharge dollars. The penalty surcharge is imposed whenever a court imposes a fine or forfeiture for most violations of state law or municipal or county ordinance. Under current law, the penalty surcharge equals 26% of the total fine or forfeiture.

These positions are currently authorized prosecutor positions. Under 2005 Wisconsin Act 25, similar nonstatutory language provided funding for these positions, but the funding to be provided by OJA and DOJ was specifically identified in the statutory language rather than provided at the discretion of DOA.

**Joint Finance/Legislature:** Delete the discretion of DOA to determine the amount of funding to be provided for the MEG prosecutor positions in Dane, Milwaukee, and St. Croix Counties. Instead, specify that the MEG prosecutors be provided the following funding: (a) \$60,000 in 2007-08 and \$65,900 in 2008-09, to fully fund the 0.75 MEG prosecutor in Dane County; and (b) \$143,000 in 2007-08 and \$157,600 in 2008-09 to fully fund the 2.0 MEG prosecutors in Milwaukee County. (DOA would retain the discretion to determine the split in



Byrne and penalty surcharge dollars to fund these positions.) As the 1.0 MEG prosecutor in St. Croix County is solely funded from penalty surcharge dollars appropriated to DOJ, direct DOJ to provide \$84,500 PR in 2007-08 and \$94,600 PR in 2008-09, to fully fund this position.

Further, specify that OJA must utilize 44% of the federal fiscal year (FFY) 2007 and 2008 Byrne Justice Assistance Grant awards to support local MEGs. This provision would permit the state to fully fund these MEG prosecutors regardless of the level of federal Byrne funding provided in FFY 2007 and FFY 2008, but still ensure that available Byrne funding be utilized in like proportion as in 2005-07 to support local MEGs. [See "Administration -- Office of Justice Assistance."]

[Act 20 Sections: 9101(6L) and 9111(1L), (2L)&(3L)]

#### 4. CASE MANAGEMENT FUNDING FOR MILWAUKEE COUNTY [LFB Paper 127]

**Governor:** Direct OJA to provide \$25,000 GPR in 2007-08 to the Milwaukee County District Attorney's Office to support the development of case management processes. [See "Administration -- Office of Justice Assistance."]

**Joint Finance/Legislature:** Delete provision.

#### 5. TREMPLEALEAU COUNTY DISTRICT ATTORNEY

**Senate:** Provide \$49,300 in 2007-08, and \$49,800 in 2008-09, and 0.4 position annually to convert the elected district attorney in Trempealeau County to full-time status.

	Funding	Positions
GPR	\$99,100	0.40

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

[Act 20 Section: 3926p]

#### 6. ADDITIONAL ASSISTANT DISTRICT ATTORNEY POSITIONS

**Senate:** Provide \$32,400 in 2007-08, and \$97,200 in 2008-09, to provide 2.0 additional assistant district attorney (ADA) positions as follows: (a) 1.0 ADA position to Polk County effective January 1, 2009; (b) 0.5 ADA position to Rock County effective January 1, 2008; and (c) 0.5 ADA position to St. Croix County effective January 1, 2008.

	Funding	Positions
GPR	\$129,600	2.00

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

**7. VERNON COUNTY DISTRICT ATTORNEY**

	<b>Funding</b>	<b>Positions</b>
GPR	\$24,800	0.10

**Assembly/Legislature:** Provide \$12,300 in 2007-08, and \$12,500 in 2008-09, and 0.10 position annually to convert the elected district attorney in Vernon County to full-time status.

[Act 20 Section: 3926p]

**8. BYRNE FUNDED ASSISTANT DISTRICT ATTORNEY POSITIONS**

	<b>Funding</b>	<b>Positions</b>
PR	\$130,600	1.25

**Assembly/Legislature:** Direct OJA to provide \$49,100 in 2007-08, and \$81,500 in 2008-09, to fund additional ADA positions for the following counties: (a) 0.25 FTE to Chippewa County, on the effective date of the bill; and (b) 1.0 FTE to St. Croix County, effective January 1, 2008. Funding would be provided from the federal Byrne Justice Assistance Grant Program.

[Act 20 Sections: 9111(4q) and 9111(4r)]

**9. KENOSHA COUNTY ADDITIONAL ASSISTANT DISTRICT ATTORNEY POSITIONS**

	<b>Funding</b>	<b>Positions</b>
GPR	\$64,800	2.00

**Conference Committee/Legislature:** Provide \$64,800 in 2008-09 to provide 2.0 additional ADA positions in Kenosha County effective January 1, 2009.

## EDUCATIONAL COMMUNICATIONS BOARD

<b>Budget Summary</b>							
Fund	2006-07 Base Year Doubled	2007-09 Governor	2007-09 Jt. Finance	2007-09 Legislature	2007-09 Act 20	Act 20 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$15,436,000	\$16,136,500	\$16,136,500	\$16,136,500	\$16,136,500	\$700,500	4.5%
FED	2,343,600	2,343,600	2,343,600	2,343,600	2,343,600	0	0.0
PR	<u>17,712,200</u>	<u>17,845,600</u>	<u>17,845,600</u>	<u>17,845,600</u>	<u>17,845,600</u>	<u>133,400</u>	0.8
<b>TOTAL</b>	<b>\$35,491,800</b>	<b>\$36,325,700</b>	<b>\$36,325,700</b>	<b>\$36,325,700</b>	<b>\$36,325,700</b>	<b>\$833,900</b>	<b>2.3%</b>

<b>FTE Position Summary</b>						
Fund	2006-07 Base	2008-09 Governor	2008-09 Jt. Finance	2008-09 Legislature	2008-09 Act 20	Act 20 Change
						Over 2006-07 Base
GPR	37.44	37.44	37.44	37.44	37.44	0.00
PR	<u>24.74</u>	<u>24.74</u>	<u>24.74</u>	<u>24.74</u>	<u>24.74</u>	<u>0.00</u>
<b>TOTAL</b>	<b>62.18</b>	<b>62.18</b>	<b>62.18</b>	<b>62.18</b>	<b>62.18</b>	<b>0.00</b>

### Budget Change Items

#### 1. STANDARD BUDGET ADJUSTMENTS

GPR	-\$16,200
PR	<u>133,200</u>
<b>Total</b>	<b>\$117,000</b>

**Governor/Legislature:** Adjust the base budget by -\$8,100 GPR and \$66,600 PR annually for: (a) full funding of continuing salaries and fringe benefits (-\$122,100 GPR and \$37,800 PR annually); (b) reclassification of the electronic technician classification series to improve recruitment for these positions (\$39,700 GPR and \$14,800 PR annually); (c) overtime (\$66,400 GPR and \$11,000 PR annually); and (d) night and weekend pay differentials (\$7,900 GPR and \$3,000 PR annually).

#### 2. REDUCE GPR FUNDING FOR PUBLIC TELEVISION AND RADIO

**Assembly:** Reduce GPR funding for the Educational Communications Board (ECB) by approximately 50% to end GPR funding for public television and radio. Require ECB to utilize

its remaining GPR funding to support programming for K-12 education to the maximum extent practicable. The following table shows the Joint Finance funding level for each appropriation that would be reduced, the amount of the reduction, and the net funding remaining.

<u>Appropriation Purpose</u>	<u>2007-08</u>	<u>2008-09</u>
General Program Operations		
Joint Finance	\$3,306,100	\$3,306,100
Reduction	<u>-1,653,100</u>	<u>-1,653,100</u>
Net Funding	\$1,653,000	\$1,653,000
Energy Costs		
Joint Finance	\$753,400	\$790,800
Reduction	<u>0</u>	<u>-100,000</u>
Net Funding	\$753,400	\$690,800
Milwaukee Area Technical College		
Joint Finance	\$250,800	\$250,800
Reduction	<u>-125,400</u>	<u>-125,400</u>
Net Funding	\$125,400	\$125,400
Programming		
Joint Finance	\$1,194,400	\$1,194,400
Reduction	<u>-597,200</u>	<u>-597,200</u>
Net Funding	\$597,200	\$597,200
Total Reduction	-\$2,375,700	-\$2,475,700

**Conference Committee/Legislature:** Delete provision.

**3. REESTIMATE DEBT SERVICE [LFB Paper 175]**

GPR	\$520,500
PR	<u>200</u>
Total	\$520,700

**Governor/Legislature:** Reestimate debt service costs by \$212,100 GPR in 2007-08 and \$308,400 GPR and \$200 PR in 2008-09. Annual base level funding is \$2,265,600 GPR and \$13,100 PR.

**4. REESTIMATE FUEL AND UTILITY EXPENSES**

GPR	\$196,200
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**Governor/Legislature:** Provide \$79,400 in 2007-08 and \$116,800 in 2008-09 for fuel and utility expenses for the ECB over annual base level funding of \$674,000.

## ELECTIONS BOARD

<b>Budget Summary</b>							
Fund	2006-07 Base Year Doubled	2007-09 Governor	2007-09 Jt. Finance	2007-09 Legislature	2007-09 Act 20	Act 20 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$1,921,200	\$4,056,200	\$0	\$0	\$0	-\$1,921,200	-100.0%
FED	409,200	3,053,300	0	0	0	-409,200	-100.0
PR	115,400	275,000	0	0	0	-115,400	-100.0
SEG	<u>1,500,200</u>	<u>1,500,200</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>-1,500,200</u>	-100.0
<b>TOTAL</b>	<b>\$3,946,000</b>	<b>\$8,884,700</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>-\$3,946,000</b>	<b>-100.0%</b>

<b>FTE Position Summary</b>						
Fund	2006-07 Base	2008-09 Governor	2008-09 Jt. Finance	2008-09 Legislature	2008-09 Act 20	Act 20 Change Over 2006-07 Base
GPR	11.00	11.00	0.00	0.00	0.00	-11.00
FED	<u>5.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>-5.00</u>
<b>TOTAL</b>	<b>16.00</b>	<b>11.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>-16.00</b>

### Budget Change Items

#### 1. STANDARD BUDGET ADJUSTMENTS [LFB Paper 270]

	<b>Governor (Chg. to Base)</b>		<b>Jt. Finance/Leg. (Chg. to Gov)</b>		<b>Net Change</b>	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	\$183,100	0.00	\$9,400	0.00	\$192,500	0.00
FED	<u>-355,900</u>	<u>-5.00</u>	<u>0</u>	<u>0.00</u>	<u>-355,900</u>	<u>-5.00</u>
<b>Total</b>	<b>-\$172,800</b>	<b>-5.00</b>	<b>\$9,400</b>	<b>0.00</b>	<b>-\$163,400</b>	<b>-5.00</b>

**Governor:** Provide standard adjustments totaling \$90,500 GPR and -\$129,100 FED and -4.0 FED positions in 2007-08, and \$92,600 GPR and -\$226,800 FED and -5.0 FED positions in 2008-09. Adjustments are for: (a) removal of noncontinuing elements from the base (-\$129,100 FED and -4.0 FED positions in 2007-08, and -\$226,800 FED and -5.0 FED positions in 2008-09); (b) full funding of continuing salaries and fringe benefits (\$80,700 GPR annually); and (c)

reclassifications (\$9,800 GPR in 2007-08 and \$11,900 GPR in 2008-09).

**Joint Finance/Legislature:** Provide an additional \$4,700 GPR annually to the Board's GPR-funded general program operations appropriation for full funding of continuing salaries and fringe benefits.

**2. STATEWIDE VOTER REGISTRATION SYSTEM MAINTENANCE AND SUPPORT**  
[LFB Paper 271]

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
GPR	\$1,951,900	-\$288,900	\$1,663,000
PR	159,600	0	159,600
<b>Total</b>	<b>\$2,111,500</b>	<b>-\$288,900</b>	<b>\$1,822,600</b>

**Governor:** Provide \$924,700 GPR and \$79,800 PR in 2007-08 and \$1,027,200 GPR and \$79,800 PR in 2008-09 to provide state funding for annual maintenance and support costs associated with the Department of Administration's Division of Enterprise Technology's (DET) hosting of the Statewide Voter Registration System on DET hardware. Program revenue would be provided from the Board's materials and services PR appropriation.

During 2006-07, DET is charging the Elections Board \$931,500 to provide maintenance and support services associated with hosting the Statewide Voter Registration System. Current costs are being supported with one-time federal funding. Costs are estimated to increase 10% annually. The 2007-08 estimated cost of \$1,024,700 would be covered with: (a) \$924,700 GPR in increased funding; (b) \$79,800 PR in increased funding; and (c) \$20,200 PR in existing expenditure authority under the Board's materials and services PR appropriation. The 2008-09 estimated cost of \$1,127,200 would be covered with: (a) \$1,027,200 GPR in increased funding; (b) \$79,800 PR in increased expenditure authority; and (c) \$20,200 PR in existing expenditure authority under the Board's materials and services PR appropriation. The materials and services PR appropriation is estimated to generate an additional \$89,800 annually in PR-revenue during the 2007-09 biennium from the sale of data from the Statewide Voter Registration System.

**Joint Finance/Legislature:** Modify the Governor's recommendation by reducing GPR funding by \$93,200 GPR in 2007-08 and by \$195,700 GPR in 2008-09, to reflect updated information by DET on anticipated charges during 2007-09 to host the Statewide Voter Registration System on DET hardware.

**3. FEDERAL ELECTION ADMINISTRATION FUNDING**

FED	\$3,000,000
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**Governor/Legislature:** Provide \$1,500,000 annually in increased expenditure authority to pay election administration costs utilizing federal funds provided under the Help America Vote Act. Funds would be utilized to make payments associated with: (a) the Statewide Voter

Registration System; (b) state agency interface charges; (c) rent; (d) training; (e) travel; (f) photocopying; (g) postage; (h) printing; and (i) other computer charges.

#### 4. CAMPAIGN FINANCE DATABASE CONVERSION [LFB Paper 271]

**Governor:** Reserve \$450,000 GPR annually under the Joint Committee on Finance GPR supplemental appropriation for possible future release to the Elections Board or Government Accountability Board for conversion of the campaign finance database. The provisions of 2007 Wisconsin Act 1 consolidated the Elections Board and the Ethics Board as a new Government Accountability Board (GAB). Under Act 1, the Elections and Ethics Boards cease to exist on the later of either: (a) September 1, 2007; or (b) the 31<sup>st</sup> day beginning after the date on which GAB has given final approval to the hiring of individuals to initially fill the positions of Legal Counsel to the Board, Administrator of the Ethics and Accountability Division of GAB, and Administrator of the Elections Division of GAB. [See "Program Supplements."]

**Joint Finance/Legislature:** Require the Department of Administration to: (a) assist the Elections Board or GAB in the selection of a vendor to complete the Board's campaign finance database conversion project; and (b) designate a staff person to provide the Elections Board or GAB quality assurance for information technology development work completed in connection with the creation of the Board's campaign finance database.

[Act 20 Section: 9101(7k)]

#### 5. CAMPAIGN FINANCE APPROPRIATION

**Governor:** Create a "Funding for Future Public Financing" GPR continuing appropriation under the Elections Board to providing funding for public financing of campaigns for state office under future legislation. The bill provides no funding in the appropriation and makes no changes to campaign finance laws under Chapter 11 of the statutes.

**Joint Finance/Legislature:** Delete provision as a non-fiscal policy item.

#### 6. REIMBURSEMENT OF MUNICIPALITIES TO ESTABLISH UNIFORM POLL HOURS [LFB Paper 272]

GPR	\$240,000
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**Joint Finance/Legislature:** Reestimate the sum sufficient election-related cost reimbursement appropriation by \$80,000 in 2007-08, and \$160,000 in 2008-09, based on Board payment experience subsequent to the passage of 2005 Wisconsin Act 333.

Act 333 created this sum sufficient appropriation to provide funding to the Board to permit it to reimburse municipalities for additional costs incurred to adjust polling hours to begin at 7 a.m., at any election held after April 29, 2006. Only municipalities that maintained polling hours beginning later than 7 a.m., prior to April 29, 2006, are eligible to file claims to receive these reimbursements.

**7. CREATION OF GOVERNMENT ACCOUNTABILITY BOARD [LFB Paper 360]**

	Funding	Positions
GPR	-\$4,016,700	- 11.00
FED	- 3,053,300	0.00
PR	- 275,000	0.00
SEG	<u>- 1,500,200</u>	<u>0.00</u>
Total	-\$8,845,200	- 11.00

**Joint Finance/Legislature:** Effectuate the provisions of 2007 Wisconsin Act 1 creating GAB and deleting the Elections and Ethics Boards.

*Delete Elections Board Appropriations and Funding.* Delete the Elections Board's Chapter 20 appropriations schedule and appropriations on the effective date of the 2007-09 biennial budget act. Delete funding and position authority provided to the Board through Joint Finance action of \$1,967,300 GPR and 11.0 GPR positions, \$1,575,500 FED and 1.0 FED position, \$137,500 PR, and \$750,100 SEG in 2007-08, and \$2,049,400 GPR and 11.0 GPR positions, \$1,477,800 FED, \$137,500 PR, and \$750,100 SEG in 2008-09.

*Deposit of Revenues to Government Accountability Board Funds or Appropriations.* Provide that the Elections Board (for so long as it remains constituted and vested with authority during 2007-09) must deposit all revenues received into the appropriate GAB fund or appropriation account, consistent with the purposes for which those revenues are directed by law to be deposited to or credited by GAB.

*Expenditures from Government Accountability Board Appropriations.* Provide that the Elections Board (for so long as it remains constituted and vested with authority during 2007-09) may encumber or expend moneys from any GAB appropriation, consistent with the purposes of that appropriation. Further provide that the Elections Board may not encumber or expend funds in an amount greater than the amount that would have been authorized to the Board during 2007-09, if the passage of SB 40 had been delayed.

[Act 20 Sections: 1b, 543g, 3938c, 9118m(1u), and 9418m(1t)]

**8. OVERSIGHT OF ELECTION ADMINISTRATION FUND**

**Joint Finance/Legislature:** Provide that no later than the 15<sup>th</sup> day of each month, the Elections Board must (prior to its termination), and thereafter GAB must report to the Co-Chairs of the Joint Committee on Finance concerning expenditures made in the previous month from the Election Administration Fund for the Statewide Voter Registration System for: (a) staffing costs; (b) payments made to outside contractors; and (c) supplies and services costs. Further provide that the report must detail the expenditures made under each of these categories, including an expenditure total for each category. Any Committee member who objects to an expenditure identified in the report must promptly notify the Co-Chairs of the Committee of the objection. If, upon receiving a monthly report, the Co-Chairs of the Committee do not notify the Executive Director of the Elections Board (prior to its termination), or the Legal Counsel for GAB, that the Committee has scheduled a meeting for the purpose of reviewing these expenditures made by the Board within seven working days after the report was submitted, the Board may continue to make expenditures from the Election Administration Fund. If within seven working days after the Board submits its monthly report, the Co-Chairs of the Committee



notify the Executive Director of the Elections Board (prior to its termination), or the Legal Counsel for GAB, that a member of the Committee objects to an expenditure from the Election Administration Fund identified in the monthly report, the Board may not make any additional expenditures from the Election Administration Fund for the Statewide Voter Registration System from the category to which the expenditure relates, except to pay prior legal obligations, until the Committee meets and authorizes additional expenditures to be made for that purpose from the Election Administration Fund. The Co-Chairs of the Committee must call a meeting of the Committee to be held within 90 days of the date that a member notifies the Co-Chairs that the member objects to an expenditure that is identified in a monthly report. Further provide that this oversight provision does not apply after June 30, 2009.

*Current Law.* The Election Administration Fund is a separate, nonlapsible trust fund consisting of federal Help America Vote Act (HAVA) funding and associated state match funding, as well as interest earned on these funds. The balances in the fund may only be utilized to meet the requirements of HAVA and to address election administration costs as permitted by HAVA. HAVA required the state to develop an official, centralized, computerized Statewide Voter Registration System.

[Act 20 Section: 9227(1L)]

## EMPLOYEE TRUST FUNDS

<b>Budget Summary</b>							
Fund	2006-07 Base Year Doubled	2007-09 Governor	2007-09 Jt. Finance	2007-09 Legislature	2007-09 Act 20	Act 20 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$3,665,200	\$2,896,800	\$2,869,100	\$2,869,100	\$2,869,100	-\$796,100	- 21.7%
SEG	<u>43,027,200</u>	<u>51,916,600</u>	<u>51,850,000</u>	<u>52,000,000</u>	<u>52,000,000</u>	<u>8,972,800</u>	20.9
<b>TOTAL</b>	<b>\$46,692,400</b>	<b>\$54,813,400</b>	<b>\$54,719,100</b>	<b>\$54,869,100</b>	<b>\$54,869,100</b>	<b>\$8,176,700</b>	<b>17.5%</b>

<b>FTE Position Summary</b>						
Fund	2006-07 Base	2008-09 Governor	2008-09 Jt. Finance	2008-09 Legislature	2008-09 Act 20	Act 20 Change Over 2006-07 Base
GPR	3.50	0.00	0.00	0.00	0.00	- 3.50
SEG	<u>193.10</u>	<u>211.60</u>	<u>217.60</u>	<u>217.60</u>	<u>217.60</u>	<u>24.50</u>
<b>TOTAL</b>	<b>196.60</b>	<b>211.60</b>	<b>217.60</b>	<b>217.60</b>	<b>217.60</b>	<b>21.00</b>

### Budget Change Items

#### 1. STANDARD BUDGET ADJUSTMENTS

SEG	-\$463,000
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**Governor/Legislature:** Provide standard adjustments totaling -\$231,500 annually. Adjustments are for: (a) turnover reduction (-\$293,800 annually); (b) removal of noncontinuing elements from base (-\$300,000 annually); (c) full funding of continuing salaries and fringe benefits (\$239,600 annually); (d) overtime (\$47,200 annually); (e) night and weekend differential (\$74,800 annually); and (f) full funding of lease costs and directed moves (\$700 annually).

## 2. REENGINEERING INFORMATION TECHNOLOGY SYSTEMS [LFB Paper 280]

	<u>Governor</u> <u>(Chg. to Base)</u>		<u>Jt. Finance/Leg.</u> <u>(Chg. to Gov)</u>		<u>Net Change</u>	
	<u>Funding</u>	<u>Positions</u>	<u>Funding</u>	<u>Positions</u>	<u>Funding</u>	<u>Positions</u>
SEG	\$5,697,500	9.00	-\$2,487,900	0.00	\$3,209,600	9.00

**Governor:** Provide \$4,936,800 in 2007-08 and \$760,700 in 2008-09 and 6.0 two-year project positions and 3.0 permanent positions annually for reengineering certain information technology (IT) systems. Under the bill, the funding is placed in unallotted reserve. The Executive Budget Book indicates that DOA would release the funding and related position authority upon approval of a plan submitted by ETF that specifies the goals and services to be delivered through the reengineering project.

The total funding and positions provided in the bill conform to the agency's budget request for the reengineering project. Under the request, funding and positions would be utilized as follows: (a) \$3,162,700 in 2007-08 and \$375,600 in 2008-09 and 2.0 two-year project positions annually for the evaluation and implementation of an integrated lump-sum payment system; (b) \$1,595,800 in 2007-08 and \$195,300 in 2008-09 and 4.0 two-year project positions annually for the evaluation and planning of an integrated health insurance enrollment, eligibility, and processing system; and (c) \$178,300 in 2007-08 and 189,800 in 2008-09 and 3.0 positions annually for ongoing support for the integrated health insurance enrollment, eligibility, and processing system.

The positions include 4.0 two-year project trust funds personnel positions, 2.0 two-year project accountant positions, and 3.0 permanent information systems development positions. The 6.0 project positions are intended to assist with day-to-day operations so that more experienced ETF personnel can participate in the systems evaluation and planning work being proposed.

Lump-sum payments are one-time payments that are made to certain WRS participants whose accounts are being closed for one of several reasons: (a) to pay a separation benefit when a participant leaves WRS service prior to being eligible for a retirement annuity and chooses to withdraw his or her employee contributions and investment earnings; (b) to pay a retirement benefit to a participant whose benefit is below the statutory threshold for a monthly annuity; or (c) to pay a death benefit when an active, inactive, or annuitant participant dies. Such payments require timely processing. Currently, the Department processes 12,000 to 15,000 lump-sum payments annually using a variety of information systems and paper processes. The funding and positions under the bill would provide resources to evaluate, plan, and implement a single IT system for lump-sum payments that would be integrated into the same technical systems platform utilized by other departmental IT applications.

The Department also administers group health insurance plans for state employees and the employees of local governmental employers enrolled in ETF's Wisconsin Public Employers program. The Department indicates that more than 80,000 employees and 24,000 retirees are

currently covered under these health care coverage plans. ETF utilizes two separate systems to administer its health care plan responsibilities: one to manage participant information and one for the collection of premiums from employers. The funding and positions under the bill would provide resources to evaluate system needs and plan for (but not implement) a single IT system for health care administration that would allow integrated management of participant information and employer premium collection, including secure on-line access to health insurance coverage data for employers and carriers. The Department indicates that upon completion of the evaluation and recommendations for a new health care management system, additional resources would be needed to implement the project.

**Joint Finance/Legislature:** Modify the Governor's provisions, as follows:

a. Direct ETF to provide to the Joint Committee on Finance, for informational purposes only, copies of any material submitted to DOA relating to a request to release funding from unallotted reserve for reengineering agency information technology systems.

b. Place \$2,487,900 in 2007-08 relating to the implementation of a redesigned lump-sum payment system in the Joint Committee on Finance appropriation for segregated funds general program supplementation. Require ETF to submit a final report to the Committee on its plan for implementing the redesigned lump-sum payment system. Require that the report specify how the implementation plan for the system would conform to the DOA planning and monitoring standards to be submitted to the Joint Legislative Audit Committee by October 1, 2007, in response to the LAB IT review. The release of funding for the implementation of the project would be approved under a 14-day passive process. Under this provision, \$674,800 in 2007-08 would remain in ETF's unallotted reserve, for release by DOA, for planning purposes and project position costs.

c. Require ETF to submit a final report to the Committee on its plan for implementing an integrated health insurance enrollment, eligibility, and processing system. Require that the report specify: (a) the cost projections for each fiscal year in which implementation work is to be performed, including potential 2009-11 costs; (b) how the implementation plan for the system would conform to the DOA planning and monitoring standards to be submitted to the Joint Legislative Audit Committee by October 1, 2007, in response to the LAB IT review; and (c) how the Department's internal resources will be utilized in the implementation work of the integrated health insurance enrollment, eligibility, and processing system and the implementation work associated with the of the lump-sum payment system to assure the timely and successful completion of both projects.

[Act 20 Section: 9114(1c)]

### 3. CUSTOMER SERVICE FUNCTIONS [LFB Paper 281]

	Governor (Chg. to Base)		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
SEG	\$2,682,200	9.50	\$2,571,300	5.00	\$5,253,500	14.50

**Governor:** Provide \$1,351,000 and 4.0 positions in 2007-08 and \$1,331,200 and 9.5 positions in 2008-09 for customer service functions. In 2008-09, \$339,500 of the funding is placed in unallotted reserve. The Executive Budget Book indicates that DOA would release the funding and related position authority upon approval of a detailed project implementation plan to be submitted by ETF. Under the bill, 4.0 permanent positions would be authorized in each year and 5.5 four-year project positions would be authorized in 2008-09.

The funding and positions would be allocated for the following purposes: (a) \$439,200 in 2007-08 and \$92,000 in 2008-09 for automated operating system costs; (b) \$19,800 in 2007-08 and -\$23,100 in 2008-09 for health insurance data collection and analysis contracts; (c) \$203,200 and 4.0 positions in 2007-08 and \$549,000 and 9.5 positions in 2008-09 for general program operations; and (d) \$688,800 in 2007-08 and \$713,300 in 2008-09 for other information technology costs.

ETF administers the Wisconsin Retirement System (WRS), which covers all state employees and most local governmental employees except for employees of the City and County of Milwaukee. The staffing increase is intended to address backlogs and improve response times for participant requests relating to their retirement and the transition of such individuals to retirement annuities and other post-retirement benefit programs for health insurance, the accumulated sick leave credit conversion program, life insurance, vision care, and long-term care insurance. These requests are expected to increase during the 2007-09 biennium and beyond due to the aging of the WRS workforce. The 9.5 positions provided under the bill include: (a) 7.5 trust funds specialists (4.0 permanent and 3.5 project positions); (b) 1.0 office assistant project position; and (c) 1.0 accounting project position.

**Joint Finance/Legislature:** Provide \$545,900 in 2007-08 and \$209,200 in 2008-09 and 5.0 positions annually for customer service functions. Provide that the 5.5 FTE project positions provided under the bill would begin in 2007-08 instead of 2008-09 and would be made permanent positions. Under the provision, 14.5 permanent positions would be authorized annually. The unallotted reserve amount under the bill (\$339,500 in 2008-09) would instead be budgeted for salary, fringe benefit, and supplies and services.

In addition, provide \$793,000 in 2007-08 and \$821,200 in 2008-09 for general program operations inflationary increases for supplies and services, which were intended to be approved, but were inadvertently deleted from the bill. Finally, provide \$77,800 in 2007-08 and \$124,200 in 2008-09 to the appropriation for health insurance data collection and analysis contracts to restore an unintended budget reduction.

4. VALUE-BASED HEALTH CARE PURCHASING INITIATIVES [LFB Paper 282]

	Governor (Chg. to Base)	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
SEG	\$850,000	-\$150,000	\$150,000	\$850,000

**Governor:** Provide \$425,000 annually for three value-based health care purchasing initiatives as follows: (a) \$125,000 annually for a contract with the University of Wisconsin Medical School to retain the services of a medical director to assist ETF and state's Group Insurance Board in establishing health care coverage and bidding requirements, negotiating with health plan providers, developing quality improvement initiatives, and enforcing standards for various types of programs operated by health plan providers; (b) \$150,000 annually to implement various cost containment pilot projects; and (c) \$150,000 annually for ETF's contribution to a joint contract that ETF and the Department of Health and Family Services (DHFS) plan to enter into with the Wisconsin Health Information Organization to collect, analyze, and publicly report certain health care claims information from insurers and administrators, to develop and maintain a centralized data repository, and to provide to DHFS, without charge, health care claims information and reports requested by DHFS.

Under 2005 Wisconsin Act 25, ETF was provided one-time funding of \$150,000 annually to conduct ongoing evaluations of the long-term value, effectiveness, and quality of existing and proposed health care cost-containment initiatives. Under 2005 Wisconsin Act 228, \$150,000 in one-time funding was provided to ETF for the costs of contracting (in conjunction with DHFS) for data collection, analysis, and reporting of health care claims information by a data organization. The Governor's bill would provide permanent funding to continue and expand these types of initiatives.

**Joint Finance:** Modify the Governor's provision to instead provide one-time funding of \$100,000 in 2007-08 and \$50,000 in 2008-09 for ETF's contribution to a joint contract that ETF and the Department of Health and Family Services may enter into with the Wisconsin Health Information Organization to collect, analyze, and publicly report certain health care claims information from insurers and administrators, to develop and maintain a centralized data repository, and to provide to DHFS, without charge, health care claims information and reports requested by DHFS.

Approve the Governor's recommendations to provide \$125,000 annually for a contract with the University of Wisconsin Medical School to retain the services of a medical director and \$150,000 annually to implement various cost containment pilot projects. This funding is provided on an ongoing basis.

In addition, authorize ETF to pay costs associated with contracting for insurance data collection and analysis services under s. 153.05(2r) of the statutes. Further, provide that ETF may expend up to \$150,000 in the 2007-09 biennium, in conjunction with DHFS funding, to contract jointly with a data organization to perform data collection services. Repeal these

provisions on June 30, 2009. This modification reinstates, for a two-year period, provisions that are repealed under 2005 Wisconsin Act 228 on June 30, 2007.

**Assembly/Legislature:** Provide \$150,000 annually for ETF's contribution to a joint contract that ETF and the Department of Health and Family Services (DHFS) plan to enter into with the Wisconsin Health Information Organization to collect, analyze, and publicly report certain health care claims information from insurers and administrators, to develop and maintain a centralized data repository, and to provide to DHFS, without charge, health care claims information and reports requested by DHFS. This action restores the Governor's funding provision for this initiative.

Authorize the ETF appropriation account under s. 20.515(1)(ut) to pay costs associated with contracting for insurance data collection and analysis services under s. 153.05(2r). Further, under s. 153.05(2r), provide that ETF may expend up to \$150,000 annually, in conjunction with DHFS funding, to contract jointly with a data organization to perform data collection services. This provision reinstates similar provisions as those that are repealed under 2005 Wisconsin Act 228 on June 30, 2007.

[Act 20 Sections: 543t and 2898h]

**5. RETIRED EMPLOYEES BENEFIT SUPPLEMENT REESTIMATE [LFB Paper 283]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
GPR	-\$768,000	-\$27,700	-\$795,700

**Governor:** Delete \$267,100 in 2007-08 and \$500,900 in 2008-09 to reflect decreased amounts necessary to pay benefit supplements for retirees who first began receiving annuities before October 1, 1974. These supplements were authorized primarily by Chapter 337, Laws of 1973, 1983 Wisconsin Act 394, and 1997 Wisconsin Act 26. The reestimate is due to a declining number of retirees eligible for these supplements due to deaths. Current base level funding for the appropriation is \$1,582,400.

**Joint Finance/Legislature:** Delete \$14,900 in 2007-08 and \$12,800 in 2008-09 to reflect a revised sum sufficient estimate based on the latest available projection of the supplements to be paid during the 2007-09 biennium. The revised estimate represents a base level reduction of \$282,000 in 2007-08 and \$513,700 in 2008-09.

**6. OMBUDSPERSON SERVICES**

	<b>Funding</b>	<b>Positions</b>
SEG	\$122,700	1.00

**Governor/Legislature:** Provide \$59,400 in 2007-08 and \$63,300 in 2008-09 and 1.0 position annually for additional ombudsperson services to: (a) address health plan and benefits complaints; (b) conduct consumer outreach and education; and (c) conduct other quality assurance initiatives. The

Department currently has two ombudspersons utilized entirely for processing health plan and benefits complaints. The additional position provided under the bill would assist with the complaint workload and expand the Department's current ability to conduct outreach and education or other quality assurance initiatives.

**7. CONSOLIDATION OF EXECUTIVE BRANCH ATTORNEYS AND LEGAL STAFF UNDER DOA [LFB Paper 110]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
SEG	- 1.00	1.00	0.00

**Governor:** Delete 1.0 position in 2008-09 to reflect the consolidation of the agency's attorneys and legal staff under DOA, effective July 1, 2008. Reallocate \$126,900 in 2008-09 from budgeted salaries and fringe benefits to the agency's supplies and services budget to pay for legal services supplied by DOA. Under the Governor's recommendation, 1.0 existing classified attorney position and associated base level funding would be retained in ETF. The Secretary of DOA would be authorized to designate this attorney position as ETF's lead attorney.

Specify that all transferred attorneys and legal staff would have the same rights and status as in the agency in which they originated. Specify that attorneys and legal staff that have obtained permanent status would not have to undergo a probationary period in DOA. Provide that all equipment, supplies, and furniture related to the duties of the transferred employees, as specified by the Secretary of DOA, must be transferred to DOA on July 1, 2008. [See "Administration – Transfers to the Department."]

**Joint Finance:** Delete provision.

**Senate:** Restore provision, with the following modifications: (a) specify that the lead attorneys and the Division of Legal Services division administrator would be under the classified service; and (b) exempt the Board on Aging and Long-Term Care, the Department of Military Affairs, and the Department of Public Instruction from the consolidation.

**Conference Committee/Legislature:** Delete provision.

**8. HEALTH INSURANCE COVERAGE FOR DOMESTIC PARTNERS OF STATE EMPLOYEES AND STATE ANNUITANTS [LFB Paper 285]**

**Governor:** For the purpose of group health insurance coverage offered to state employees or to WRS annuitants who were employed by a state agency on the date of termination of covered employment, specify that the definition of "dependent" would include a domestic partner, a domestic partner's minor children dependent on the employee for support and maintenance, or the domestic partner's children (and stepchildren) of any age, if handicapped to an extent requiring continued dependence. The provision would permit state



employees and state annuitants to purchase family health insurance coverage for their domestic partners. [As drafted, the intent of the provision would appear to also include coverage of a domestic partner's minor children dependent on an annuitant for support and maintenance; however, reference to "an annuitant" is not specifically included.]

Define "domestic partner" as an individual in a domestic partnership. Provide that a "domestic partnership" would mean a relationship between two individuals that satisfies all of the following: (a) each individual is at least 18 years old and otherwise competent to enter into a contract; (b) neither individual is married to, or in a domestic partnership with, another individual; (c) the two individuals are not related by blood in any way that would prohibit marriage under state law; (d) the two individuals consider themselves to be members of each other's immediate family; and (e) the two individuals agree to be responsible for each other's basic living expenses. Specify that these provisions would first apply to coverage under the group insurance plans offered by the Group Insurance Board on January 1, 2009.

Because the provision for domestic partner coverage would first apply to coverage beginning on January 1, 2009, the fiscal effect would be limited to six months in the 2007-09 biennium. State and employee contributions relating to the addition of a domestic partner to the employee's group health insurance contract would increase only if the state employee's original contract was changed from single coverage to family coverage. For those state employees currently enrolled under family coverage, the addition of a domestic partner would not result in a higher contribution rate for the employee, since there would be no further change to the family coverage rate that already applied.

For health care coverage of domestic partners of annuitants who were former state employees, the costs of coverage would be funded either from the available balances in amounts reserved in the annuitant's accumulated sick leave conversion credit account, or (if no such balances existed) out-of-pocket of the covered individual.

Under federal and state income tax provisions, an employee receiving employer-provided health insurance for a domestic partner who is not the employee's dependent would have to include in the employee's income the excess of the fair market value of the health insurance premiums attributable to the domestic partner's coverage over the amount paid by the employee for such coverage. In addition, the employer and the employee would each be required to pay FICA-related taxes of 7.65% of the value of the premiums paid for by the employer for a domestic partner who was not a dependent of the employee.

Under current law, the Group Insurance Board offers health care coverage plans for state employees, local government employees, school district employees, and Wisconsin Retirement System (WRS) annuitants. For state employees, the Board must offer at least two insured or self-insured health care coverage plans providing substantially equivalent hospital and medical benefits, including a health maintenance organization or a preferred provider plan, if those health care plans are determined by the Board to be available in the area of the employee's place of employment and are approved by the Board. The Board is required to place each of the plans into one of three premium payment tiers established in accordance with standards adopted by

the Board. The tiers must be separated according to the employee's share of premium costs.

The Board must provide both a family coverage option for persons desiring to cover eligible dependents, and a single coverage option for other eligible persons. The Department of Employee Trust Funds is authorized to promulgate rules to define the term "dependent" for each group insurance plan. For health insurance purposes, the Department's rules define a dependent as an employee's spouse and an employee's unmarried child who is dependent upon the employee or the employee's former spouse for at least 50% of support and maintenance. Child includes a natural child, stepchild, adopted child, a child in certain adoptive placements, and a legal ward who became a legal ward of the employee or the employee's former spouse prior to age 19, and who is: (a) under the age of 19; (b) age 19 or over but less than age 25, if a full-time student; or (c) age 19 or older and incapable of self-support because of a physical or mental disability which is expected to be of long-continued or indefinite duration.

**Joint Finance:** Delete provision.

**Senate:** Restore provision.

**Conference Committee/Legislature:** Delete provision.

#### **9. MODIFICATION OF INITIAL STATE PAYMENTS FOR HEALTH INSURANCE PREMIUMS FOR CERTAIN STATE EMPLOYEES [LFB Paper 284]**

**Governor:** Provide that, except for limited-term employees, the employer-required contribution toward the health insurance premium of certain state employees would begin on the first day of the third month, instead of the first day of the seventh month, beginning after the date on which the employee begins employment with the state, not including any leave of absence. The provision would take effect July 1, 2008.

Under current law, for certain state employees, the employer is required to pay required employer contributions toward the health insurance premium of the insured employee beginning on the date on which the employee becomes insured (generally the first day of the month after beginning employment). Such employees include: (a) any member or employee of the Legislature; (b) a state constitutional officer; (c) a district attorney who did not elect to continue insurance coverage with a county (or who did elect such coverage but has terminated that election); (d) a justice of the Supreme Court; (e) a Court of Appeals judge; (f) a Circuit Court judge; (g) the chief clerk or sergeant at arms of the Senate or Assembly; or (h) faculty and academic staff of the University of Wisconsin System who are participating employees and who are employed for an expected duration of not less than six months on at least a one-third full-time employment basis.

For all other state employees, including limited-term employees, the employer is required to pay required employer contributions toward the health insurance premium of the insured employee beginning on the first day of the seventh month beginning after the date on which the employee begins employment with the state, not including any leave of absence. With the

exception of limited-term employees, this requirement would be changed under the bill to the first day of the 3rd month.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

[Act 20 Sections: 763 and 9414(1)]

## **10. MODIFY RETIREMENT PROVISIONS FOR EDUCATIONAL SUPPORT PERSONNEL**

**Governor:** Make the following changes to the retirement provisions affecting educational support personnel: (a) provide that the full-time equivalent of one year of creditable service for an educational support personnel employee would be reduced from 1,904 hours to 1,320 hours; (b) provide that to qualify as a participant in the Wisconsin Retirement System [WRS], the one-third full-time equivalent minimum requirement for educational support personnel employees would be lowered from 600 hours to 440 hours; and (c) for the calculation of a retirement annuity, increase the final average earnings of educational support personnel employees by 25%. The provisions would first apply to the calculation of benefits provided to participants in the WRS who are participating employees on the effective date of the bill. The provisions could result in an unfunded liability for some school districts.

Educational support personnel employee is defined in statute as a person who is a school district employee, but who is not a teacher, librarian, or administrator.

Under current law, how much service in any annual earnings period is the full-time equivalent of one year of creditable service is determined by ETF under administrative rules. The rules may provide for differing equivalents for different types of employment. Under ETF rules, the full-time equivalent of one year of creditable service for a teacher is established at 1,320 hours. For all other employees, including educational support personnel employees, the full-time equivalent of one year of creditable service is established at 1,904 hours. To qualify as a participating employee in the WRS, an employee must work at least one-third of what is considered full-time employment by the Department. Under ETF administrative rules, one-third of full-time employment for a teacher is established at 440 hours in a one-year period. For all other employees, including educational support personnel employees, one-third of full-time employment is established at 600 hours in a one-year period. For the purposes of calculating creditable WRS service and qualifying for WRS participation, the bill would conform educational support personnel employees to requirements that pertain only to teachers under current law.

One of two methods used to calculate a retirement annuity utilizes a formula in which three factors are multiplied to arrive at a monthly annuity amount. The three factors are: (a) the number of years of creditable service earned; (b) the participant's monthly final average earnings amount; and (c) the appropriate formula factor for the participant's employment classification. The final average earnings factor is defined as the average earnings rate derived

from the participant's three highest years of earnings under the WRS. The bill would require that the final average earnings factor used to calculate an annuity for educational support personnel employees would be increased by 25%, which could result in a higher monthly annuity for affected individuals.

**Joint Finance/Legislature:** Delete provision as a non-fiscal policy item.

**11. PRIVATE EMPLOYER HEALTH CARE COVERAGE PROGRAM**

	Funding	Positions
GPR	-\$400	- 3.50

**Governor/Legislature:** Provide \$190,700 annually to fully fund 3.5 positions under standard budget adjustments and delete \$190,900 annually and 3.5 positions under a separate decision item to delete all funding and position authority for the private employer health care coverage program (PEHCCP). In the 2005-07 biennium, base level funding and staffing for the PEHCCP was limited to \$200 GPR annually and the 3.5 GPR unfunded positions.

Under 1999 Wisconsin Act 9, the Department was directed to design an actuarially-sound health care coverage program for small employers and to seek a plan administrator so the plan could be operational by January 1, 2001. The Department was unable to secure bids for a program administrator and subsequently sought a series of statutory changes during the 2001-03 biennium to make the program more attractive to potential plan administrators. While some modifications were enacted, the PEHCCP Board did not believe they were sufficient to result in a successful program, and no additional proposal was circulated for a plan administrator. Under current law, the statutory provisions relating to PEHCCP will be repealed on January 10, 2010.

**12. REQUIRED RETIREMENT CONTRIBUTIONS FOR NONREPRESENTED STATE EMPLOYEES**

**Assembly:** Provide that the state may not pay the first 5.0% of earnings that its nonrepresented classified and unclassified state employees, including University of Wisconsin faculty and academic staff, are required to pay as employee contributions to the WRS. The provision would first apply to earnings paid on September 1, 2007. State savings of budgeted fringe benefit amounts are estimated at \$74.3 million (all funds) in 2007-08 and \$89.2 million (all funds) in 2008-09. The GPR share of these amounts, which would lapse to the general fund, would total an estimated \$30.1 million in 2007-08 and \$36.2 million in 2008-09.

Prohibit the Employee Trust Funds Board from approving employee required contribution rates of less than 5% for general employees, and state elected officials and executives. Provide that the referral requirement under s. 13.50(6)(a) would not apply to the actions of the Legislature in enacting this provision. Under 13.50(6)(a), no bill or amendment thereto creating or modifying any system for, or making any provision for, the retirement or payment of pensions to public officers or employees, may be acted upon by the Legislature until

it has been referred to the Joint Survey Committee on Retirement Systems for a written report on the bill or amendment. The report must pertain to the probable costs involved, the effect on the actuarial soundness of the retirement system and the desirability of such proposal as a matter of public policy.

Require that the GPR-funded fringe benefits amounts budgeted for such contributions, but offset by these employee contributions, would lapse to the general fund. Specify that comparable program revenue funds offset by these employee contributions would lapse to the appropriate program revenue appropriation account and that comparable segregated funds offset by these employee contributions would lapse to the appropriate segregated fund.

Direct the Secretary of DOA to determine for each state agency the amount that the agency is not required to spend as a result of this provision during the period that begins on September 1, 2007, and ends on June 30, 2009, and the amount from each appropriation from which the moneys would have been expended during that period, other than for FED appropriations.

Under current law, statutory employee-required contribution rates for WRS participants, expressed as a percent of gross earnings, have been established but with different rates depending on the participant's employment classification. These classifications and the statutory employee-required contribution rates are as follows: (a) general employees [5.0% of gross earnings]; and (b) elected officials and state executives [5.5%].

The ETF Board may adjust the statutory rates, on recommendation of the Board's consulting actuary, under certain circumstances. Over time, such adjustments have been made. Currently, the adjusted employee-required contribution rates in 2007 are as follows: (a) general employees [5.0% of gross earnings]; and (b) elected officials and state executives [3.0%].

The statutes also authorize an employer to pay on behalf of the employee all or a part of any employee-required contributions. Over time, state employee groups have negotiated, or have been provided under the compensation plan for nonrepresented employees, an employer "pickup" of almost all employee-required WRS contributions.

The provision would not affect state employees represented by a collective bargaining unit unless a similar required employee contribution provision was negotiated in future collective bargaining agreements.

**Conference Committee/Legislature:** Delete provision.

### **13. MUNICIPAL EMPLOYEE RETIREMENT CONTRIBUTIONS**

**Assembly:** Include the provisions of 2007 Assembly Bill 449 and provide that a participating employer in the Wisconsin Retirement System (WRS) who is covered by the Municipal Employment Relations Act (MERA) may not pay, on behalf of any employee, the first three percent of earnings that the participating employee is required to pay as employee

required contributions under the WRS if that employee first becomes a participating employee in the WRS on or after the provision's effective date. Employers covered by MERA generally include any city, county, village, town, metropolitan sewerage district, school district, family care district, or any other political subdivision of the state, or instrumentality of one or more political subdivisions of the state.

Under current law, required employer and employee contributions under the WRS and the earnings on these contributions, fund the cost of providing retirement annuities to public employees who are covered under the WRS. Current law permits the employer, on behalf of its employees, to pay all or part of the employee required contributions.

**Conference Committee/Legislature:** Delete provision.

#### **14. INCREASED HEALTH INSURANCE CONTRIBUTIONS FOR NON-PROTECTIVE STATUS STATE EMPLOYEES**

**Assembly:** Require that, except for protective occupation employees, state employees be required to contribute 10% of the cost for state health insurance premiums for coverage effective January 1, 2008. State savings of budgeted fringe benefit amounts are estimated at \$17.9 million (all funds) in 2007-08 and \$35.5 million (all funds) in 2008-09. The GPR share of these amounts, which would lapse to the general fund, would total an estimated \$7.4 million in 2007-08 and \$14.7 million in 2008-09. Currently, state employees pay approximately 6% of health insurance premium costs.

Require that the GPR-funded fringe benefits amounts budgeted for such contributions, but offset by these employee contributions, would lapse to the general fund. Specify that comparable program revenue funds offset by these employee contributions would lapse to the appropriate program revenue appropriation account and that comparable segregated funds offset by these employee contributions would lapse to the appropriate segregated fund.

Direct the Secretary of DOA to determine for each state agency the amount that the agency is not required to spend as a result of this provision during the period that begins on January 1, 2008, and ends on June 30, 2009, and the amount from each appropriation from which the moneys would have been expended during that period, other than for FED appropriations.

**Conference Committee/Legislature:** Delete provision.

#### **15. ALLOW CERTAIN LOCAL GOVERNMENT HEALTH CARE COVERAGE PLANS TO INCLUDE DOMESTIC PARTNERS**

**Senate:** Allow local governmental employers that participate in ETF's Wisconsin Public Employers' (WPE) group health insurance program, to designate for health care coverage under the WPE program the spouse, domestic partner, minor child, including stepchildren of the

current marriage or children of a domestic partner dependent on the employee for support and maintenance, or child of any age, including stepchildren of the current marriage or children of a domestic partner, if handicapped to an extent requiring continued dependence. The local governmental employer would be required to consent, in writing to ETF, to initiate the domestic partner coverage.

Define "domestic partner" as an individual in a domestic partnership. Provide that a "domestic partnership" would mean a relationship between two individuals that satisfies all of the following: (a) each individual is at least 18 years old and otherwise competent to enter into a contract; (b) neither individual is married to, or in a domestic partnership with, another individual; (c) the two individuals are not related by blood in any way that would prohibit marriage under state law; (d) the two individuals consider themselves to be members of each other's immediate family; and (e) the two individuals agree to be responsible for each other's basic living expenses. Specify that these provisions would first apply to coverage under the WPE group insurance plans offered by the Group Insurance Board on January 1, 2009.

**Conference Committee/Legislature:** Delete provision.

## EMPLOYMENT RELATIONS COMMISSION

<b>Budget Summary</b>							
Fund	2006-07 Base Year Doubled	2007-09 Governor	2007-09 Jt. Finance	2007-09 Legislature	2007-09 Act 20	Act 20 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$4,880,200	\$5,408,000	\$5,175,200	\$5,175,200	\$5,175,200	\$295,000	6.0%
PR	<u>1,106,000</u>	<u>1,156,100</u>	<u>1,156,100</u>	<u>1,156,100</u>	<u>1,156,100</u>	<u>50,100</u>	4.5
<b>TOTAL</b>	<b>\$5,986,200</b>	<b>\$6,564,100</b>	<b>\$6,331,300</b>	<b>\$6,331,300</b>	<b>\$6,331,300</b>	<b>\$345,100</b>	<b>5.8%</b>

<b>FTE Position Summary</b>						
Fund	2006-07 Base	2008-09 Governor	2008-09 Jt. Finance	2008-09 Legislature	2008-09 Act 20	Act 20 Change
						Over 2006-07 Base
GPR	18.50	21.00	19.00	19.00	19.00	0.50
PR	<u>5.00</u>	<u>5.00</u>	<u>5.00</u>	<u>5.00</u>	<u>5.00</u>	<u>0.00</u>
<b>TOTAL</b>	<b>23.50</b>	<b>26.00</b>	<b>24.00</b>	<b>24.00</b>	<b>24.00</b>	<b>0.50</b>

### Budget Change Items

#### 1. STANDARD BUDGET ADJUSTMENTS

GPR	\$295,000
PR	<u>10,200</u>
<b>Total</b>	<b>\$305,200</b>

**Governor/Legislature:** Provide standard budget adjustments of \$147,500 GPR and \$5,100 PR annually for full funding of salaries and fringe benefits.

#### 2. LEGAL SUPPORT STAFFING [LFB Paper 290]

	Funding	Positions
GPR	\$0	0.50
PR	<u>39,900</u>	<u>0.00</u>
<b>Total</b>	<b>\$39,900</b>	<b>0.50</b>

**Governor/Legislature:** Provide \$39,900 PR in 2008-09 in unallotted reserve to address attorney staffing needs during periods of employee turnover expected to occur due to anticipated retirements. In addition, provide a 0.5 GPR FTE confidential legal support staff position annually. The position would be funded through the reallocation of base funding for supplies and services (\$11,800 GPR in 2007-08 and \$16,200 GPR in 2008-09).



### 3. INCREASED COMMISSION ATTORNEY STAFFING

	<u>Governor</u> <u>(Chg. to Base)</u>		<u>Jt. Finance/Leg.</u> <u>(Chg. to Gov)</u>		<u>Net Change</u>	
	<u>Funding</u>	<u>Positions</u>	<u>Funding</u>	<u>Positions</u>	<u>Funding</u>	<u>Positions</u>
GPR	\$232,800	2.00	-\$232,800	-2.00	\$0	0.00

**Governor:** Provide \$232,800 and 2.0 attorney positions in 2008-09 for increased staffing at the Commission. According to the Executive Budget Book, the funding and positions are associated with the Governor's recommendation to repeal current statutory provisions relating to the qualified economic offer.

**Joint Finance/Legislature:** Delete item in conjunction with the removal of provisions related to the repeal of the qualified economic offer [see next item].

### 4. REPEAL QEO PROVISIONS

**Governor:** Make the following changes to the procedures governing collective bargaining for school district employers:

*Qualified Economic Offer Provisions for Represented Teaching Employees.* Delete current law related to the qualified economic offer (QEO). Under the bill, school district employers and their represented teaching employees would be covered under the statutory interest arbitration procedures currently applicable to all other represented, nonprotective municipal employees in the state.

Under current law, if a school district employer makes a QEO to its professional teaching employees, the employer may avoid arbitration on unresolved economic issues in the employer's final offer. Under a valid QEO, the school district employer must maintain both the existing employee fringe benefits package and the district's percentage contribution effort to that package, subject to an overall new funding commitment of 1.7% of total compensation and fringe benefits costs. Where these new costs are less than 1.7%, the employer must pass on the difference between the lower costs and 1.7% as an additional component of the salary offer. Where the costs are more than 1.7%, the employer may reduce the amount of the salary offer by the amount of the overage. Subject to the fringe benefits additions or offsets, the employer must provide an annual average new funding commitment for all salary items of at least 2.1% of total compensation and fringe benefits costs. As a first draw against any increased salary funding provided under a QEO, the employer must pay seniority-based step increases to all employees eligible for such adjustments.

*Salary and Fringe Benefits Limitations on Nonrepresented Personnel.* Delete current law limiting the total amounts available for salary and fringe benefits increases for nonrepresented school district professional employees during any year to the greater of: (a) an amount generated by multiplying 3.8% of the total prior year's cost of salaries and fringe benefits for such employees; or (b) the total average percentage increase in total salary and fringe benefits

increases per employee provided by the school district for the most recent 12-month period ending on June 30 for its represented professional employees.

*Collective Bargaining Units.* Delete the requirement that school district professional employees be placed in a collective bargaining unit that is separate from the units of other school district employees.

*Duration of Collective Bargaining Agreements.* Delete the current law provision limiting the duration of collective bargaining agreements between school district employers and their professional teaching staff to a uniform two-year duration, from July 1 of each odd-numbered year through June 30 of the ensuing odd-numbered year. Under the bill, these bargaining agreements would be subject to the general provisions under which collective bargaining agreements covering municipal employees must be for a term not exceeding three years.

*Initial Applicability.* Specify that these provisions first apply to petitions for arbitration that relate to collective bargaining agreements that cover periods beginning on or after July 1, 2007, and that are filed for interest arbitration on the effective date of the bill.

**Joint Finance:** Delete provision as a non-fiscal policy item.

**Senate:** Restore provision.

**Assembly/Legislature:** Delete provision.

## 5. WEIGHTING OF FACTORS CONSIDERED IN ARBITRATION AWARDS

**Governor:** Modify the weighting of the factors that must be considered by an arbitrator or arbitration panel in rendering arbitration awards involving non-protective municipal employees. Specify that an arbitrator must give "weight" rather than "greatest weight" as under current law to any state law or directive lawfully issued by a state legislative or administrative officer, body, or agency which places limitations on expenditures that may be made or revenues that may be collected by a municipal employer. Specify that an arbitrator must give "weight" rather than "greater weight" as under current law to economic conditions in the jurisdiction of the municipal employer. Under the bill, all of the factors listed in statutes that must be considered by arbitrators would be given the same weight, rather than specifying that certain factors be given greatest or greater weight.

Specify that these modifications would first apply to petitions for arbitration that relate to collective bargaining agreements that cover periods on or after July 1, 2007, and that are filed on the effective date of the bill.

Under current law, after giving consideration to the factors described above that must be accorded greatest and greater weight, an arbitrator or arbitration panel is required to give weight to the following:

- a. The lawful authority of the municipal employer.

- b. The stipulations of the parties.
- c. The interests and welfare of the public and the financial ability of the unit of government to meet the costs of any proposed settlement.
- d. A comparison of wages, hours, and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours, and conditions of employment of other employees performing similar services, with other employees generally in public employment in the same community and in comparable communities, and with other employees in private employment in the same community and in comparable communities.
- e. Changes in the cost-of-living.
- f. The overall compensation presently received by the municipal employees, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- g. Changes in any of the foregoing circumstances while arbitration proceedings are pending.
- h. Other factors normally and traditionally considered in collective bargaining in the public service or in private employment

**Joint Finance:** Delete provision as a non-fiscal policy item.

**Senate:** Restore provision.

**Assembly/Legislature:** Delete provision.

## 6. COLLECTIVE BARGAINING PROCESS FOR UNIVERSITY OF WISCONSIN FACULTY AND ACADEMIC STAFF

**Governor:** Create Subchapter VI of Chapter 111 [Employment Relations] and provide faculty and academic staff of the University of Wisconsin System with the right to collectively bargain over wages, hours, and conditions of employment. The provisions under Subchapter VI would be similar to those of the State Employment Labor Relations Act (SELRA) under current law [Subchapter V of Chapter 111]. Provide that WERC perform statutory responsibilities under the proposed Subchapter VI similar to those as required in SELRA under current law. [For a detailed description of the provision, see Office of State Employment Relations.]

**Joint Finance:** Delete provision as a non-fiscal policy item.

**Senate:** Restore provision with some modifications. [For a detailed description of the modifications, see Office of State Employment Relations.]

**Assembly/Legislature:** Delete provision.

**7. DISCIPLINARY PROCEDURES FOR LAW ENFORCEMENT OFFICERS AND FIRE FIGHTERS [LFB Paper 291]**

**Governor:** Provide that current law appeal provisions applicable to any law enforcement officer or fire fighter suspended, reduced in rank, suspended and reduced in rank, or removed by an authorized tribunal would not apply to any such person who is subject to the terms of a collective bargaining agreement that provides an alternative to the appeals procedure, unless the person chooses to appeal the order to circuit court. If the alternative to the appeals procedure includes a hearing, the hearing would be required to be open to the public with reasonable advance notice given by the employer. Specify that an accused person who chooses to appeal the decision of a tribunal through a collectively bargained alternative to the appeals procedure would be considered to have waived his or her right to circuit court review of the board decision. These provisions would not apply to City of Milwaukee law enforcement or fire fighting personnel. The provisions would first apply to a person who is suspended, reduced in rank, suspended and reduced in rank, or removed on the effective date of the provision.

Under current law, a law enforcement officer or fire fighter employed by a city (other than the City of Milwaukee), village, town or county may not be suspended, reduced in rank, suspended and reduced in rank, or dismissed by a grievance committee, civil service commission, county board, or board of police and fire commissioners (a tribunal) unless the tribunal determines that there is just cause to sustain the charges that have been brought against the officer or fire fighter. If the charges are sustained and the officer or fire fighter is disciplined by the tribunal, he or she may appeal the order to circuit court, except that a county law enforcement officer, under a decision of the Wisconsin Supreme Court (*Eau Claire County v. General Teamsters Union Local No. 662*, 2000 WI 57), may proceed either with an appeal to circuit court or with the grievance procedures, including arbitration, in the officer's collective bargaining agreement. The trial based on the appeal is before the court, which must determine whether there is just cause to sustain the charges against the accused officer or fire fighter and the tribunal's order. If the charges and the tribunal's order are sustained, the tribunal's order is final and conclusive, but, if reversed, the officer or fire fighter is reinstated and entitled to pay as though he or she were in continuous service. Similar procedures apply to police officers employed by the City of Milwaukee.

**Joint Finance:** Adopt Governor's provisions for fire fighters only. Law enforcement officers would remain under current law provisions.

**Senate:** Modify the Joint Finance provision and provide that, notwithstanding the current law procedures for disciplinary actions against police and fire fighters, a collective bargaining agreement entered into between law enforcement and fire fighting personnel and a municipal employer may contain dispute resolution procedures, including arbitration, that address the suspension, reduction in rank, suspension and reduction in rank, or removal of

such personnel. If the procedures include arbitration, the arbitration hearing would be required to be public and the decision of the arbitrator must be issued within 180 days of the conclusion of the hearing. Repeal a current law provision that a court order sustaining a disciplinary decision of a tribunal is final and conclusive. These provisions would not apply to City of Milwaukee law enforcement or fire fighting personnel.

Provide that in a bargaining unit containing fire fighting or law enforcement personnel, the municipal employer would be prohibited from bargaining collectively with respect to: (a) the prohibition of access to arbitration as an alternative to the disciplinary procedures under current law; (b) the reduction of current law standards relating to the determination of just cause to sustain charges against fire fighting or law enforcement personnel; and (c) the payment of compensation in a way that is inconsistent with the current law provision that no person may be deprived of compensation while suspended, pending the disposition of charges.

The treatment of the collective bargaining provisions would first apply to fire fighters and law enforcement personnel who are affected by a collective bargaining agreement that contains provisions that are inconsistent with that treatment on the day on which the agreement expires, or is extended, modified, or renewed, whichever occurs first. The treatment of the provision to remove a current law provision that a court order sustaining a disciplinary decision of a tribunal is final and conclusive would first apply to a police officer or fire fighter who is suspended, reduced, suspended and reduced, or removed on the effective date of the provision.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Modify Senate provisions to apply to fire fighters only. Law enforcement officers would remain under current law provisions.

**Veto by Governor [E-1]:** Delete the exemption of fire fighters from a current law provision that a court order sustaining a disciplinary decision of a tribunal is final and conclusive. Modify the remaining sections to remove reference to fire fighters. As a result of the partial veto, the provisions will apply to both fire fighters and law enforcement personnel.

[Act 20 Sections: 2666e thru 2679i, and 9315(1f)]

[Act 20 Vetoed Sections: 1867, 2666f, 2679i, 9315(1f), and 9355(1f)]

## **8. AUTHORITY OF PUBLIC EMPLOYERS TO SELECT GROUP HEALTH INSURANCE PLANS**

**Assembly:** Include the provisions of 2007 Assembly Bill 110 relating to collective bargaining over health care coverage for municipal employees and allowing municipal employers to change health care coverage plan providers. Specify that bargaining over the selection of a health care coverage plan would be prohibited if the employer offers to enroll its employees in a plan provided to local government employers by the Group Insurance Board, or

in a plan that is substantially similar to the plan offered by the Group Insurance Board. The Office of the Commissioner of Insurance would be required to promulgate rules that set out standardized benefits under health care coverage plans and that may be used for determining whether any health care coverage plan is similar to the plan offered by the Group Insurance Board. Specify that any cost savings would not have to be passed along in the salary offer under a qualified economic offer. Under the state Municipal Employment Relations Act (MERA), any employer would be allowed to unilaterally change its employees' health care coverage plan provider if the benefits remain substantially the same, and if either the actual providers of the health care are the same, or cost savings will result from changing the health care coverage plan provider.

**Conference Committee/Legislature:** Delete provision.

#### **9. FINAL OFFER LIMITS UNDER THE MUNICIPAL EMPLOYMENT RELATIONS ACT**

**Assembly:** Include the provisions of 2007 Assembly Bill 448 and prohibit any final offer that is submitted to the Wisconsin Employment Relations Commission (WERC) for interest arbitration from requiring the annual expenditure for compensation and fringe benefits per employee to be more than the amount spent in the previous year, increased by the allowable percentage increase in available revenue, if the municipal employer is subject to limitations on available revenue under state law. Available revenue would be defined as the sum of the allowable property tax levy and payments received for general transportation aids, aids relating to connecting highways, and municipal and county shared revenue, except: (a) if the employer is a school district, available revenue would be the sum of state aid and the property tax levy; and (b) if the employer is a technical college district, available revenue would be the sum of the allowable property tax levy and state aid. If WERC determines that a final offer requires greater expenditure, WERC would be required to return the offer to the party and the party must revise it before submitting it again. If the last written position requires greater expenditure than permitted under this provision, WERC must consider that the party failed to submit an offer. Provide that this expenditure limit provision would be given greatest weight in arbitration decisions for affected municipalities.

**Conference Committee/Legislature:** Delete provision.

#### **10. MUNICIPAL CONTRACTING UNDER THE MUNICIPAL EMPLOYMENT RELATIONS ACT**

**Assembly:** Include the provisions of 2007 Assembly Bill 447 and provide that a municipal employer may solicit bids to perform services that are currently performed by its employees if the municipal employer notifies the labor organization that represents the employees that it intends to solicit the bids and conducts an internal cost study to determine the total costs incurred by the municipal employer in having its employees perform the services. The costs determined by this study would be designated the "current internal cost." The study must also determine the percentage of the current internal cost that is attributable to wages and

benefits paid to the employees who perform the services and who are represented by a labor organization. This percentage would be designated the "labor cost ratio." After conducting this study, the municipal employer may then solicit and receive bids to perform any services that are currently performed by its employees.

These bids would be designated the "preliminary external bids." No later than 30 days after receiving the final bid, the municipal employer must select the preliminary external bid that it considers most advantageous. The sum of the cost of this bid and the municipal employer's cost in administering any contract resulting from the bid would be designated the "selected external cost." After determining the selected external cost, the municipal employer must then perform a calculation in which it subtracts the selected external cost from an amount equal to 90 percent of the current internal cost and must then multiply the result by the labor cost ratio. The product would be designated the "required labor savings." The municipal employer must then notify the labor organization that represents the employees of the required labor savings. If the required labor savings is an amount less than or equal to zero, the municipal employer would be required to bargain collectively any decision to enter into contracts for the performance of services. If the required labor savings is an amount greater than zero, the municipal employer would not be required to bargain collectively any decision to contract for the performance of services, unless the labor organization notifies the municipal employer that the employees agree to participate in a nonbinding arbitration process.

Under the nonbinding arbitration process, each party would be required to submit to an arbitrator a proposal to reduce the current internal cost by an amount at least equal to the required labor savings. The reductions specified in the proposals must come entirely from changes to the wages, hours, or conditions of employment of the employees who are represented by the labor organization. The arbitrator may select any item from either proposal to reduce the current internal cost by an amount at least equal to the required labor savings. If the labor organization rejects the arbitrator's proposal, the municipal employer would not be required to bargain collectively the decision to contract for the performance of the services. If the municipal employer rejects the arbitrator's proposal, the municipal employer would be required to bargain collectively the decision to contract for the performance of the services. However, if neither party rejects the arbitrator's proposal, the proposal would be final and binding on both parties and must then be incorporated into a collective bargaining agreement. If the proposal is not rejected and is incorporated into a collective bargaining agreement, the municipal employer would not be allowed to solicit and receive bids to perform the service covered by the arbitrator's proposal for a period of three years from the date that the arbitrator submits his or her proposal to the parties.

Under current law, a municipal employer's decision to contract out for services that are performed by its employees is a mandatory subject of collective bargaining under the Municipal Employment Relations Act (MERA). This provision would establish a process under which a municipal employer's decision to contract out for such services can become a permissive subject of collective bargaining under MERA.

**Conference Committee/Legislature:** Delete provision.

## ENVIRONMENTAL IMPROVEMENT FUND

<b>Budget Summary</b>							
Fund	2006-07 Base Year Doubled	2007-09 Governor	2007-09 Jt. Finance	2007-09 Legislature	2007-09 Act 20	Act 20 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$92,092,400	\$94,583,300	\$94,583,300	\$94,583,300	\$94,583,300	\$2,490,900	2.7%
SEG	<u>12,000,000</u>	<u>12,000,000</u>	<u>12,000,000</u>	<u>12,000,000</u>	<u>12,000,000</u>	<u>0</u>	0.0
<b>TOTAL</b>	<b>\$104,092,400</b>	<b>\$106,583,300</b>	<b>\$106,583,300</b>	<b>\$106,583,300</b>	<b>\$106,583,300</b>	<b>\$2,490,900</b>	<b>2.4%</b>
BR		\$423,735,000	\$434,135,000	\$434,135,000	\$434,135,000		

<b>FTE Position Summary</b>
Positions for the Environmental Improvement Fund program are provided under the Departments of Administration and Natural Resources.

### Budget Change Items

#### 1. GENERAL AND REVENUE OBLIGATION BONDING AUTHORITY [LFB Paper 295]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
BR	\$423,735,00	\$10,400,000	\$434,135,000

**Governor:** Provide an increase in bonding authority of \$423,735,000 for the environmental improvement fund. This includes \$55,590,000 in general obligation and \$368,145,000 in revenue obligation bonding authority. Revenue obligations are issued to provide financial assistance for municipal wastewater facility projects in the clean water fund program. State revenue bonds are retired primarily through repayments of program loans and issuance of general obligation bonds to pay for the state subsidy costs of low-interest loans in the clean water fund program. General obligation bonds are also issued to pay for the 20% state match to the federal capitalization grants for the clean water fund program and the safe drinking water loan program.



The clean water fund program provides low-interest loans to municipalities for planning, designing, constructing or replacing a wastewater treatment facility, or for nonpoint source pollution abatement or urban stormwater runoff control projects. The safe drinking water loan program provides financial assistance to municipalities for the planning, design, construction or modification of public water systems. The land recycling loan program provides financial assistance to certain local governments for the investigation and remediation of contaminated (brownfields) properties.

**Joint Finance/Legislature:** Approve the Governor's recommendation, plus provide an additional \$10,400,000 in clean water fund program general obligation bonding authority (a total increase of \$59,900,000 for the clean water fund program). This is shown in the following table. The bonding authority increase reflects restoring the current law interest rate subsidy level and assuming a market interest rate of 5% instead of 6% under the Governor's recommendation.

**Environmental Improvement Fund (EIF) Bonding Authority**

	<u>Current</u>	<u>Governor</u>	<u>Act 20</u>	<u>Total</u>
Clean water fund -- general obligation	\$637,743,200	\$49,500,000	\$59,900,000	\$697,643,200
Clean water fund -- revenue obligation	1,615,955,000	368,145,000	368,145,000	1,984,100,000
Safe drinking water -- general obligation	<u>32,310,000</u>	<u>6,090,000</u>	<u>6,090,000</u>	<u>38,400,000</u>
<b>Total</b>	<b>\$2,286,008,200</b>	<b>\$423,735,000</b>	<b>\$434,135,000</b>	<b>\$2,720,143,200</b>

[Act 20 Sections; 585, 586, and 3078]

**2. PRESENT VALUE SUBSIDY LIMIT [LFB Paper 295]**

**Governor:** Provide a "present value subsidy limit" totaling \$119.2 million for the environmental improvement fund as shown in the table. The subsidy limit represents the estimated state cost, in 2007 dollars, to provide 20 years of subsidy for the projects that would be funded in the 2007-09 biennium.

**Joint Finance/Legislature:** Provide a present value subsidy limit totaling \$130.8 million as shown in the table.

**EIF Present Value Subsidy Limit**

	<u>2005-07</u> <u>Authorized</u>	<u>2007-09</u> <u>Governor</u>	<u>2007-09</u> <u>Jt. Finance/Legislature</u>
Clean water fund program	\$109,600,000	\$99,100,000	\$114,700,000
Safe drinking water loan program	12,800,000	16,700,000	13,400,000
Land recycling loan program	<u>2,700,000</u>	<u>3,400,000</u>	<u>2,700,000</u>
<b>Total</b>	<b>\$125,100,000</b>	<b>\$119,200,000</b>	<b>\$130,800,000</b>

[Act 20 Sections: 3074 thru 3076]

**3. ENVIRONMENTAL IMPROVEMENT FUND DEBT SERVICE**  
 [LFB Paper 175]

GPR	\$2,490,900
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**Governor/Legislature:** Provide a decrease of \$1,153,400 in 2007-08 and an increase of \$3,644,300 in 2008-09 for estimated debt service costs for general obligation bonds. This would include: (a) a decrease of \$1,211,100 in 2007-08 and an increase of \$3,337,400 in 2008-09 for clean water fund program debt service; and (b) \$57,700 in 2007-08 and \$306,900 in 2008-09 for safe drinking water loan program debt service.

GPR debt service payments from 2005-06 through 2008-09 are shown in the following table. An additional \$6.0 million in general obligation bond debt service is paid in each year by loan repayments received from municipalities from loans that were originally provided from the proceeds of general obligation bonds. The land recycling loan program is funded through loan repayments of clean water fund loans made with the proceeds of federal grants to the clean water fund and does not have a separate debt service cost.

**Environmental Improvement Fund General Fund Debt Service Expenditures**

	<u>Clean Water Fund Program</u>	<u>Safe Drinking Water Loan Program</u>	<u>Total</u>
2005-06 Actual	\$36,248,800	\$1,989,700	\$38,238,500
2006-07 Base Budget	43,338,100	2,708,100	46,046,200
2007-08 Budgeted	42,127,000	2,765,800	44,892,800
2008-09 Budgeted	46,675,500	3,015,000	46,690,500

**4. CLEAN WATER FUND INTEREST RATE SUBSIDY** [LFB Paper 295]

**Governor:** Reduce the subsidy for most clean water fund program projects to provide an interest rate of 70% of the market rate instead of the current 55% of market rate. The project types that would receive the reduced state subsidy include: (a) compliance maintenance projects, which are projects to prevent a significant violation of an effluent limitation by a municipal sewage treatment facility; and (b) new or changed limits projects, which are projects to achieve compliance with an effluent limitation established after May 17, 1988, if the project is for a municipality that is not a violator of the specific limit that is changing. The current market interest rate is 4.5%, with loans for 55% of the market rate currently provided at 2.475%, and loans for 70% of market currently provided at 3.15%.

Based on the October, 2006, biennial finance plan submitted by DNR and DOA (which reflected program costs based on the current 55% of market interest rate), the reduction in the state subsidy would reflect a reduction of \$36.2 million in the need for general obligation bonding authority, and a reduction of \$44 million in the need for present value subsidy limit. While the state's costs of providing 20 years of subsidy for projects funded in the 2007-09 biennium would be expected to decrease by approximately \$44 million, costs to municipal borrowers would increase by the same amount.

The bill would not affect the current subsidized interest rate for the following types of projects: (a) 70% of market rate for projects to provide treatment facilities and sewers for unsewered areas, if two-thirds of the initial flow is from wastewater from residences that were in existence prior to October 17, 1972; (b) 65% of market rate for projects to abate nonpoint source pollution and to control urban stormwater runoff; and (c) hardship financial assistance interest rates as low as 0% and grants for up to 70% of project costs, for projects where the municipality's median household income is 80% or less of the statewide median household income and the estimated annual residential wastewater treatment charges would exceed 2% of the median household income in the municipality.

**Joint Finance/Legislature:** Delete provision. (General obligation bonding authority and present value subsidy limit are adjusted accordingly to reflect maintaining the higher subsidy level.)

## **5. GRANT FOR CHELSEA SANITARY DISTRICT**

**Joint Finance/Legislature:** Provide the Chelsea Sanitary District in Taylor County with a one-time exemption from financial hardship program eligibility and application deadline requirements under the clean water fund program. Place the Chelsea Sanitary District at the top of the hardship priority ranking list for 2007-08, before any other projects are funded. Finally, provide the Chelsea Sanitary District with a grant of up to \$80,000 in 2007-08 to be used for sanitary system improvements. (The project would not be subject to the following current requirements for a project receiving hardship assistance: (a) the median household income of the municipality must be 80% or less of the median household income of the state; (b) the estimated total annual residential wastewater user charges would exceed 2% of the median household income without the financial assistance; and (c) the municipality is to pay at least 30% of the costs through a loan with an interest rate of as low as 0%.)

[Act 20 Section: 9135(3f)]

## ETHICS BOARD

<b>Budget Summary</b>							
Fund	2006-07 Base Year Doubled	2007-09 Governor	2007-09 Jt. Finance	2007-09 Legislature	2007-09 Act 20	Act 20 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$572,000	\$636,600	\$0	\$0	\$0	-\$572,000	- 100.0%
PR	<u>819,000</u>	<u>852,400</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>- 819,000</u>	- 100.0
<b>TOTAL</b>	<b>\$1,391,000</b>	<b>\$1,489,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>-\$1,391,000</b>	<b>- 100.0%</b>

<b>FTE Position Summary</b>						
Fund	2006-07 Base	2008-09 Governor	2008-09 Jt. Finance	2008-09 Legislature	2008-09 Act 20	Act 20 Change
						Over 2006-07 Base
GPR	2.30	2.30	0.00	0.00	0.00	- 2.30
PR	<u>3.45</u>	<u>3.45</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>- 3.45</u>
<b>TOTAL</b>	<b>5.75</b>	<b>5.75</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>- 5.75</b>

### Budget Change Items

#### 1. STANDARD BUDGET ADJUSTMENTS

**Governor/Legislature:** Provide standard adjustments to the base budget totaling \$12,300 GPR and \$16,700 PR annually for full funding of continuing salaries and fringe benefits.

GPR	\$24,600
PR	<u>33,400</u>
<b>Total</b>	<b>\$58,000</b>

#### 2. PROCUREMENT ACTIVITY WEBSITE [LFB Paper 300]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$40,000	-\$17,400	\$22,600

**Governor:** Provide \$20,000 annually for maintenance costs and upgrades to the Board's procurement activity website. The provisions of 2005 Wisconsin Act 410 required the Board to develop and maintain this website.

Act 410 generally requires each state agency to provide specified information for posting on the Board's website regarding each solicitation for bids or competitive sealed proposals, and each proposed order or contract of the agency for which bids or competitive sealed proposals will not be solicited, that qualifies as a "major expenditure." This reporting and posting requirement also applies to an original order or contract that does not initially qualify as a "major expenditure," but subsequently qualifies as a "major expenditure" following a contract change order. A "major expenditure" means an expenditure of \$10,000 or more, or, when considering ongoing purchases, expenditures that total \$10,000 or more over the course of the state biennium.

**Joint Finance/Legislature:** Reduce funding for maintenance costs and upgrades to the Board's procurement activity website by \$8,700 annually to reflect recent Board history with comparable costs for its "Eye on Lobbying" website.

**3. CREATION OF GOVERNMENT ACCOUNTABILITY BOARD [LFB Paper 360]**

	Funding	Positions
GPR	-\$619,200	- 2.30
PR	<u>- 852,400</u>	<u>- 3.45</u>
Total	-\$1,471,600	- 5.75

**Joint Finance/Legislature:** Effectuate the provisions of 2007 Wisconsin Act 1 creating the Government Accountability Board (GAB) and deleting the Elections and Ethics Boards.

*Delete Ethics Board Appropriations and Funding.* Delete the Ethics Board's Chapter 20 appropriations schedule and appropriations on the effective date of the 2007-09 biennial budget act. Delete funding and position authority provided to the Board through Joint Finance action of \$309,600 GPR and 2.3 GPR positions, and \$426,200 PR and 3.45 PR positions annually.

*Deposit of Revenues to Government Accountability Board Funds or Appropriations.* Provide that the Ethics Board (for so long as it remains constituted and vested with authority during 2007-09) must deposit all revenues received into the appropriate GAB fund or appropriation account, consistent with the purposes for which those revenues are directed by law to be deposited to or credited by GAB.

*Expenditures from Government Accountability Board Appropriations.* Provide that the Ethics Board (for so long as it remains constituted and vested with authority during 2007-09) may encumber or expend moneys from any GAB appropriation, consistent with the purposes of that appropriation. Further, provide that the Ethics Board may not encumber or expend funds in an amount greater than the amount that would have been authorized to the Board during 2007-09, if the passage of SB 40 had been delayed.

[Act 20 Sections: 3938b, 3938c, and 9118m(1u)]

## FINANCIAL INSTITUTIONS

<b>Budget Summary</b>							
Fund	2006-07 Base Year Doubled	2007-09 Governor	2007-09 Jt. Finance	2007-09 Legislature	2007-09 Act 20	Act 20 Change Over Base Year Doubled	
						Amount	Percent
PR	\$33,400,600	\$33,939,800	\$33,939,800	\$33,939,800	\$33,939,800	\$539,200	1.6%

<b>FTE Position Summary</b>						
Fund	2006-07 Base	2008-09 Governor	2008-09 Jt. Finance	2008-09 Legislature	2008-09 Act 20	Act 20 Change
						Over 2006-07 Base
PR	139.04	134.04	139.04	139.04	139.04	0.00

### Budget Change Items

**1. STANDARD BUDGET ADJUSTMENTS**

PR	\$539,200
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**Governor/Legislature:** Adjust the agency's base budget for: (a) full funding of salaries and fringe benefits (\$436,900 annually); (b) reclassifications (\$16,200 in 2007-08 and \$28,600 in 2008-09); (c) full funding of lease costs (\$4,400 annually); and (d) turnover reduction (-\$194,100 annually).

**2. CONSOLIDATION OF EXECUTIVE BRANCH ATTORNEYS AND LEGAL STAFF UNDER DOA [LFB Paper 110]**

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
PR	-5.00	5.00	0.00

**Governor:** Delete 6.0 classified positions and create 1.0 unclassified position in 2008-09 to reflect the consolidation of the agency's attorneys and legal staff under DOA, effective July 1,

2008. Reallocate \$565,500 in 2008-09 from budgeted salaries and fringe benefits to the agency's supplies and services budget to pay for legal services supplied by DOA. Authorize the Secretary of DOA to identify one attorney position in the Department of Financial Institutions (DFI) as general counsel for the agency. The general counsel position would be funded from base level salary and fringe benefits amounts associated with the position identified by the Secretary of DOA.

Specify that all transferred attorneys and legal staff would have the same rights and status as in the agency in which they originated. Specify that attorneys and legal staff that have obtained permanent status would not have to undergo a probationary period in DOA. Provide that all equipment, supplies, and furniture related to the duties of the transferred employees, as specified by the Secretary of DOA, must be transferred to DOA on July 1, 2008. [See "Administration -- Transfers to the Department."]

**Joint Finance:** Delete provision.

**Senate:** Restore the provision with the following modifications: (a) specify that the lead attorneys would be under classified service; and (b) exempt the Board on Aging and Long-Term Care, the Department of Military Affairs, and the Department of Public Instruction from the consolidation.

**Assembly/Legislature:** Delete provision.

### 3. SECURITIES AGENTS FEES [LFB Paper 305]

	<b>Governor (Chg. to Base)</b>	<b>Legislature (Chg. to Gov)</b>	<b>Net Change</b>
GPR-REV	\$6,000,000	-\$6,000,000	\$0
PR-REV	\$6,000,000	-\$6,000,000	\$0

**Governor:** Increase the annual license fee for securities agents and investment adviser representatives from \$30 to \$60. The administration estimates additional program revenue from the fee increase of \$3,000,000 annually. At the end of each fiscal year, DFI lapses most unencumbered program revenue to the general fund as GPR-Earned. As a result of the proposed increase in annual license fees, the transfer to the general fund in each year would be \$3,000,000 more than would occur in the absence of the fee increase.

Under current law, a person who represents a broker-dealer or issuer in securities transactions is generally required to be licensed as an agent (referred to as a securities agent). Investment adviser representatives, who are certain persons supervised by investment advisers, are also required to be licensed before transacting business in the state. A securities agent or investment adviser representative is required to file an initial application for a license and to renew the license on an annual basis. Currently, the fee for both the initial application and the annual renewal is \$30. As noted, the bill would increase the fee to \$60. These provisions would

take effect on the general effective date of the bill.

**Assembly/Legislature:** Delete provision.

#### **4. ONE-TIME DELAY OF LAPSE TO GENERAL FUND**

**Joint Finance:** Specify that, on a one-time basis, the lesser of the unencumbered balance or \$20,000,000 from DFI's general program operations appropriation [s. 20.144(1)(g)] that would otherwise lapse to the general fund as GPR-Earned at the end of 2007-08 would, instead, be lapsed to the general fund on July 31, 2008, and be credited as GPR-Earned in the 2008-09 fiscal year. As the lapse delay would be for one month only and would not extend beyond the 2007-09 biennium, this provision would have no biennial fiscal effect, compared to the bill.

**Senate:** Modify the Joint Finance provision to require a lapse delay of \$27,000,000, rather than \$20,000,000.

**Conference Committee/Legislature:** Delete Senate modification.

[Act 20 Section: 9217(1j)]



## FOX RIVER NAVIGATIONAL SYSTEM AUTHORITY

<b>Budget Summary</b>							
Fund	2006-07 Base Year Doubled	2007-09 Governor	2007-09 Jt. Finance	2007-09 Legislature	2007-09 Act 20	Act 20 Change Over Base Year Doubled Amount	Percent
SEG	\$253,400	\$253,400	\$253,400	\$253,400	\$253,400	\$0	0.0%

<b>FTE Position Summary</b>
There are no state authorized positions for the Fox River Navigational System Authority.

### Budget Change Item

#### 1. APPROPRIATION TECHNICAL CORRECTION

**Governor/Legislature:** Provide for a technical correction that clarifies the Fox River Navigational System Authority's program revenue appropriation is a PR appropriation, rather than a conservation fund SEG appropriation. 2005 Act 25 specifies that if the State Building Commission determines land transferred to the state from the federal government along with the Fox River locks is not needed for navigational purposes, the proceeds of any sale of this property be deposited to a PR continuing appropriation for the administration, operation, repair and rehabilitation of the locks.

[Act 20 Section: 305]

## GENERAL FUND TAXES

### 1. GENERAL FUND TAX CHANGES

The following table shows the general fund tax changes recommended by the Governor, Joint Committee on Finance, and Legislature, along with the estimated fiscal effect in the 2007-09 biennium. The final column shows the tax law changes under Act 20, which includes the impact of the Governor's partial vetoes. It should be noted that a number of tax reductions included in the budget have delayed effective dates and/or will phase in over a number of years. As described in the individual entries that follow the table, the estimated fiscal effects of those provisions will increase in future years.

**2007-09 General Fund Tax Changes -- Biennial Fiscal Effects (In Millions)**

	<u>Governor</u>	<u>Jt. Finance</u>	<u>Legislature</u>	<u>Act 20</u>
<b>Individual Income Tax</b>				
Expand Health Insurance Deduction	-\$11.80	-\$11.80	-\$11.80	-\$11.80
Increase Tuition Deduction	-4.00	-4.00	0.00	0.00
Child/Dependent Care Deduction	-3.90	-5.60	0.00	0.00
Increase Investment Credits	-3.90	-3.90	-3.90	-3.90
Internal Revenue Code Update	-3.70	-13.60	-13.60	-13.60
Retirement Exclusion	0.00	-2.50	-2.50	-2.50
Impact of Property Tax Limits	0.00	0.00	1.90	1.10
<b>General Sales and Use Tax</b>				
Impose Tax on Digital Products	6.30	3.40	0.00	0.00
Exemption for Biotechnology Expenditures	-5.00	-7.80	0.00	0.00
Conform to Streamlined Sales Tax Agreement	4.80	4.80	0.00	0.00
Expand Exemptions for Catalogs	-0.60	-0.60	-0.60	-0.60
Exemption for Performing Arts Admissions	0.00	-0.38	0.00	0.00
<b>Corporate Income and Franchise tax</b>				
Tax Shelter Voluntary Compliance	10.20	10.20	10.20	10.20
Credit for Hospital IT Investments	-4.50	-4.50	0.00	0.00
Increase Investment Credits	-3.90	-3.90	-3.90	-3.90
Ethanol and Biodiesel Fuel Pump Credit	-1.00	-0.73	-0.73	-0.73
Dairy Plant Credit*	-0.70	-1.30	-1.30	-1.30
Extend Beloit Development Opportunity Zone	-0.10	-0.10	-0.10	-0.10
Community Rehabilitation Credit	0.00	-6.60	0.00	0.00
Impact of Property Tax Limits	0.00	0.00	3.80	2.60
<b>Cigarette Tax</b>				
Increase Tax Rate	506.50	506.50	378.50	378.50
Deposit Additional Collections to Health Care Quality Fund	-506.50	-466.50	0.00	0.00
<b>Tobacco Products Tax</b>				
Modify Tax Rates	39.70	39.70	32.40	32.40
Deposit Additional Collections to Health Care Quality Fund	-39.70	-39.70	0.00	0.00
<b>Miscellaneous Taxes</b>				
Increase Rate and State Share of Real Estate Transfer Fee (RETF)	142.10	142.10	0.00	0.00
Deposit All RETF Collections to County Aid Fund	<u>-266.10</u>	<u>-266.10</u>	<u>0.00</u>	<u>0.00</u>
General Fund Impact of Tax Changes	-\$145.80	-\$132.90	\$388.38	\$386.38
All Funds Impact of Tax Changes**	\$666.50	\$639.40	\$388.38	\$386.38

\*Under the version of the budget bill passed by the Legislature and Act 20, the dairy plant credit is refundable. Therefore, the cost of the credit will be recorded as a general fund expenditure rather than a reduction in tax revenues.

\*\*Includes the impact on the general fund plus the monies that would be deposited into new segregated funds under the versions of the bill introduced by the Governor and adopted by the Joint Committee on Finance.

## Individual and Corporate Income Tax

### 1. INCOME TAX DEDUCTION FOR HEALTH INSURANCE PREMIUMS [LFB Paper 315]

GPR-REV	-\$11,800,000
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**Governor:** Provide an individual income tax deduction for health insurance premiums paid by employees who pay part of such premiums. Provide that the deduction would be phased in over a four-year period, starting in tax year 2008.

#### Current Income Tax Provisions Related To Health Insurance Premiums

There are a number of provisions under current law that provide income tax exclusions and deductions related to health insurance premiums. Under current federal law, to which Wisconsin conforms, employers may offer fringe benefits in the form of cafeteria plans, which allow employees to choose between receiving cash (or other taxable benefits) or certain qualified benefits (including health benefits) for which the law provides an exclusion from wages for income tax purposes. Therefore, under a cafeteria plan, employees may select to have their share of employment-based medical care insurance paid with pre-tax dollars, thereby reducing the employee's taxable wages by the amount paid for the medical care insurance.

Current state law also provides deductions for 100% of long-term care insurance premiums and for medical care insurance paid for by self-employed individuals that do not exceed net earnings from a trade or business that is taxable by this state. Wisconsin also provides a deduction related to premiums paid by an employee whose employer did not contribute anything toward the cost of the medical care insurance. In such cases, prior to tax year 2006, Wisconsin law permitted a deduction of 50% of the premiums paid by the employee. Effective with tax year 2006, as provided under 2005 Act 25, an employee whose employer did not contribute anything toward the cost of the medical care insurance may deduct 100% of the premiums paid by the employee. For purposes of these deductions, "medical care insurance" means a medical care insurance policy that covers a taxpayer, the taxpayer's spouse, and the taxpayer's dependents and provides surgical, medical, hospital, major medical, or other health service coverage.

In addition to the deductions described above, Act 25 created a deduction for medical care insurance premiums paid by an individual with no employer and no self-employment income, to be phased in over a three-year period beginning in tax year 2007 as follows: (a) 33.4% of the cost of such premiums are deductible in tax year 2007; (b) 66.7% will be deductible in tax year 2008; and (c) 100% of such premiums will be deductible in tax years 2009 and thereafter.

For non- and part-year residents, the current law deductions for medical care insurance premiums of employees and unemployed individuals must be pro-rated based on the share of total income that is taxable to Wisconsin. For self-employed individuals who are non- or part-

year residents, the medical insurance premium deduction must be pro-rated based on the individual's share of income earned from a trade or business taxable to Wisconsin.

Finally, certain medical care insurance premiums are also eligible to be included in the calculation of the state's itemized deduction credit. The itemized deduction credit is equal to 5% of the excess of allowable itemized deductions over the sliding scale standard deduction. Medical expenses that conform to those permitted as federal itemized deductions, which include medical expenses exceeding 7.5% of federal adjusted gross income (AGI), are generally allowable for calculating the state itemized deduction credit. However, medical care insurance premiums that are subtracted from Wisconsin income (under one of the income tax deductions described above) are disallowed for purposes of the state's itemized deduction credit.

### **Proposal**

Under the bill, an additional deduction would be provided for medical care insurance premiums paid by an employee whose employer pays for some portion of the employee's health insurance costs. The proposed deduction would use the same definitions and general parameters as those in effect for the current law deductions. As with the current law deductions for employees and unemployed individuals, a non- or part-year resident would have to pro-rate the proposed deduction for medical care insurance premiums based on the individual's share of total income that is taxable to Wisconsin.

The proposal would specifically benefit employees whose payments for medical care insurance are not made with pre-tax dollars (which would be the case when the payments are not being made under a cafeteria plan). Under the bill, the additional deduction would be phased in over a four-year period. For tax year 2008, 10% of the portion of medical care insurance premiums paid by an employee (whose employer pays for some portion of the employee's health insurance costs) would be deductible. The percentage would increase to 25% for tax year 2009, 45% for tax year 2010, and to 100% for tax year 2011 and thereafter.

The administration estimates that the proposal would reduce state tax revenues from the individual income tax by the following amounts: (a) \$11,800,000 in 2008-09 (representing the total fiscal effect of the proposal in the 2007-09 biennium); (b) \$31,900,000 in 2009-10; (c) \$62,000,000 in 2010-11; and (d) \$149,000,000 in 2011-12 and annually thereafter.

**Joint Finance/Legislature:** Approve the Governor's proposal with a modification to specify that medical care insurance premiums that are subtracted from Wisconsin income under the proposal are disallowed for purposes of the state's itemized deduction credit.

[Act 20 Sections: 1955 thru 1958 and 1976s]

## **2. INDIVIDUAL INCOME TAX DEDUCTION FOR COLLEGE SAVINGS PROGRAMS**

**Assembly:** Expand the individual income tax deduction for certain amounts paid into an account in a Wisconsin college savings program to include such amounts paid into any college

savings program, effective with tax year 2008.

As provided under federal law, a qualified tuition program (QTP), also known as a section 529 plan [in reference to the section of the Internal Revenue Code (IRC) authorizing such plans], is a program that allows individuals to either purchase pre-paid tuition units or to contribute to a college savings account established for paying a student's qualified education expenses at an eligible educational institution. A QTP can be established and maintained by a state, or an agency or instrumentality of a state, and by an eligible educational institution. For programs satisfying the federal QTP requirements, federal law has provided an individual income tax exemption for earnings in and distributions from (but not contributions to) QTPs established by states since tax year 2002. Effective with tax year 2004, the federal exemption was extended to earnings in and distributions from QTPs offered by eligible private institutions in addition to state-sponsored plans.

Current state law authorizes two types of Wisconsin section 529 programs. The first program is the college tuition and expenses program, under which an individual may purchase "tuition units" for a designated beneficiary. This program was started in 1997, and is administered by the State Treasurer's office with investments managed by the State of Wisconsin Investment Board. The second program is the college savings account program, made up of the EdVest and Tomorrow's Scholar college savings plans, under which individuals contribute to a college savings account for a designated beneficiary (rather than purchasing tuition units). The savings account program is managed by an 11-member College Savings Program Board, and began offering accounts in 2001.

While both types of college savings programs continue to be authorized by state statute, the State Treasurer's office closed the tuition unit option to all new investments, effective December 20, 2002. Instead, EdVest and Tomorrow's Scholar are now offering a wider variety of investment options through the more flexible college savings account program.

State tax law conforms to the federal provisions providing an exemption from income for earnings in, and qualified distributions from, state approved section 529 plans. In addition, for state tax purposes, donors may deduct up to \$3,000 in amounts paid into a Wisconsin section 529 plan if the beneficiary is the purchaser, the purchaser's spouse (for a married couple filing a joint tax return), or the purchaser's dependent child. In addition, the deduction is also available for amounts paid by grandparents, great-grandparents, aunts, and uncles of account beneficiaries. The annual deduction for amounts paid into one or more state approved section 529 account for a specific beneficiary is limited to \$3,000 per claimant. A married couple filing a joint return is considered one claimant. A contribution to a section 529 plan that was deducted from the account owner's income for individual income tax purposes may not also be deducted under the state's individual income tax deduction for college tuition.

The Assembly proposal would expand the current law income tax deduction for amounts paid on behalf of beneficiaries by certain individuals to a Wisconsin section 529 plan to include such amounts paid into any section 529 plan. Therefore, under the proposal, claimants eligible for the current law deduction would be permitted to deduct up to \$3,000 in amounts paid into a

section 529 plan offered through EdVest or Tomorrow's Scholar, through another state, or through an eligible private institution. As under current law, the maximum annual deduction per claimant on behalf of a specific beneficiary would be limited to \$3,000, even if the claimant paid into more than one plan on behalf of such beneficiary. In addition, an amount contributed to an out-of-state section 529 plan that was deducted from the account owner's income for individual income tax purposes could not also be deducted under the state's individual income tax deduction for college tuition.

These provisions would first apply to taxable years beginning on January 1, 2008. It is estimated that the fiscal effect would be a reduction in state tax revenues of \$8,500,000 in 2008-09 and annually thereafter.

**Conference Committee/Legislature:** Delete provision.

### 3. HEALTH SAVINGS ACCOUNTS

**Assembly:** Update state tax references to the Internal Revenue Code (IRC) in order to conform to federal individual income tax exclusions and deductions for health savings accounts (HSAs) as provided under current federal law (through December, 2006), starting with taxable years beginning on or after January 1, 2008. Provide that for tax year 2008, the income tax exclusions and deductions would be 50% of the allowable exclusions and deductions under federal law. For taxable years starting on or after January 1, 2009, the income tax exclusions and deductions would be the same as those provided under federal law.

Under the federal HSA provisions, an eligible individual covered by a high-deductible health insurance plan may make pre-tax contributions to an HSA to cover qualified medical care expenses. The federal HSA provisions took effect on January 1, 2004.

To be an eligible individual and qualify for an HSA, an individual must: (a) have a high-deductible health plan on the first day of the month; (b) with limited exceptions, have no other health coverage; (c) not be eligible for Medicare; and (d) not be claimed as a dependent on someone else's tax return.

A high-deductible health plan is defined as one that has, for tax year 2007, at least a \$1,100 annual deductible for self-only coverage and a \$2,200 deductible for family coverage. These amounts are indexed annually for inflation. In addition, to be qualified as a high-deductible health plan, the plan must limit annual out-of-pocket expenses paid under the plan to amounts that are also indexed for inflation. For 2007, the out-of-pocket expenses must be limited to no more than \$5,500 for individuals and \$11,000 for families. Such expenses include deductibles, co-payments, and any other amounts paid for plan benefits.

Contributions to HSAs may be deducted from gross income in the determination of adjusted gross income, and are limited to specified maximum amounts. For 2007, the limits are \$2,850 for individuals and \$5,650 for families. The limits are adjusted annually for inflation and are coordinated with those for Archer Medical Savings Accounts (MSAs); contributions to an HSA or an MSA reduce the annual contribution limit for the other type of health account.

Individuals who reach age 55 by the end of the tax year may increase their contributions by \$800 for 2007, \$900 for 2008, and \$1,000 for 2009 and thereafter. Contributions may not be made, however, after a participant becomes eligible for Medicare. Excess contributions are subject to a federal excise tax, generally equal to 6% of the cumulative amount of excess contributions that are not distributed from the health account to the contributor.

An individual's employer may also make contributions to an HSA on behalf of an eligible individual. With certain exceptions, if an employer makes such contributions, the employer must make available comparable contributions on behalf of all employees with comparable health insurance coverage during the same period. If employer contributions do not satisfy the comparability rule, then the employer is subject to a federal excise tax equal to 35% of the aggregate amount contributed by the employer to health accounts for that period. [However, effective with tax years beginning after December 31, 2006, employers may make larger HSA contributions for employees that are not classified as highly compensated employees than for those classified as highly compensated employee (as defined under federal law).] If an employer makes contributions to an HSA, the contribution limits described above apply to the aggregate amounts contributed on behalf of the employee. In such a case, the amount contributed by the employer would be excluded from the employee's gross income (and associated unemployment and withholding taxes), and the amount contributed by the employee would be deducted from income on the individual income tax return.

Earnings on HSAs accumulate on a tax-free basis. Distributions from an HSA are not subject to tax to the extent that they are used to pay for qualified medical expenses of the account beneficiary. HSA distributions may not be used to purchase health insurance. Any distributions not used to pay the qualified medical expenses of the account beneficiary are included in federal gross income. Federal law also imposes a penalty of 10% on such distributions. However, the federal penalty does not apply if the distributions are made after the account beneficiary becomes eligible for hospital insurance under Medicare or becomes disabled or dies.

Similar to all HSA distributions, distributions after an account holder attains the age of 65 are tax-free if used to pay for qualified medical expenses and taxable if used for nonqualified purposes. However, an account holder who is 65 or over who uses an HSA distribution for nonqualified purposes is not subject to the 10% penalty that generally applies to nonqualified distributions from an HSA.

It is estimated that the provision would reduce state tax revenues from the individual income tax by \$6,500,000 in 2008-09 and by \$13,000,000 in 2009-10 and annually thereafter (in 2008-09 dollars).

**Conference Committee/Legislature:** Delete provision.



4. INCREASE IN DEDUCTION FOR COLLEGE TUITION [LFB Paper 316]

	Governor (Chg. to Base)	Legislature (Chg. to Gov)	Net Change
GPR-REV	-\$4,000,000	\$4,000,000	\$0

**Governor:** Provide an increase in the maximum college tuition deduction and specify that the deduction would apply to the cost of mandatory student fees as well as tuition.

Current law provides an individual income tax deduction for tuition expenses paid on behalf of a taxpayer or the taxpayer's dependent. Eligible expenses include tuition paid to any university, college, technical college, or a school approved by the Educational Approval Board that is located in Wisconsin. The deduction also applies to tuition expenses for a public vocational school or public institution of higher education in Minnesota under the Minnesota-Wisconsin tuition reciprocity agreement.

Currently, the maximum deduction that may be claimed per eligible student is equal to twice the average amount charged by the Board of Regents of the University of Wisconsin System at four-year institutions for resident undergraduate academic fees for the most recent fall semester. The maximum deduction was \$4,536 for 2006, and, under current law, is \$4,844 for 2007. For non- and part-year residents, the tuition deduction must be pro-rated based on the share of a taxpayer's total income that is taxable to Wisconsin, and may not exceed a taxpayer's total income taxable by the state. The maximum deduction is phased out in specified ranges of federal AGI that vary with filing status. The phase-out ranges are as follows: (a) \$50,000 to \$60,000 for single and head-of-household tax filers; (b) \$80,000 to \$100,000 for married couples filing joint returns; and (c) \$40,000 to \$50,000 for married couples filing separate returns.

The bill would increase the maximum deduction to \$6,000 per eligible student per year, effective with taxable years beginning after December 31, 2006, and would allow the deduction to apply with respect to mandatory student fees as well as tuition expenses.

In addition to the deduction for tuition expenses, current federal and state laws also provide certain tax advantages for Section 529 college savings plans [the term "Section 529" refers to the section of the Internal Revenue Code (IRC) authorizing such plans.] For state tax purposes, donors to Wisconsin Section 529 plans may deduct up to \$3,000 in contributions to an account if the beneficiary is the purchaser, the purchaser's spouse, or the purchaser's dependent child or if the contribution is made by a beneficiary's grandparent, great-grandparent, aunt, or uncle. In addition, earnings and qualified distributions from Section 529 accounts are exempt from taxation under both federal and state tax laws.

Currently, no amount may be claimed as a deduction for tuition expenses if the source of the payment is an amount withdrawn from a Wisconsin Section 529 account if the claimant has already claimed a deduction that relates to the amount paid for tuition expenses. The bill would modify this provision to disallow the deduction if the source of the payment is an amount withdrawn from a Wisconsin Section 529 account and if the owner of the account (rather than

the claimant) has claimed a deduction that relates to the amount paid for tuition expenses and fees. The proposed change from "claimant" to "owner of the account" is intended to prevent a situation in which a double deduction could be claimed for amounts contributed to a Wisconsin Section 529 account and subsequently used to pay tuition. Under current law, the owner of a Wisconsin Section 529 account could make a tax-free contribution to a Wisconsin Section 529 account on behalf of a beneficiary, and the beneficiary, acting as the claimant for purposes of the tuition deduction, could claim a second tax deduction on the same amount when using a distribution from the account to pay for tuition. Under the proposed modification, such a beneficiary would not be able to claim a tuition deduction on such an amount.

The administration has estimated that the proposal would reduce state income tax revenues by \$2,400,000 in 2007-08 and by \$1,600,000 in 2008-09. As noted, the maximum deduction in the 2007 under current law is \$4,844. For 2008, the administration has estimated that the current law maximum deduction would be approximately \$5,200. The higher estimated cost of the proposal in the first year of the 2007-09 biennium reflects the greater difference in the first year between the current law maximum deduction and the proposed \$6,000 maximum deduction.

**Assembly:** Modify the provisions that would provide a maximum deduction of \$6,000 for college tuition and mandatory student fees, starting in tax year 2007, rather than the current law maximum deduction for tuition (which is equal to twice the average amount charged by the Board of Regents of the University of Wisconsin System at four-year institutions for resident undergraduate academic fees for the most recent fall semester). Specify that, once the maximum tuition deduction as calculated under current law would exceed \$6,000, the maximum deduction would be the amount as determined under current law, rather than the \$6,000 figure provided under the Joint Finance provisions.

The modifications would have no fiscal effect in the 2007-09 biennium. Based on recent increases in the average amount charged by the Board of Regents of the University of Wisconsin System at four-year institutions for resident undergraduate academic fees, it is estimated that the proposal would result in maximum deductions exceeding \$6,000 starting in tax year 2011.

**Conference Committee/Legislature:** Modify the Assembly provisions to specify that the deductions will take effect with tax year 2009, rather than with tax year 2007. It is estimated that the provision will reduce state tax revenues by approximately \$800,000 in 2009-10, and that there will be no difference from current law in subsequent years.

[Act 20 Sections: 1952 thru 1954 and 9341(12)]

**5. INCOME TAX DEDUCTION FOR CERTAIN CHILD AND DEPENDENT CARE EXPENSES [LFB Paper 317]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Legislature (Chg. to JFC)</b>	<b>Net Change</b>
GPR-REV	-\$3,900,000	-\$1,700,000	\$5,600,000	\$0

**Governor:** Provide a deduction from the individual income tax for certain expenses related to child and dependent care that may be claimed under the federal credit for child or dependent care expenses. The deduction would be phased in over a four-year period, starting in tax year 2008.

Current federal law provides an individual income tax credit for child and dependent care expenses that are paid for the purpose of enabling a taxpayer to be gainfully employed. The maximum amount of expenses that can be claimed for the federal credit is \$3,000 if the claimant has one qualifying child or dependent and \$6,000 if the claimant has more than one qualifying child and/or dependent. The credit is calculated as a percentage of eligible expenses, with the percentage ranging from 35% to 20%, depending on the claimant's adjusted gross income.

Eligible claims for the federal credit must satisfy a number of tests, including a qualifying person test. Under the federal provisions, a qualifying person includes: (a) the claimant's qualifying child (which means that the child must have lived with the claimant for more than half the year, among other requirements) who is the claimant's dependent and who was under the age of 13 when the care was provided; (b) the claimant's spouse who was physically or mentally not able to care for himself or herself and lived with the claimant for more than half the year; and (c) a person who was physically or mentally not able to care for himself or herself, lived with the claimant for more than half the year, and, with certain exceptions, was the claimant's dependent.

The following federal tests must also be met to claim the child and dependent care credit: (a) with an exception related to being a student, the individual claiming the credit (and the individual's spouse, if married) must have earned income during the year; (b) the child and dependent care expenses must be being paid so that the individual claiming the credit (and the individual's spouse, if married) can work or look for work; (c) the payments for the child and dependent care must be made to someone who can not be claimed as a dependent of the individual claiming the credit or the individual's spouse; (d) with an exception described below, the claimant's filing status must be single, head of household, qualifying widow(er) with dependent child, or married filing jointly; and (e) the care provider must be identified on the claimant's tax return. In addition, if a claimant excludes or deducts dependent care benefits provided by a dependent care benefit plan, the total amount excluded or deducted under such a plan must be less than the dollar limit for qualifying expenses under the credit.

The bill would provide an individual income tax deduction for employment-related

expenses claimed by a claimant for purposes of the federal child and dependent care credit as follows: (a) for tax year 2008, up to \$750 for one qualified individual and up to \$1,500 for more than one qualified individual; (b) for tax year 2009, up to \$1,500 for one qualified individual and up to \$3,000 for more than one qualified individual; (c) for tax year 2010, up to \$2,250 for one qualified individual and up to \$4,500 for more than one qualified individual; and (d) for tax years 2011 and thereafter, up to \$3,000 for one qualified individual and up to \$6,000 for more than one qualified individual. The deduction would have to be claimed for the same taxable year as the year to which the claim for the federal credit relates.

For nonresidents and part-year residents, the deduction would have to be pro-rated based on the share of a claimant's total income that is taxable to Wisconsin. As under federal provisions for the child and dependent care credit, with certain exceptions for married taxpayers who have not shared the same household for the last six months of the taxable year, the bill would require married taxpayers to file a joint tax return to claim the deduction.

The administration has estimated that the proposed deduction would reduce individual income tax revenues as follows: (a) \$3,900,000 in 2008-09; (b) \$7,800,000 in 2009-10; (c) \$11,800,000 in 2010-11; and (d) \$15,900,000 in 2011-12 and thereafter.

**Joint Finance:** Approve the Governor's proposal. However, reestimate the fiscal effect in 2008-09 as a reduction in individual income tax revenues of \$5,600,000. Compared to the bill, reduce estimated individual income tax revenues by \$1,700,000. Compared to the Governor's proposal, the reestimated fiscal effects would also reduce general fund tax revenues by an additional \$2,300,000 in 2009-10 and \$1,700,000 in 2010-11

**Conference Committee/Legislature:** Modify the provisions to provide that the four-year phase-in period would start in tax year 2009, rather than tax year 2008. The modified provisions provide an individual income tax deduction for employment-related expenses claimed by a claimant for purposes of the federal child and dependent care credit as follows: (a) for tax year 2009, up to \$750 for one qualified individual and up to \$1,500 for more than one qualified individual; (b) for tax year 2010, up to \$1,500 for one qualified individual and up to \$3,000 for more than one qualified individual; (c) for tax year 2011, up to \$2,250 for one qualified individual and up to \$4,500 for more than one qualified individual; and (d) for tax years 2012 and thereafter, up to \$3,000 for one qualified individual and up to \$6,000 for more than one qualified individual. The deduction will have to be claimed for the same taxable year as the year to which the claim for the federal credit relates.

As the deduction first applies with respect to tax year 2009, there is no fiscal effect in the 2007-09 biennium. It is estimated that the deduction will reduce individual income tax revenues in subsequent years as follows: (a) \$5,600,000 in 2009-10; (b) \$10,100,000 in 2010-11; (c) \$13,500,000 in 2011-12; and (d) \$15,900,000 in 2012-13 and thereafter.

[Act 20 Section: 1959]

**6. INDIVIDUAL INCOME TAX EXCLUSION FOR RETIREMENT INCOME**

GPR-REV - \$2,500,000

**Joint Finance:** Provide an individual income tax exclusion for up to \$5,000 per person aged 65 or older for taxpayers with adjusted gross income of \$15,000 or less (\$30,000 or less for married-joint filers), effective with tax year 2009. Specify that the exclusion would apply with respect to distributions from qualified retirement plans under the federal Internal Revenue Code (IRC), including distributions from all qualified pension, profit-sharing, and stock bonus plans under the IRC, and from deferred compensation plans offered by state and local governments and tax-exempt organizations under the IRC. Provide that the exclusion would also apply to otherwise taxable distributions from individual retirement accounts (IRAs), self-employed plans, tax-sheltered annuities, and other qualified retirement plans. It is estimated that the provision would reduce individual income tax revenues by \$2,500,000 in 2008-09 and \$5,600,000 annually thereafter.

**Assembly:** Delete provision. Provide, instead, an individual income tax exclusion for retirement income for each person aged 65 or older up to a specified maximum amount that would start in tax year 2009 and would increase each year. Provide that the maximum exclusion per person would be \$500 for tax year 2009 and \$1,000 for tax year 2010. For subsequent tax years, provide that the maximum exclusion would increase by \$1,000 per year until 2029, when the maximum exclusion would be \$20,000 per person. For tax years starting in 2030, provide that the maximum exclusion would be increased by the annual growth in Wisconsin per capita personal income, as determined by the Department of Revenue (DOR) based on the most recent data available from the federal Bureau of Economic Analysis.

It is estimated that the fiscal effect of the provision would be to reduce state tax revenues from the individual income tax by \$8,000,000 in 2008-09, based on assumed reductions in estimated tax payments that would be made for tax year 2009. Compared to the Joint Finance budget, this provision would reduce state tax revenues by \$5,500,000 in 2008-09. In subsequent years, it is estimated that general fund tax revenues would be reduced by \$24,000,000 in 2009-10 and \$48,000,000 in 2010-11. The annual reduction in general fund tax revenues would increase along with the increasing exemption amount, to reach approximately \$320,000,000 in 2029-30. These estimates are provided in 2008-09 dollars.

**Conference Committee/Legislature:** Delete Assembly provision.

[Act 20 Sections: 1947g thru 1947j, 1951m, and 2139e]

**7. INCOME TAX EXEMPTION FOR INTEREST ON CERTAIN WHEFA BONDS**

GPR-REV - \$100,000

**Assembly/Legislature:** Provide an exemption from the individual and corporate income taxes for interest paid on certain bonds issued by the Wisconsin Health and Educational Facilities Authority, starting with taxable years beginning January 1, 2008. This exemption

would apply if the proceeds of the bonds or notes would be used by a health facility to fund the acquisition of information technology hardware or software.

[Act 20 Sections: 1947m, 2021m, 2087h, and 9341(6j)]

## **8. INDIVIDUAL INCOME TAX RELATING TO NONRESIDENTS AND COVENANTS NOT TO COMPETE**

**Governor/Legislature:** Provide that amounts received by a nonresident of this state under a covenant not to compete are taxable by the state to the extent that the covenant was based on a Wisconsin-based activity.

Current state law generally imposes the state's individual income tax with respect to nonresidents upon income derived from property located or business transacted within the state and income derived from the performance of personal services within the state. Currently, income received by a nonresident as a result of a covenant not to compete is not considered to be subject to Wisconsin's income tax, even if such income is related to a Wisconsin-based activity. However, such income would be subject to the state's individual income tax if received by a Wisconsin resident. The bill would modify current law to provide that income derived by a nonresident individual from a covenant not to compete is taxable by this state to the extent that the covenant was based on a Wisconsin-based activity. This provision would first apply to taxable years beginning on or after January 1, 2007. The administration has estimated that the fiscal effect would be a minimal increase in state individual income tax revenues.

[Act 20 Sections: 1946, 1947, and 9341(9)]

## **9. LIMIT CERTAIN DEDUCTIONS FOR NONRESIDENTS**

**Governor:** Require non- and part-year residents to add back to federal adjusted gross income, for purposes of calculating Wisconsin AGI, certain items that are deductible under federal law and related to income that is not taxable by the state.

Current federal law provides two deductions that, as a result of state conformance with such deductions, may result in non- and part-year residents receiving unintended state tax deductions. The first of the federal deductions is the domestic production activities deduction, which is equal to a specified percentage of the lesser of the taxpayer's "qualified production activities income" and taxable income (or AGI, depending on the claimant). "Qualified production activities income" is generally equal to domestic production gross receipts reduced by the costs of goods sold and other allocable expenses. The deduction is 6% for tax years 2007 through 2009 and 9% for subsequent years. The second federal deduction is for attorney fees and court costs paid by, or on behalf of, the taxpayer in connection with any action involving a claim of unlawful discrimination, a claim against the United States government, or certain claims under the Social Security Act, but only up to the amount included in gross income for

such a claim.

As a result of the state's conformance with these federal provisions, a non- or part-year resident may currently apply a share of the deductions when arriving at Wisconsin AGI, even though the related income may not be taxable by the state. The bill would require non- and part-year residents to add back to federal AGI, for purposes of calculating Wisconsin AGI, any amounts deducted under the two federal provisions associated with income not taxable by Wisconsin.

The provisions would first apply to taxable years beginning on January 1 of the year in which the budget bill takes effect, except that if the bill's effective date is after July 31, the provisions would first apply to taxable years beginning on January 1 of the following year. The administration has estimated that the provisions would result in a minimal increase in state individual income tax revenues.

**Conference Committee/Legislature:** Include provisions with a technical modification to correct a reference to the IRC.

[Act 20 Sections: 1949 thru 1951 and 9341(8)]

#### **10. INCOME TAX WITHHOLDING FOR NONRESIDENT MEMBERS OF PASS-THROUGH ENTITIES [LFB Paper 318]**

**Governor:** Modify the pass-through entity withholding requirements enacted under 2005 Act 25 to make certain clarifications and technical corrections and to provide an additional exemption from the requirements.

As provided under Act 25, pass-through entities [including partnerships, limited liability companies (LLCs), tax-option corporations (S Corporations), and estates or trusts treated as pass-through entities for federal income tax purposes] are generally required to withhold income or franchise tax on behalf of their nonresident shareholders, partners, members, or beneficiaries (referred to below as "nonresidents"). However, withholding is not required if the nonresident is exempt from income taxation or is a joint venture not treated as a partnership under federal law. Current law also provides an exemption from the withholding requirement for a nonresident who has no other source of Wisconsin income and whose share of income from the pass-through entity is less than \$1,000. The bill would eliminate the requirement under this exemption that the nonresident have no other source of Wisconsin income, as the pass-through entity would not necessarily know whether the nonresident had another source of Wisconsin income. The bill would also provide a new exemption for a nonresident who presents an affidavit, in the form and manner prescribed by the Department of Revenue (DOR), whereby the nonresident agrees to be subject to the personal jurisdiction of the Department, the Tax Appeals Commission, and the courts of Wisconsin for the purpose of determining and collecting Wisconsin income and franchise taxes, estimated payments, and any related interest and penalties.

The bill would also make a number of technical corrections to the pass-through withholding requirements and would clarify certain current provisions related to interest and penalties.

The administration estimates that these provisions, which would apply retroactively to taxable years beginning on or after January 1, 2006, would have a minimal fiscal effect.

**Joint Finance/Legislature:** Include the Governor's proposal with a modification to clarify the dollar amount to which late payment interest applies in the following situations: (a) a pass-through entity files a late pass-through withholding return; and (b) a pass-through entity fails to file a pass-through withholding return, but the nonresident owner files a return and pays the tax due.

[Act 20 Sections: 2131 thru 2135, 2139, 9341(5), and 9441(2)]

## 11. EARNED INCOME TAX CREDIT [LFB Paper 319]

	Governor (Chg. to Base)	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR	\$68,852,600	\$44,121,800	-\$5,000,000	\$107,974,400
PR	<u>- 54,842,600</u>	<u>- 32,831,800</u>	<u>5,000,000</u>	<u>- 82,674,400</u>
Total	\$14,010,000	\$11,290,000	\$0	\$25,300,000

**Governor:** Increase GPR funding for the earned income tax credit (EITC) by \$30,067,300 in 2007-08 and by \$38,785,300 in 2008-09. In addition, reduce PR funding for the EITC by \$24,615,300 in 2007-08 and by \$30,227,300 in 2008-09.

The EITC is funded with a combination of GPR and PR funding. The program revenue is federal temporary assistance for needy families (TANF) funding transferred from the Department of Workforce Development (DWD). The GPR portion is provided through a sum-sufficient appropriation and covers the balance of the cost of the credit. Under the bill, total funding for the EITC would be increased to \$87,552,000 in 2007-08 and \$90,658,000 in 2008-09, compared to base funding of \$82,100,000. However, the PR funding would be reduced from a base level of \$55,232,000 to \$30,616,700 in 2007-08 and to \$25,004,700 in 2008-09, while the estimated GPR sum sufficient portion would be increased to \$56,935,300 in 2007-08 and \$65,653,300 in 2008-09. The net effect would be an increase in total funding for the EITC of \$5,452,000 in the first year and \$8,558,000 in the second year. The net increases reflect the administration's estimates of the total cost of funding the EITC in the 2007-09 biennium.

**Joint Finance:** Reestimate total funding for the EITC at \$92,100,000 in 2007-08 and \$97,400,000 in 2008-09, which is \$4,548,000 more in 2007-08 and \$6,742,000 more in 2008-09 than the estimates under the Governor's proposal. Provide TANF funding and estimated GPR funding for the EITC as follows: (a) \$75,974,600 GPR in 2007-08 and \$90,735,800 GPR in 2008-09; and (b) \$16,125,400 PR in 2007-08 and \$6,664,200 PR in 2008-09. Compared to the Governor's



recommendation, GPR funding would be increased by \$19,039,300 in 2007-08 and \$25,082,500 in 2008-09. TANF funds would be reduced by \$14,491,300 in 2007-08 and \$18,340,500 in 2008-09.

**Assembly:** Compared to the Joint Finance provision, increase TANF funding for the EITC by \$23,429,900 in 2007-08 and \$34,935,800 in 2008-09. Total TANF funding for the EITC under the modification would be \$39,555,300 in 2007-08 and \$41,600,000 in 2008-09.

Overall funding for the EITC would not change. As a result, GPR funding for the EITC would be reduced by \$23,429,900 in 2007-08 and \$34,935,800 in 2008-09. Total GPR funding would be \$52,544,700 in the first year and \$55,800,000 in the second year.

**Conference Committee/Legislature:** Delete Assembly provision. Modify the Joint Finance provision to reduce GPR funding in 2007-08 by \$5,000,000 and to increase TANF funding in that year by the same amount.

As under the Joint Finance provision, the total cost of the EITC is estimated at \$92,100,000 in 2007-08 and \$97,400,000 in 2008-09. PR funding is reduced from a base level of \$55,232,000 to \$21,125,400 in 2007-08 and to \$6,664,200 in 2008-09, while the estimated GPR sum sufficient portion is increased to \$70,974,600 in 2007-08 and \$90,735,800 in 2008-09. The net effect is an increase in total funding for the EITC of \$10,000,000 in the first year and \$15,300,000 in the second year. The net increases reflect estimates of the total cost of funding the EITC in the 2007-09 biennium.

[Act 20 Sections: 1454 and 1455]

**12. VETERANS AND SPOUSES PROPERTY TAX CREDIT [LFB Paper 320]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
GPR	\$388,000	-\$5,154,000	-\$4,766,000

**Governor:** Provide increases of \$108,000 in 2007-08 and \$280,000 in 2008-09 for the refundable veterans and spouses property tax credit, which is paid through a sum sufficient appropriation. Total funding for the credit would be \$3,491,000 in 2007-08 and \$3,663,000 in 2008-09. The credit is equal to real and personal property taxes paid on a principal dwelling by certain veterans and surviving spouses.

**Joint Finance:** Based on actual credit claims for prior tax years, reestimate the cost of the veterans and surviving spouses property tax credit at \$1,000,000 in each year. Compared to the bill, expenditures for the credit are estimated to be \$2,491,000 lower in 2007-08 and \$2,663,000 lower in 2008-09 than the estimates included in the bill.

**Assembly/Legislature:** Include the Joint Finance provisions. In addition, expand the individual income tax credit for property taxes paid by certain veterans and surviving spouses,

effective with tax year 2009.

As provided under 2005 Act 25, and modified under 2005 Act 72, the current credit is equal to real and personal property taxes paid on a principal dwelling by the following persons:

a. The unremarried surviving spouse of a person who died while on active duty in the U.S. armed forces and who was a resident of this state at the time of entry into service and at the time of death.

b. The unremarried surviving spouse of a person who: (1) served on active duty in the U.S. armed forces; (2) was a resident of this state at the time of entry into active service; (3) was a resident of this state at the time of death; (4) was at least 65 years of age at the time of death (or would have been 65 at the close of the year in which the death occurred); and (5) had a service-connected disability of 100%, based on related federal provisions.

c. The unremarried surviving spouse of a person who served in the National Guard or Reserves, who was a resident of this state at the time of entry and at the time of death, and who died in the line of duty while on active or inactive duty.

d. A person who served on active duty in the U.S. armed forces and: (1) was a resident of this state at the time of entry into that service; (2) is a resident of the state for purposes of receiving veterans benefits under Chapter 45 of the Wisconsin statutes; (3) is at least 65 years old; and (4) has a service-connected disability of 100% based on related federal provisions. For married-joint filers, an eligible veteran may claim the credit for the entire property tax imposed on the veteran's principal dwelling, rather than for the share of property taxes that reflects the veteran's ownership interest in the dwelling (which is 50% for property owned as marital property). For a married couple filing separate returns, an eligible veteran and an eligible spouse are each permitted to claim the veterans property tax credit based on their respective ownership interest in the veteran's principal dwelling.

The veterans property tax credit is not allowed if an individual or the individual's spouse files a claim for the property tax/rent credit, the farmland tax relief credit, the farmland preservation credit, or the homestead credit.

The veterans property tax credit is paid through a sum sufficient GPR appropriation. Based on aggregate statistics for 2005 tax returns through October 15, 2006, there were 301 Wisconsin taxpayers who claimed the credit for tax year 2005. The total credit claims amounted to \$866,000, for an average credit of \$2,878.

The proposal would make a number of modifications to the current credit, effective with tax year 2009. Under the proposal, the current requirement that, to be eligible for the credit, the veteran with respect to which the credit is claimed has to have been a resident of the state at the time of entry into service would be modified to also provide the credit in the case of a veteran who was a resident of this state for any consecutive five-year period after entry into active duty service. In addition, the age limit requirements under "b" and "d" above would be eliminated.

As a result, the credit would be available to the unremarried surviving spouse of a deceased veteran who otherwise meets the current law requirements under "b" but was under age 65 at the time of death. Similarly, the credit would be newly available to a disabled veteran meeting all of the current requirements under "d" except the age requirement. Finally, the service disability thresholds under "b" and "d" would be modified to include veterans rated as being individually unemployable and, therefore, receiving 100% disability benefits, even though they are not rated as 100% disabled under federal law.

For purposes of the credit, "individual unemployability" would mean a condition under which a veteran had a service-connected disability rating of either 60% under related federal provisions or two or more service-connected disability conditions, where one condition had at least a 40% disability rating and the combined disability rating for all conditions was at least 70%. In addition, the veteran would have to have had an administrative adjustment added to his or her service-connected disability, due to individual unemployability, such that the federal Department of Veterans Affairs had rated the veteran 100% disabled.

As a result of the effective date of the proposal, there would be no fiscal effect in the 2007-09 biennium, compared to the Joint Finance provision. In subsequent years, it is estimated that the net effect would be to reduce the general fund by \$4,500,000 annually, starting in 2009-10. [The net effect reflects an increase of \$5,000,000 in the estimated cost of the sum sufficient GPR appropriation through which the credit is paid and an increase in individual income tax revenues of \$500,000 from anticipated reductions in claims for individual income tax credits that can not be claimed if the veterans credit is claimed.]

[Act 20 Sections: 1990s thru 1990sm and 9341(3c)]

**13. MINNESOTA-WISCONSIN INCOME TAX RECIPROCITY**

GPR	\$20,003,800
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**Governor/Legislature:** Provide increases of \$7,259,500 in 2007-08 and \$12,744,300 in 2008-09 to reflect estimated expenditures under the Minnesota-Wisconsin individual income tax reciprocity agreement. Total funding would be \$68,559,500 in 2007-08 and \$74,044,300 in 2008-09. The most recent payment to Minnesota was \$63,481,000, which was made in December, 2006, for tax year 2005.

**14. ILLINOIS-WISCONSIN INCOME TAX RECIPROCITY**

GPR	\$9,015,000
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**Governor/Legislature:** Provide increases of \$3,208,700 in 2007-08 and \$5,806,300 in 2008-09 to reflect the anticipated payments to Illinois under the Illinois-Wisconsin individual income tax reciprocity agreement. Total funding would be \$37,108,700 in 2007-08 and \$39,706,300 in 2008-09. The most recent payment to Illinois, which was made in December 2006, for tax year 2005, was \$34,681,000.

**15. INTEREST ON TAX OVERPAYMENTS**

GPR	\$2,500,000
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**Governor/Legislature:** Increase the sum-sufficient appropriation for interest on tax overpayments by \$2,250,000 in 2007-08 and by \$250,000 in 2008-09. Total funding would be \$4,500,000 in 2007-08 and \$2,500,000 in 2008-09.

**16. IMPACT OF LEVY LIMITS**

	Legislature (Chg. to Base)	Veto (Chg. to Leg.)	Net Change
GPR-REV	\$5,700,000	-\$2,000,000	\$3,700,000

**Assembly:** Increase estimated revenues from the individual income tax by \$700,000 in 2007-08 and \$2,400,000 in 2008-09 to reflect an associated reduction in the projected cost of the school property tax/rent credit (PTRC). In addition, increase estimated revenues from the corporate income and franchise tax by \$1,200,000 in 2007-08 and \$5,600,000 in 2008-09 to reflect reduced deductions for property taxes claimed by businesses. These adjustments are based on the expected impact on property taxes of the local levy and fiscal controls included in the Assembly provisions.

**Conference Committee/Legislature:** Modify the estimated impact of levy limits on individual and corporate income and franchise tax revenues to reflect the local levy and fiscal controls included in the provisions adopted by the Legislature. Compared to the Assembly provisions, estimate reductions in individual income tax revenues of \$300,000 in 2007-08 and \$900,000 in 2008-09 and reductions in corporate income and franchise tax revenues of \$600,000 in 2007-08 and \$2,400,000 in 2008-09. The net effect of these provisions, compared to base estimates, is an estimated increase in individual income tax revenues of \$400,000 in 2007-08 and \$1,500,000 in 2008-09 and an estimated increase in corporate income and franchise revenues of \$600,000 in 2007-08 and \$3,200,000 in 2008-09.

**Veto by Governor [F-3]:** Compared to the provisions included by the Legislature, reduce estimated individual income tax revenues by \$400,000 in each year and estimated corporate and franchise tax revenues by \$600,000 in each year to reflect changes in the estimated property tax levels associated with the proposed local fiscal controls. With this adjustment, there is no net effect of the local fiscal controls on income and franchise tax revenues in 2007-08. In 2008-09, the net effect is to reduce estimated individual income tax revenues by \$1,100,000 and estimated corporate and franchise tax revenues by \$2,600,000.

17. INTERNAL REVENUE CODE UPDATE [LFB Paper 321]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR-REV	-\$3,700,000	-\$9,900,000	-\$13,600,000

**Governor:** Update statutory references to the federal Internal Revenue Code under the state individual income and corporate income and franchise taxes to include changes to the IRC enacted in 2005 and through November, 2006, with certain exceptions. Under current law, state tax references generally refer to the IRC in effect as of December 31, 2004. Provisions not previously adopted related to amortization and accelerated depreciation and expensing would not be adopted, with the exception of certain provisions related to capital investment expense deductions for persons actively engaged in farming.

The bill would also modify current law to base filing deadlines for extensions for corporate taxfilers on federal requirements and to conform to federal law regarding electronic reporting of withholding statements. The IRC update provisions would generally apply for Wisconsin purposes at the same time as they apply for federal purposes.

The administration estimates that these provisions would reduce state income and franchise tax revenues by \$500,000 in 2007-08 and \$3,200,000 in 2008-09. Most of the fiscal effect is due to provisions included in the federal Pension Protection Act. It should be noted that the IRC update would also affect taxes that would normally be paid during the 2006-07 fiscal year. DOR estimates that these provisions would reduce state income and franchise tax revenues by \$3,020,000. This revenue loss would likely occur during the 2007-09 biennium as amended returns are filed; however, it has not been accounted for in the budget bill.

**Joint Finance:** Approve the Governor's proposal with a technical amendment to delete a federal reference where it is not needed. In addition, reestimate the fiscal effect to reflect an additional reduction of state income and franchise tax revenues of \$9,300,000 in 2007-08 and \$600,000 in 2008-09.

**Assembly:** Modify the IRC update provisions in the bill as approved by the Joint Committee on Finance to also conform state tax references to the provisions of the federal Tax Relief and Health Care Act of 2006 (TRHCA) recommended for adoption by the Department of Revenue. The following table provides a list of the recommended items that are projected to have a significant impact on state tax revenues, along with their estimated fiscal effects.

**Summary of Federal Law Changes Under TRHCA with Substantive Fiscal Effects  
(In Millions)**

	<u>2007-08</u>	<u>2008-09</u>
<b>Individual Income Tax</b>		
Deduction for educator expenses	-\$1.86	-\$0.28
Mortgage insurance premiums treated as deductible interest	<u>-0.45</u>	<u>-0.15</u>
Individual Income Tax Total	-\$2.31	-\$0.43
<b>Corporate and Business Taxes</b>		
Energy efficiency commercial buildings property deduction	-\$0.08	Minimal
Extend mental health parity provisions	-0.14	Minimal
Wages to Puerto Rico residents included in qualified production activities income	-0.33	-\$0.03
Expanded research credits	<u>-2.60</u>	<u>-2.60</u>
Corporate and Business Tax Total	-\$3.15	-\$2.63
<b>Total</b>	-\$5.5	-\$3.1

Specify that the provisions would apply for Wisconsin purposes at the same time as they apply for federal purposes. Compared to both the Joint Finance budget and current law, estimate additional reductions in state tax revenues of \$5,500,000 in 2007-08 and \$3,100,000 in 2008-09.

**Conference Committee/Legislature:** Delete Assembly modification.

[It should be noted that a number of sections of the IRC update approved by the Legislature were inadvertently excluded from Act 20. The omitted sections pertain to income and franchise taxation of regulated investment companies, real estate investment trusts, and related entities. For internal consistency in the income and franchise tax statutes, the sections should be approved under separate legislation. However, the fiscal effect of not including the provisions in Act 20 is expected to be minimal. At the time of this writing, a Revisor's Bill had been introduced to restore the omitted provisions.]

[Act 20 Sections: 1936 thru 1945, 1998 thru 2018, 2032, 2067 thru 2086, 2087, 2127, 2128, 2130, 2136, and 9141(1)]

**18. ENTERPRISE ZONES JOBS TAX CREDIT -- SUM SUFFICIENT ESTIMATE**

GPR	\$8,125,000
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**Governor/Legislature:** Provide \$1,625,000 in 2007-08 and \$6,500,000 in 2008-09 for the sum sufficient appropriation for the individual income and corporate income and franchise taxes enterprise zones jobs tax credit to reflect refundable tax credit claims. The enterprise zone jobs tax credit can first be claimed for tax years beginning on or after July 1, 2007.

## 19. ENTERPRISE ZONES JOBS TAX CREDIT MODIFICATIONS [LFB Paper 322]

**Governor:** Modify a number of provisions related to the enterprise zones jobs tax credit under the individual income and corporate income and franchise taxes including changing the method of calculating the jobs tax credit, eliminating the supplemental payroll and property credit, and altering definitional and administrative provisions. Under these provisions, the enterprise zones jobs tax credit would be calculated as follows:

a. Determine the lesser of: (1) the number of full-time employees that are employed in an enterprise zone whose annual wages are greater than \$30,000 in the tax year minus the number of full-time employees that are employed in the enterprise zone in the base year whose annual wages are greater than \$30,000 in the base year; or (2) the number of full-time employees in the state whose annual wages are greater than \$30,000 in the tax year minus the number of full-time employees in the state whose annual wages are greater than \$30,000 in the base year.

b. Determine the claimant's average zone payroll by dividing total wages for full-time employees in the zone whose annual wages are greater than \$30,000 for the tax year by the number of those employees.

c. Subtract \$30,000 from the average wage determined under "b."

d. Multiply the amount determined under "c" (average wage in excess of \$30,000 a year) by the number determined under "a" (net number of new employees hired in the zone).

e. Multiply the amount determined under "d" by 7%.

The definition of "zone payroll" would be modified to mean wages paid to full-time employees for services performed in the zone rather than compensation to individuals for such services. "Wages" would be defined under federal unemployment tax provisions to mean all remuneration for employment, including the cash value of all remuneration (including benefits) paid in any medium other than cash, with specified exceptions, such as payments to certain trusts or annuity plans. The above changes are intended to ensure that credits are provided only to businesses that create new jobs paying more than \$30,000 and to treat claimants consistently.

The current supplemental credit for claimants with all of their business-related property and payroll in the enterprise zone would be deleted. Provisions governing the supplemental credit for training would be modified to specify that the training be job-related.

The Department of Commerce would be required to determine the maximum amount of tax credits that a certified business could claim and notify DOR of the amount. Commerce would also be required to verify information submitted to it that was related to the enterprise zone jobs tax credit. Claimants would be required to include, with their tax returns, a copy of the certification for tax benefits and verification of expenses from Commerce.

These provisions would first apply to tax years beginning on or after July 1, 2007, and would reduce GPR expenditures by an unknown amount.

The enterprise zones jobs tax credit was created by 2005 Wisconsin Act 361, and provides tax credits to eligible businesses operating in enterprise zones. The credit is refundable and is provided under the state individual income and corporate income and franchise taxes to businesses that are certified by the Department of Commerce. The enterprise zones jobs tax credit is computed as follows:

- a. Determine the lesser of: (1) the claimant's zone payroll in the tax year, minus the claimant's zone payroll in the base year; or (2) the claimant's state payroll in the tax year, minus the claimant's state payroll in the base year.
- b. Subtract the number of full-time employees that the claimant employed in the area that comprises the enterprise zone in the base year from the number of full-time employees that the claimant employed in the zone in the tax year.
- c. Multiply the amount determined under "b", if greater than zero, by \$30,000.
- d. Subtract the amount determined under "c" from the amount determined under "a."
- e. Multiply the amount determined under "d" by 7%.

Under these provisions, an eligible business can claim a credit equal to 7% of its zone payroll in excess of \$30,000 per employee. No credit is provided if the average wage is below \$30,000.

"Base year" means the taxable year beginning during the calendar year prior to the calendar year in which the enterprise zone in which the claimant is located takes effect. "Claimant" means a person who is certified by Commerce to claim enterprise zone tax benefits and who files a claim for the new jobs credit. "Full-time employee" means an individual who is employed in a regular, nonseasonal job and who, as a condition of employment, is required to work at least 2,080 hours per year, including paid leave and holidays. "State payroll" means the amount of payroll apportioned to this state under the income and franchise tax apportionment rules for multi-state businesses. "Zone payroll" means the amount of state payroll that is attributable to compensation paid to individuals for services that are performed in an enterprise zone or who are working from an office located in a zone if the work is incidental to any work that the individual performs within the zone. "Zone payroll" does not include the amount of compensation paid to any individual that exceeds \$100,000.

Supplemental tax credits are available based on the claimant's payroll and property in the zone and on qualified training expenses.

**Payroll and Property Component.** If all of the claimant's payroll is zone payroll and all of the claimant's business-related property is located in an enterprise zone, the claimant may receive a credit based on the claimant's payroll and the value of the claimant's property in the zone. The credit equals 20% of the sum of the claimant's zone payroll in the tax year and the adjusted basis of the claimant's property at the time the property was first placed in service in



the zone multiplied by: (a) 6.5% for businesses that file under the individual income tax; or (b) 7.9% for businesses that file under the corporate income and franchise tax.

Training Component. The claimant may claim a credit equal to the amount paid in the tax year to upgrade or improve the skills of any of the claimant's full-time employees, to train any of the claimant's full-time employees on the use of new technologies, or to train any full-time employee whose employment with the claimant represents the employee's first full-time job.

As noted, the credit is refundable. Therefore, if the amount of credit exceeds the claimant's income or franchise tax liability, the state issues a check to the claimant for the difference. Enterprise zone jobs credits can first be claimed for tax years beginning on or after July 1, 2007.

No credit is allowed unless the claimant includes with the tax return a copy of the claimant's certification for tax benefits. Businesses may not claim enterprise zone tax credits to the extent the basis for the credit is the basis for another tax credit claimed by the business.

Commerce is authorized to designate an area as an enterprise zone based on indicators of the area's economic need, such as household income and job losses, and the effect of the designation on other economic development activities. Commerce may certify for tax benefits any of the following:

- a. A business that begins operations in an enterprise zone.
- b. A business that relocates to an enterprise zone from outside the state if the business offers compensation and benefits to its employees working in the zone for the same type of work that are at least as favorable as those offered outside the zone.
- c. A business that expands its operations in an enterprise zone and increases its personnel by at least 10% and enters into an agreement with Commerce to claim tax benefits only for years during which the business maintains the increased level of personnel. The business must offer compensation and benefits for the same type of work to its employees working in the enterprise zone that are at least as favorable as those offered to its employees working in Wisconsin but outside the zone.
- d. A business that expands its operations in an enterprise zone and that makes a capital investment in property located in the enterprise zone if the following apply: (1) the value of capital investment is equal to at least 10% of the business' gross revenues in the state; (2) the business enters into an agreement with Commerce to claim tax benefits only for years during which the business maintains the capital investment; and (3) the business offers compensation and benefits for the same type of work to its employees in the zone that are at least as favorable as those offered to employees working in Wisconsin but outside the zone (determined by Commerce).

Commerce must notify DOR when it certifies a business to receive tax benefits and can revoke a firm's certification under certain circumstances:

**Assembly:** Modify enterprise zones provisions to require that the enterprise zone program be named the "rural enterprise zone program" and the tax credit the "rural enterprise zone tax credit", and to specify that a rural enterprise zone could not include any city of the first class, or a city with a population greater than 200,000.

**Conference Committee/Legislature:** Delete Assembly provision.

[Act 20 Sections: 1967 thru 1976, 2040 thru 2049, 2096 thru 2105, 3637, 3638, and 9341(6)]

**20. ANGEL INVESTMENT AND EARLY STAGE SEED INVESTMENT TAX CREDITS -- EXPANSION AND TECHNICAL MODIFICATIONS [LFB Paper 323]**

GPR-REV	- \$7,800,000
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**Governor:** Make the following modifications to the angel investment tax credit under the individual income tax and the early stage seed investment tax credit under the individual income and corporate income and franchise taxes:

a. Increase the total amount of angel investment tax credits that can be claimed for all tax years by \$17,500,000, from \$30,000,000 to \$47,500,000. For tax years beginning after December 31, 2007, the aggregate amount of tax credits that could be claimed each year would be increased by \$2,500,000, from \$3,000,000 to \$5,500,000. The maximum amount of investment that could be used as the basis for a tax credit would be increased from \$500,000 to \$2,000,000.

b. Increase the total amount of early stage seed investment tax credits that could be claimed for all tax years by \$17,500,000, from \$35,000,000 to \$52,500,000. For tax years beginning after December 31 2007, the aggregate amount of tax credits that could be claimed each year would be increased by \$2,500,000, from \$3,500,000 to \$6,000,000.

c. Authorize the Department of Revenue, in consultation with the Department of Commerce, to carry forward unclaimed tax credit amounts for a given year to subsequent years for allocation.

d. Require that, in order to claim a tax credit, an investment must be kept in a certified business, or with a certified fund manager, for at least three years.

e. Eliminate statutory provisions that require the angel investment and early stage seed investment tax credits to be added to income. Instead, the Wisconsin adjusted basis of any investment for which a tax credit is claimed would have to be reduced by the amount of the credit that is offset against Wisconsin income taxes. The Wisconsin basis of a partner's interest in a partnership, a member's interest in an LLC, or stock in a tax-option corporation, would be adjusted to reflect the basis adjustment. This provision would first apply to tax years beginning on January 1, 2007.

It is estimated that these provisions would reduce individual income tax revenues and

corporate income and franchise tax revenues each by \$1,400,000 in 2007-08 and by \$2,500,000 in 2008-09. Consequently, the total estimated reduction in state income and franchise tax revenues would be \$2,800,000 in 2007-08 and \$5,000,000 in 2008-09.

In April, 2004, the early stage business investment program was created under the provisions of 2003 Wisconsin Act 255. Act 255 also created the technology commercialization grant and loan program. The early stage business investment program established the angel investment tax credit and early stage seed investment tax credit intended to increase investment in start-up and early stage businesses by venture capitalists and angel investors. The angel investment tax credit provides a tax credit for an angel investment in a qualified new business venture, while the early stage seed tax credit provides a tax credit for an investment by a fund manager in a qualified new business venture (certified business). The Department of Commerce has administrative responsibilities related to eligibility, certification of qualified businesses and fund managers, and reporting requirements for DOR and investors. Specifically, Commerce is required to certify businesses and fund managers as eligible for investments for which tax credits may be claimed.

The angel investment tax credit can be claimed under the individual income tax and is equal to 12.5% of the claimant's bonafide angel investment made directly in a qualified new business venture in a tax year. The 12.5% tax credit can be claimed for two years, beginning with the tax year as certified by Commerce. Consequently, the total tax credit is 25% of the amount invested. Unused credit amounts can be carried forward up to 15 years to offset future tax liabilities. The maximum amount of a claimant's total investment that may be used as a basis for an angel investment tax credit is \$500,000 for each investment made directly into a certified business. The maximum aggregate amount of angel investment tax credits that may be claimed for a tax year is \$3,000,000. The maximum total amount of tax credits that can be claimed for all tax years is \$30,000,000. Also, the maximum total amount of investment in a qualified new business venture that qualifies for tax credits is \$4,000,000, of which no more than \$1,000,000 can come from angel investors.

The early stage seed investment credit can be claimed under the individual income and corporate income and franchise taxes and is equal to 25% of the claimant's investment paid in the tax year to a fund manager that the fund manager invests in a business certified by Commerce (qualified new business venture). Unused credit amounts can be carried forward up to 15 years to offset future tax liabilities. The maximum aggregate amount of early stage seed investment tax credits that can be claimed for a tax year is \$3,500,000. The maximum total amount of tax credits that can be claimed for all tax years is \$35,000,000. The maximum total amount of investment in a certified business that qualifies for tax credits is \$4,000,000, of which no more than \$1,000,000 can come from angel investors. Up to \$2,000,000 in aggregate investment by a certified fund manager in a certified business qualifies for tax credits.

**Joint Finance:** Adopt provision and include a technical amendment that would modify provisions that eliminate the add-back of angel investment and early stage seed investment tax credits to clarify that the effective date of January 1, 2007, applies to the credit add-backs.

**Senate:** Delete provision.

**Assembly/Legislature:** Restore provision. In addition, modify angel investment tax credit provisions to allow qualified investments in businesses engaged in the construction of power plants that derive energy from renewable resources to be eligible for the credit if the business meets all of the other eligibility requirements. The maximum annual limit on total angel investment tax credits (\$3.0 million under current law; \$5.5 million under the bill) would not be changed. As a result, there would be no fiscal effect.

[Act 20 Sections: 1948, 1977 thru 1982, 1997, 2050 thru 2052, 2088, 2106 thru 2108, 2154, 3577k, 3578, and 9341(7)]

## 21. ELECTRONIC MEDICAL RECORDS TAX CREDIT [LFB Paper 324]

	<b>Governor (Chg. to Base)</b>	<b>Legislature (Chg. to Gov)</b>	<b>Net Change</b>
GPR-REV	- \$4,500,000	\$4,500,000	\$0

**Governor:** Create an electronic medical records tax credit under the individual income and corporate income and franchise taxes. The tax credit would equal 50% of the amount paid by a health care provider in a tax year for information technology hardware or software that is used to maintain medical records in an electronic form. Tax credits not entirely used to offset income and franchise taxes could be carried forward up to 15 years to offset future tax liabilities. The maximum total amount of electronic medical records tax credits that could be claimed in a tax year would be \$10,000,000, and would be allocated to claimants by the Department of Commerce.

Commerce would be required to implement a program to certify health care providers as eligible to claim the electronic medical records tax credit. After certifying health care providers as eligible, Commerce would be required to allocate tax credits to individual claimants, subject to the annual total credit limit of \$10,000,000. Commerce would have to inform DOR of every health care provider that was certified and of the amount of tax credits allocated to each provider. Commerce would be required, in consultation with DOR, to promulgate rules to administer the certification and tax credit allocation process.

Partnerships, LLCs, and tax-option corporations could not claim the tax credit, but eligibility for and the amount of the credit would be based on the entity's payment of allowable information technology costs. A partnership, LLC, or tax-option corporation would be required to compute the amount of the tax credit each of its partners, members or shareholders could claim and provide that information to them. Partners, members of LLCs, and shareholders of tax-option corporations would claim the credit in proportion to their ownership interest.

"Health care provider" would be defined under current law provisions and would mean a licensed nurse, chiropractor, dentist, physician, podiatrist, perfusionist, physical therapist,

occupational therapist, occupational therapy assistant, physician assistant, respiratory care practitioner, dietician, athletic trainer, optometrist, pharmacist, acupuncturist, psychologist, social worker, marriage and family therapist, professional counselor, speech-language pathologist, audiologist, speech and language pathologist, massage therapist, bodyworker, a partnership of providers, a corporation or LLC of providers that offer health care services, an operational cooperative sickness care plan that directly provides services through salaried employees at its own facility, a hospice, a rural medical center, an inpatient health care facility, and a community-based residential facility.

DOR would administer tax credit claims and could take any action, conduct any proceeding, and act as authorized under income and franchise tax provisions relating to change of business, timely claims, assessments, refunds, appeals, collection, interest, and penalties.

The electronic medical records tax credit could first be claimed for tax years beginning after December 31, 2008.

The electronic medical records tax credit would reduce income and franchise tax revenues by an estimated \$4,500,000 in 2008-09 and \$10,000,000 annually in 2009-10 and thereafter.

Under current law, costs related to the operation of a business are deductible as business expenses if the expenses are ordinary and necessary and connected to the trade and business of the taxpayer. Business expenses are deductible in computing the taxable income of all taxpayers including sole proprietors, corporations, LLCs, partnerships, estates and trusts, and employees. Generally, the costs of computer software are amortized over three years while the costs of computer hardware are depreciated over five years.

**Assembly/Legislature:** Delay the applicability date to first apply to tax years beginning after December 31, 2009 (rather than December 31, 2008). This would increase state income and franchise tax revenues by an estimated \$4,500,000 in 2008-09.

[Act 20 Sections: 1948, 1989, 1991, 1994, 1997, 2022, 2059, 2063, 2066, 2115, 2119, 2483, and 3577]

**22. FILM PRODUCTION SERVICES TAX CREDIT -- SUM**

GPR	\$1,000,000
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**SUFFICIENT ESTIMATE**

**Governor/Legislature:** Provide \$250,000 in 2007-08 and \$750,000 in 2008-09 for the sum sufficient appropriation for the film production services individual income and corporate income and franchise tax credit to reflect estimates of refundable tax credit claims. The film production services tax credit can first be claimed for tax years beginning after December 31, 2007.

## 23. FILM PRODUCTION SERVICES AND PRODUCTION COMPANY INVESTMENT TAX CREDITS TECHNICAL MODIFICATIONS

**Governor/Legislature:** Make the following modifications to statutory provisions governing the film production services and film production company investment tax credits under the individual income and corporate income and franchise taxes:

a. Specify that, for corporations and insurance companies, in the order of claiming tax credits, that the nonrefundable components of the film production services tax credit be included with other nonrefundable tax credits, and the refundable component be included with other refundable tax credits. This would conform treatment of the nonrefundable and refundable components of the film production services tax credit with the treatment of other nonrefundable and refundable tax credits, and to the treatment of the film production services tax credit under the individual income tax.

b. Specify that, for the purposes of claiming the film production company investment tax credit, previously owned property includes real property for which the claimant may not deduct a loss from the sale of property to, or an exchange of property with, a related person as defined under the Internal Revenue Code, except that the claimant's ownership of any part of the property would apply rather than the federal 50% ownership requirement. This is intended to preclude reorganizing in order to claim the tax credit.

c. Provide that the film production company investment tax credit be based on eligible expenses incurred and (rather than or) for projects placed in service after the effective date of the tax credit (tax years beginning after December 31, 2007). This would clarify that the credit must be for eligible expenditures made after the effective date of the tax credit.

These provisions are estimated to have a minimal fiscal effect.

Provisions of 2005 Wisconsin Act 483 created both a film production services tax credit and a film production investment tax credit under the state individual and corporate income and franchise taxes, for tax years beginning after December 31, 2007.

Film Production Services Tax Credit. An eligible taxpayer can claim as a credit against the individual and corporate income and franchise taxes any of the following:

a. An amount equal to 25% of the salary or wages paid by the claimant to the claimant's employees, up to a maximum credit of \$25,000 per employee, for services rendered in the state to produce an accredited production and paid to employees who were residents of the state at the time they were paid. The salary or wages have to be paid for services rendered after December 31, 2007, and directly incurred to produce the accredited production. The tax credit cannot be claimed for the salaries or wages of the two highest paid employees. Unused tax credit amounts can be carried forward up to 15 years to offset future tax liabilities.

b. An amount equal to 25% of production expenses paid by the claimant to produce an accredited production. If the amount of tax credit exceeds the taxpayer's income or franchise tax liability, the amount of credit not used to offset the tax due is certified by the Department of Revenue and refunded to the claimant by check, share draft, or other draft.

c. An amount equal to the sales and use taxes paid by the claimant on the purchase of tangible personal property and taxable services that are used directly in producing an accredited production in the state, including all stages of production, from the final script stage to the distribution of the finished production. Unused tax credit amounts can be carried forward up to 15 years to offset future tax liabilities.

Film Production Company Investment Tax Credit. An eligible claimant can claim as a credit against individual and corporate income and franchise taxes, for the first three tax years that the claimant does business in the state as a film production company, an amount that equals 15% of the following that the claimant paid in the tax year to establish a film production company in Wisconsin:

a. The purchase price of depreciable, tangible personal property. The claimant must purchase the tangible personal property after December 31, 2007, and at least 50% of the property's use must be in the claimant's business as a film production company. Unused tax credit amounts can be carried forward up to 15 years to offset future tax liabilities.

b. The amount expended to acquire, construct, rehabilitate, remodel, or repair real property. A claimant can claim the credit if the claimant began the physical work of construction, rehabilitation, remodeling, or repair, or any demolition or destruction in preparation for the physical work, after December 31, 2007, or if the completed project is placed in service after December 31, 2007. A claimant can also claim the credit for an amount expended to acquire real property, if the property is not previously owned property, and if the claimant acquires the property after December 31, 2007, or if the completed project is placed in service after December 31, 2007. Unused tax credit amounts can be carried forward up to 15 years to offset future tax liabilities.

[Act 20 Sections: 1986 thru 1988, 2056 thru 2058, 2064, 2112 thru 2114, 2120, and 2121]

**24. ETHANOL AND BIODIESEL FUEL PUMP TAX CREDIT [LFB Paper 325]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
GPR-REV	-\$1,000,000	\$275,000	-\$725,000

**Governor:** Create an ethanol and biodiesel fuel pump tax credit under the state individual income and corporate income and franchise taxes equal to 25% of the amount paid in a tax year to install or retrofit pumps located in Wisconsin that dispense motor fuel consisting of at least 85% ethanol or at least 20% biodiesel fuel. The tax credit could be claimed for tax years

beginning after December 31, 2007, and before January 1, 2018. The maximum tax credit for a tax year could not exceed \$5,000 for each installed or retrofitted pump used as the basis for the credit. Unused credit amounts could be carried forward up to 15 years to offset future tax liabilities.

Partnerships, LLCs, and tax-option corporations could not claim the credit, but eligibility for, and the amount of the tax credit would be based on eligible expenditures for installation and retrofitting. A partnership, LLC, or tax-option corporation would be required to compute the amount of credit each of its partners, members, or shareholders could claim and to provide that information to them. Partners, members, and shareholders would claim the credit in proportion to their ownership interests.

"Motor vehicle fuel" would mean gasoline or diesel fuel. "Biodiesel fuel" would be defined under current law provisions as a fuel that is comprised of monoalkyl esters of long chain fatty acids derived from vegetable oils or animal fats.

DOR would administer the ethanol and biodiesel fuel pump tax credit and be authorized to take any action, conduct any proceeding, and act as authorized under income and franchise tax provisions relating to timely claims, assessments, refunds, appeals, collection, interest, and penalties.

The ethanol and biodiesel fuel pump tax credit would reduce state income and franchise tax revenues by an estimated \$1,000,000 in 2008-09.

**Joint Finance/Legislature:** Adopt the tax credit with a modification to limit the maximum annual tax credit claim to \$5,000 for each service station that claims a credit, rather than \$5,000 for each E85 or B20 fuel pump that is installed or retrofitted. Adopt a technical amendment to clarify that the credit would be claimed after the alternative minimum tax in the order of computation. Reestimate the fiscal effect to be a reduction of state income and franchise tax revenues of \$225,000 in 2007-08 and \$500,000 in 2008-09.

[Act 20 Sections: 1948, 1990, 1993, 1997, 2022, 2060, 2062, 2066, 2088, 2116, 2118, and 2483]

**25. DAIRY MANUFACTURING FACILITY INVESTMENT TAX CREDIT [LFB Paper 326]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Legislature (Chg. to JFC)</b>	<b>Net Change</b>
GPR-REV	-\$700,000	-\$600,000	\$1,300,000	\$0
GPR	\$0	\$0	\$1,300,000	\$1,300,000

**Governor:** Create a dairy manufacturing facility investment tax credit under the state individual income and corporate income and franchise taxes equal to 10% of the amount paid in a tax year by a claimant for dairy manufacturing modernization or expansion related to the



claimant's dairy manufacturing operation. The tax credit could be claimed for tax years beginning after December 31, 2006, and before January 1, 2015. The maximum aggregate amount of tax credits that a claimant could claim would be \$200,000, and a credit could not be claimed for expenses that were deducted as trade or business expenses. Unused tax credit amounts could be carried forward up to 15 years to offset future tax liabilities.

"Dairy manufacturing modernization or expansion" would be defined as constructing, improving, or acquiring buildings or facilities, or acquiring equipment, for dairy manufacturing, including the following, if used exclusively for dairy manufacturing, and if acquired and placed in service in Wisconsin during tax years that begin after December 31, 2006, and before January 1, 2015:

- a. Building construction, including storage and warehouse facilities.
- b. Building additions.
- c. Upgrades to utilities, including water, electric, heat, and waste facilities.
- d. Milk intake and storage equipment.
- e. Processing and manufacturing equipment, including pipes, motors, pumps, valves, pasteurizers, homogenizers, vats, evaporators, dryers, concentrators, and churns.
- f. Packaging and handling equipment, including sealing, bagging, boxing, labeling, conveying, and product movement equipment.
- g. Warehouse equipment, including storage racks.
- h. Waste treatment and waste management equipment, including tanks, blowers, separators, dryers, digesters, and equipment that uses waste to produce energy, fuel, or industrial products.
- i. Computer software and hardware used for managing the claimant's dairy manufacturing operation, including software and hardware related to logistics, inventory management, and production plant controls.

"Dairy manufacturing" would mean processing milk into dairy products or processing dairy products for sale commercially. "Used exclusively" would mean used to the exclusion of all other uses, except for use not exceeding 5% of total use.

Partnerships, LLCs, and tax-option corporations could not claim the tax credit, but eligibility for, and the amount of the credit would be based on the entity's payment of eligible expenses, subject to the \$200,000 limit on the maximum aggregate amount of tax credits that a single entity could claim. A partnership, LLC, or tax-option corporation would be required to compute the amount of the credit that each of its partners, members, or shareholders could claim and provide that information to them. Partners, members of LLCs, and shareholders of

tax-option corporations could claim the credit in proportion to their ownership interest.

If two or more persons own or operate a dairy manufacturing operation, each person could claim the dairy manufacturing facility investment tax credit in proportion to his or her ownership interest, subject to the aggregate total credit limit of \$200,000.

DOR would administer the dairy manufacturing facility investment tax credit, and would be authorized to take any action, conduct any proceeding, and act as authorized under income and franchise tax provisions relating to timely claims, assessments, refunds, appeals, collection, interest, and penalties.

The credit would reduce state income and franchise taxes by an estimated \$300,000 in 2007-08 and \$400,000 in 2008-09.

Under current law, similar 10% tax credits may be claimed for expenses related to modernization and expansion of dairy farms and livestock farms. The dairy farm credit is available for tax years that begin after December 31, 2003, and before January 1, 2010, and the livestock farm credit is available for tax years that begin after December 31, 2005, and before January 1, 2012. The aggregate amount of dairy and livestock farm credits that may be claimed by a taxpayer is \$50,000.

**Joint Finance:** Adopt the tax credit and a technical amendment that clarifies allocation provisions to specify the tax credit is for manufacturing facilities. Reestimate the fiscal effect to be a decrease in state income and franchise tax revenues of \$600,000 in 2007-08 and \$700,000 in 2008-09.

**Assembly/Legislature:** Modify provisions to make the tax credit refundable. However, the total amount of tax credits that could be claimed would be limited to \$600,000 for tax years beginning after December 31, 2006, and before January 1, 2008, and to \$700,000 for tax years beginning after December 31, 2007, and before January 1, 2015. The Department of Commerce would be responsible for allocating tax credits among claimants.

[Act 20 Sections: 568h, 1948, 1966, 1994h, 1997, 2022, 2039, 2065, 2066, 2088, 2095, 2121, 2483, and 3578h]

**26. BELOIT DEVELOPMENT OPPORTUNITY ZONE EXTENSION** GPR-REV - \$100,000  
[LFB Paper 327]

**Governor:** Increase the term of designation of the Beloit development opportunity zone from seven to nine years. As a result, the Beloit zone would expire on September 1, 2010, instead of September 1, 2008. In addition, the total amount of tax credits that could be claimed by businesses in the zone would be increased by \$2,000,000, from \$4,700,000 to \$6,700,000. The designation extension and increased credit authority are estimated to decrease corporate income and franchise tax revenues by \$100,000 in 2008-09.

Development opportunity zones are designated areas in certain municipalities that are the location of a business project. Currently, development opportunity zones are designated the Cities of Milwaukee and Beloit. The Beloit zone was designated on September 1, 2001, and, under current law, will exist for seven years, or until September 1, 2008. The Beloit zone provides financial assistance to the city's Gateway project. A total of \$4,700,000 in tax credits can be claimed by businesses in the zone. Businesses in the Beloit zone can claim the consolidated development zones environmental remediation and jobs tax credit, and the development zones capital investment and investment tax credits.

The development zones environmental remediation tax credit is equal to 50% of the amount expended for qualified environmental remediation in the zone. The jobs tax credit is up to \$8,000 for members of targeted groups hired in the zone or jobs retained where a significant investment is made. A credit of up to \$6,000 is provided for nontarget group members hired. The capital investment tax credit equals 3% of: (a) the price of depreciable, tangible personal property; and (b) the amount expended to acquire, construct, rehabilitate, remodel, or repair real property in the zone. The investment tax credit equals 2.5% of the price of depreciable tangible personal property not expensed under Section 179 of the Internal Revenue Code, or 1.75% of the price of property that is expensed.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

[Act 20 Sections: 3635 and 3636]

## **27. CORPORATE INCOME AND FRANCHISE TAX -- EXEMPTION FOR VETERANS SERVICE ORGANIZATIONS**

**Governor/Legislature:** Provide an exemption from the corporate income and franchise tax for the income of veterans service organizations that are chartered under federal law. Currently, there are 45 congressionally-chartered veterans service organizations, which includes the American Red Cross, the American Legion, the American Veterans (AMVETS), the Disabled American Veterans, and the Veterans of Foreign Wars of the United States (VFW). The exemption would first apply to tax years beginning on or after January 1, 2007, unless the bill took effect after July 31, 2007, in which case the exemption would first apply to tax years beginning on or after January 1, 2008. The exemption would reduce corporate income and franchise tax revenues by a minimal amount.

[Act 20 Sections: 2019 and 9341(2)]

## 28. COMMUNITY REHABILITATION PROGRAM TAX CREDIT

	Jt. Finance (Chg. to Base)	Legislature (Chg. to JFC)	Net Change
GPR-REV	-\$6,600,000	\$6,600,000	\$0

**Joint Finance:** Create, under the state individual income and corporate income and franchise taxes, for tax years beginning on or after July 1, 2007, a community rehabilitation program tax credit that would equal 5% of the amount the claimant pays in a tax year to a community rehabilitation program to perform work for the claimant's business, pursuant to a contract. The maximum tax credit that could be claimed would be \$25,000 for each community rehabilitation program that the claimant enters into a contract with, and unused credit amounts could be carried forward up to 15 years to offset future tax liabilities. In order to claim a credit, the claimant would be required to submit with the claimant's return, a form, prescribed by the Department of Revenue (DOR), that verified that the claimant had entered into a contract with a community rehabilitation program, and that the program had received payment from the claimant for work provided by the program.

"Community rehabilitation program" would be defined as a nonprofit entity, county, municipality, or federal agency that directly provides, or facilitates the provision of, vocational rehabilitation services to individuals who have disabilities to maximize the employment opportunities, including career advancement, of such individuals. "Vocational rehabilitation services" would be defined to include education, training, employment, counseling, therapy, placement, and case management. "Work" would be defined to include production, packaging, assembly, food service, custodial service, clerical service, and other commercial activities that improve employment opportunities for individuals who have disabilities.

Partnerships, LLCs, and tax-option corporations could not claim the tax credit but eligibility for, and the amount of, the tax credit would be based on payments for community rehabilitation programs. Partnerships, LLCs, or tax-option corporations would compute the amount credit that each of its partners, members, or shareholders may claim and provide that information to them. Partners, members of LLCs, and shareholders of tax-option corporations may claim the credit in proportion of their ownership interest.

The Department of Revenue would administer the tax credit under individual income and corporate income and franchise tax provisions, and provisions related to change of business or ownership, administration, and timely claims would apply to the credit.

The community rehabilitation program tax credit would reduce individual and corporate income and franchise taxes by an estimated \$3,300,000 in 2007-08 and 2008-09.

**Assembly:** Delay the applicability date of the community rehabilitation program tax credit, to first apply to tax years beginning on or after July 1, 2008 (rather than July 1, 2007). Compared to the Joint Finance budget, this provision would increase state income and franchise

tax revenues by an estimated \$3,300,000 in 2007-08.

**Conference Committee/Legislature:** Further delay the applicability date of the community rehabilitation program tax credit to first apply to tax years beginning on or after July 1, 2009 (rather than July 1, 2008). Compared to the Assembly provision, this provision would increase state income and franchise taxes by an estimated \$3,300,000 in 2008-09. Consequently, there would be no fiscal effect from the community rehabilitation program tax credit during the 2007-09 biennium. The community rehabilitation program tax credit would reduce individual and corporate income and franchise taxes by an estimated \$3,300,000 in 2009-10 and annually thereafter.

[Act 20 Sections: 1948, 1990m, 1992m, 1997, 2022, 2060m, 2060n, 2088, 2116m, 2116n, and 2483]

## **29. BIODIESEL FUEL PRODUCTION TAX CREDIT**

**Assembly:** Create a tax credit, for tax years beginning on or after January 1, 2008, and before January 1, 2011, under the state individual income and corporate income and franchise taxes, equal to 10 cents per gallon for biodiesel fuel produced, up to a maximum of 10 million gallons per year (maximum credit of \$1,000,000) for biodiesel fuel producers located in Wisconsin that produce at least 2.5 million gallons of biodiesel fuel per year. This provision would reduce state income and franchise tax revenues by an estimated \$800,000 in 2007-08 and \$1,800,000 in 2008-09.

**Conference Committee/Legislature:** Delay the effective dates for the biodiesel fuel production tax credit to apply for tax years beginning after December 31, 2009, and before January 1, 2013, under the state individual and corporate income and franchise taxes. Compared to the Assembly proposal, this provision would increase state income and franchise tax revenues by \$800,000 in 2007-08 and \$1,800,000 in 2008-09. However, state income and franchise tax revenue would be reduced by an estimated \$800,000 in 2009-10 and \$1,800,000 in 2010-11 each year thereafter until 2013..

[Act 20 Sections: 1948, 1965h, 1991h, 1997, 2022, 2038h, 2060s, 2066, 2088, 2094h, 2116s, and 2483]

## **30. CORPORATE INCOME AND FRANCHISE TAX – COMBINED REPORTING**

**Senate:** Beginning with tax year 2008, require corporations that are subject to the state corporate income and franchise tax, and that are engaged in a unitary business, to file a combined report for state income and franchise taxes. The specific provisions for filing combined reports would include the following:

## Definitions

"Person" would include corporations, unless the context required otherwise. "Person" could also include, as determined by DOR, any individual, partnership, general partner of a partnership, limited liability company (LLC), registered limited liability partnership, foreign limited liability partnership, syndicate, estate, trust, trustee, trustee in bankruptcy, receiver, executor, administrator, assignee, or organization.

"Combined group" would mean the group of all persons whose income and apportionment factors are required to be taken into account pursuant to filing a combined report in determining the taxpayer's share of the net business income or loss apportionable to this state.

"Combined report" would be defined as a tax return under state law on a form prescribed by DOR that specified the income, credits, and tax of each taxpayer member of a commonly controlled group operating as a unitary business.

"Commonly controlled group" would be defined to mean any of the following:

(a) A parent corporation and any one or more corporations or chains of corporations that are connected to the parent corporation by direct or indirect ownership by the parent corporation, if the parent corporation owns stock representing more than 50% of the voting power of at least one of the connected corporations, or if the parent corporation or any of the connected corporations owns stock that cumulatively represents more than 50% of the voting power of each of the connected corporations.

(b) Any two or more corporations, if a common owner, regardless of whether or not the owner is a corporation, directly or indirectly, owns stock representing more than 50% of the voting power of the corporations or connected corporations.

(c) Any two or more corporations, if stock representing more than 50% of the voting power in each corporation are interests that cannot be separately transferred.

(d) Any two or more corporations, if stock representing more than 50% of the voting power in each corporation is directly owned by, or for the benefit of, family members. "Family member" would mean an individual related by blood, marriage, or adoption within the second degree of kinship as computed under state law, or the spouse of such an individual.

"Corporation" would mean any corporation as defined under state law, wherever located, which, if it were doing business in this state, would be subject to the state corporate income and franchise tax. The business conducted by a pass-through entity which is directly or indirectly held by a corporation would be considered the business of the corporation to the extent of the corporation's distributive share of the income of the pass-through entity. "Corporation" would not include a tax-option corporation.

"Internal Revenue Code (IRC)" would mean the IRC as defined under state law including any provision of a federal tax treaty that expressly applies to the U.S., but not including any other application of a federal tax treaty.

"Pass-through entity" would be defined as a general or limited partnership, organization of any kind treated as a partnership for tax purposes under state law, a real estate investment trust, regulated investment company, real estate mortgage investment conduit, financial asset securitization investment trust, trust, or estate.

"Tax haven" would mean a jurisdiction that, for any tax year, is identified by the Organization for Economic Co-operation and Development (OECD) as a tax haven or as having a harmful, preferential tax regime; or has no or nominal effective tax on the relevant income and all of the following apply:

(a) The jurisdiction has laws or practices that prevent effective exchange of information for tax purposes with other governments on taxpayers benefiting from the tax regime.

(b) The details of the legislative, legal, or administrative provisions of the jurisdiction's tax regime are not publicly available and apparent, or are not consistently applied among similarly situated taxpayers, or the information needed by tax authorities to determine a taxpayer's correct tax liability, such as accounting records and underlying documentation, is not adequately available.

(c) The jurisdiction facilitates the establishment of foreign-owned entities without the need for a local substantive presence, or prohibits these entities from having any commercial impact on the local economy.

(d) The tax regime explicitly or implicitly excludes the jurisdiction's resident taxpayers from taking advantage of the tax regime's benefits, or prohibits enterprises that benefit from the regime from operating in the jurisdiction's domestic market.

(e) The jurisdiction has created a tax regime which is favorable for tax avoidance, based upon an overall assessment of relevant factors, including whether the jurisdiction has a significant untaxed offshore financial or other services sector relative to its overall economy.

"Taxpayer member" would mean a corporation that is subject to the state corporate income and franchise tax, that is a member of a combined group.

"Unitary business" would be defined as a single economic enterprise that consisted of separate parts of a single business entity, or of a commonly controlled group of business entities that are sufficiently interdependent, integrated and interrelated by their activities so as to provide a synergy and mutual benefit that produces a sharing or exchange of value among them and a significant flow of value to the separate parts. Two or more business entities would be considered a unitary business if the businesses had unity of ownership, operation, and use, as indicated by a centralized management or a centralized executive force; centralized purchasing, advertising, or accounting; intercorporate sales or leases; intercorporate services;

intercorporate debts; intercorporate use of proprietary materials; interlocking directorates; or interlocking corporate officers. Any business conducted by a pass-through entity that was owned directly or indirectly by a corporation would be considered conducted by the corporation, to the extent of the corporation's distributive share of the pass-through entity's income, regardless of the percentage of the corporation's ownership interest. A business conducted directly or indirectly by one corporation would be unitary with that portion of a business conducted by another corporation through its direct or indirect interest in a pass-through entity, if the corporations are sufficiently interdependent, integrated, and interrelated by their activities so as to provide a synergy of value among them and a significant flow of value to the separate parts, and the two corporations are members of the same commonly controlled group.

### **Corporations Required to Use Combined Reporting**

A corporation engaged in a unitary business with any other corporation would be required to file a combined report which included the income, determined under combined reporting, and apportionment factor, determined under current law and combined reporting provisions, of the following members of the unitary business:

(a) Any member incorporated in the United States, including the District of Columbia and any territory or possession of the U.S., or formed under the laws of any state, the District of Columbia, or any territory or possession of the United States.

(b) Any member, regardless of where the entity is incorporated or formed, if the average of the following ratios was 20% or more:

1. The value of the member's real and tangible personal property located in the United States, including the District of Columbia and any territory or possession of the U.S., not including property that is used to produce nonapportionable income, divided by the value of all the member's real property and tangible personal property, not including property that is used to produce nonapportionable income. Property that the member rents would be valued at the net annual rental amount for the property, multiplied by eight.

2. The amount of the member's payroll paid in the United States, including the District of Columbia and any territory or possession of the U.S., divided by the member's total payroll. "Payroll" would include compensation paid to employees, but would not include payroll used to produce nonapportionable income. The payroll paid in the United States would be determined in the same manner as determined for payroll paid in Wisconsin under current law.

3. The member's sales in the United States, including the District of Columbia and any possession or territory of the U.S., divided by the member's total sales. Sales would include items identified in the current law definition of sales, but not items excluded under current law, and the situs of a sale would be determined in the same manner as for Wisconsin sales under current law, except that throw-back provisions would not apply.



(c) Any member that was a domestic international sales corporation as described in the IRC; a foreign sales corporation as described in the IRC; or any member which is an export trade corporation, as described in the IRC.

(d) Any member that was a "controlled foreign corporation," as defined in the IRC, to the extent of the income of that member that is defined in the Internal Revenue Code, including any lower-tier subsidiaries' distributions of such income which were previously taxed, determined without regard to federal treaties, and the apportionment factors related to that income; any item of income received by a controlled foreign corporation would be excluded if such income was subject to an effective tax rate imposed by a foreign country greater than 90% of the maximum rate of tax specified in the IRC.

(e) Any member that earned more than 20% of its income, directly or indirectly, from intangible property or service related activities that are deductible against the business income of other members of the combined group, to the extent of that income and the apportionment factors related to that income.

(f) Any member that was doing business in a tax haven, if the member is engaged in an activity that was sufficient for that tax haven jurisdiction to impose a tax under federal law. If the member's business activity within a tax haven was entirely outside the scope of the laws and practices that cause the jurisdiction to be a tax haven, the member's business activity would not be considered to be conducted in a tax haven.

(g) Any member not described in (a) through (f) above to the extent its income was derived from, or attributable to, sources within the United States including the District of Columbia and any possession or territory of the U.S., as determined under the Internal Revenue Code, without regard to federal treaties, and by its apportionment factors related to that income.

DOR could require the combined report that was filed to include the income and associated apportionment factor of any persons that were not described under the combined reporting provisions, but that were members of a unitary business, to reflect proper apportionment of income of the entire unitary business, including persons that are not, or would not be, subject to state income and franchise taxes if doing business in this state.

### **Components of Income Subject to Taxation**

Each taxpayer member would be responsible for tax based on its taxable income or loss that would be apportioned or allocated to Wisconsin, and which would include:

(a) Its share of any business income apportionable to this state of each of the combined groups of which it is a member, determined under combined reporting provisions.

(b) Its share of any business income apportionable to this state of a distinct business activity conducted within and without the state wholly by the taxpayer member, determined under current law provisions.

(c) Its income from a business conducted wholly by the taxpayer member entirely within the state.

(d) Its income sourced to this state from the sale or exchange of capital or assets, and from involuntary conversions, as determined under combined reporting provisions.

(e) Its nonbusiness income or loss allocable to this state.

(f) Its income or loss allocated or apportioned in an earlier year, that was state source income during the income year, other than a net business loss carryforward.

(g) Its net business loss carryforward. If the taxable income computed under combined reporting provisions resulted in a loss for a taxpayer member of the combined group, that taxpayer member would have a net business loss, subject to the net business loss limitations and carryforward provisions under current law. The business loss would be applied as a deduction in a subsequent year only if that taxpayer member had net income sourced to this state, regardless of whether the taxpayer was a member of a combined group in the subsequent year.

#### **Determining Business Income of the Combined Group**

The business income of a combined group would be determined as follows:

(a) Compute the sum of the income of each member of the combined group determined under federal income tax laws as if the members were not consolidated for federal purposes, and modified for state purposes.

The income of each member of the combined group would be determined as follows:

(1) For any member incorporated in the United States, including the District of Columbia and any territory or possession of the U.S., or included in a consolidated federal corporate income tax return, the income to be included in the total income of the combined group would be the taxable income for the corporation as determined under current law.

(2) Except as provided under (3) below, and for any member not included under (1) above, the income to be included in the total income of the combined group would be determined as follows:

a. Each foreign branch or foreign corporation would prepare a profit and loss statement in the currency in which the books of account of the branch or corporation are regularly maintained.

b. The member would adjust the profit and loss statement to conform it to the accounting principles generally accepted in the United States for the preparation of such statements.

c. The member would adjust the profit and loss statement to conform it to the tax

accounting standards required under state income and franchise tax provisions.

d. Each member would translate the profit and loss statement and the related apportionment factors into the currency in which the parent company maintains its books and records.

e. Each member would express income apportioned to this state in United States dollars.

(3) If DOR determined that the income determination reasonably approximated income as determined under current law, any member not included in determining the total income of the combined group could determine its income on the basis of the consolidated profit and loss statement that included the member and that was prepared for filing with the Securities and Exchange Commission by related corporations. If the member was not required to file with the Securities and Exchange Commission, DOR could allow the use of the consolidated profit and loss statement prepared for reporting to shareholders and subject to review by an independent auditor. If the above statements did not reasonably approximate income as determined under current law provisions, the Department could accept those statements with appropriate adjustments, as determined by DOR, to approximate that income.

(4) If a unitary business included income from a pass-through entity, the total income of the combined group would have to include the member of the combined group's direct and indirect distributive share of the pass-through entity's unitary business income.

(5) All dividends paid by one member to another would not be included in the recipient's income, if the dividends were paid out of earnings and profits of the unitary business in the current tax year or an earlier tax year. This provision would not apply to dividends received from members of the unitary business which were not a part of the combined group.

(6) Except as provided by DOR, by rule, business income or loss from an intercompany transaction between members of the same combined group would be deferred in a manner similar to that provided under federal regulations. Upon the occurrence of any of the following events, deferred business income or loss resulting from an intercompany transaction between members of a combined group, would be required to be included in the income of the seller, and be apportioned as business income earned immediately before the event:

a. The object of the deferred intercompany transaction was sold by the buyer to an entity that was not a member of the combined group.

b. The object of the deferred intercompany transaction was sold by the buyer to an entity that was a member of the combined group for use outside the unitary business in which the buyer and seller were engaged.

c. The object of the deferred intercompany transaction was converted by the buyer to a use outside the unitary business in which the buyer and seller were engaged.

d. The buyer and seller were no longer members of the same combined group, regardless of whether the members remain unitary.

(7) A charitable expense incurred by a member of a combined group would, to the extent allowable as a deduction under the IRC, be subtracted first from the business income of the combined group, subject to the income limitations of the IRC applied to the entire business income of the group, and any remaining amount would be treated as a nonbusiness expense allocable to the member that incurred the expense, subject to the income limitations of the IRC applied to the nonbusiness income of that specific member. Any charitable deduction described under this provision, but allowed as a carryover deduction in a subsequent year, would be considered to be originally incurred in the subsequent year by the same member, and the rules of this provision would apply in the subsequent year in determining the allowable deduction in that year.

(8) Gain or loss from the sale or exchange of capital assets, property subject to special rules for capital gains and losses under the IRC, and property subject to an involuntary conversion, would be removed from the total separate net income of each member of a combined group and would be apportioned and allocated as follows:

a. For short term capital gains or losses, long term capital gains or losses, gains or losses subject to IRC special rules, and involuntary conversions, the business gain and loss of all members would be combined within each class of net business gain or loss, and each such class separately apportioned to each member using the member's apportionment percentage determined under the provisions described below.

b. Each taxpayer member would net its apportioned business gain or loss for all classes, including any such apportioned business gain and loss from other combined groups, against the taxpayer member's nonbusiness gain and loss for all classes allocated to this state, as provided under the Internal Revenue Code, without regard to any of the taxpayer member's gains or losses from the sale or exchange of capital assets, IRC special rules property, and involuntary conversions which are nonbusiness items allocated to another state.

c. Any resulting state source income or loss, if the loss was not subject to the IRC limitations on capital losses, of a taxpayer member produced by the application of the preceding subsections would then be applied to all other state source income or loss of that member.

d. Any resulting state source loss of a member that is subject to the IRC limitations would be carried forward or carried back by that member, and would be treated as a state source short-term capital loss incurred by that member for the year for which the carryforward or carryback applies.

(9) Any expense of one member of the unitary group which was directly or indirectly attributable to the nonbusiness or exempt income of another member of the unitary business would be allocated to that other member as a corresponding nonbusiness or exempt expense, as

appropriate.

(b) From the total income of the combined group, determined under (a) above, subtract any nonbusiness income, and add any nonbusiness expense or loss, other than the business income, expense or loss of the combined group.

#### **Taxpayer's Share of the Business Income of the Combined Group (Apportionment)**

The taxpayer's share of the business income apportionable to this state of each combined group of which it was a member, would be the product of the business income of the combined group as determined under the combined reporting business income provisions above, and the taxpayer member's sales factor percentage, determined under state law provisions, modified in the following ways:

(a) Include in the numerator the taxpayer member's sales associated with the combined group's unitary business in this state.

(b) Include in the numerator the taxpayer member's sales associated with the combined group's unitary business in another state in which the taxpayer member is not engaged in business, regardless of whether another member of the combined group is engaged in business in the other state.

(c) Include in the denominator the sales of all members of the combined group, including the taxpayer, which sales are associated with the combined group's unitary business regardless of where the business is located.

(d) Include sales of a pass-through entity owned directly or indirectly by a corporation in proportion to a ratio the numerator of which is the amount of the corporation's distributive share of the pass-through entity's unitary income included in the income of the combined group in accordance with (4) above, and the denominator of which is the amount of the pass-through entity's total unitary income.

(e) Exclude sales between members of the combined group.

(f) If a member of a combined group was not subject to the state corporate income and franchise tax because it was not engaged in business in Wisconsin, the numerator of that member's sales factor is zero.

#### **Credits and Post-Appportionment Deductions**

No tax credit or post-apportionment deduction earned by one member of the combined group, but not completed, used by, or allowed to that member, could be used in whole or in part by another member of the combined group, or applied in whole or in part against the total income of the combined group.

## Designated Agent

Each combined group would be required to appoint a sole designated agent. The designated agent would be the parent corporation of the combined group, if such parent corporation was a taxpayer member of the combined group and the income of the parent corporation was included in the combined report. If there was no such parent, the designated agent could be appointed by the taxpayer members. If there was no such parent and no taxpayer member was appointed, the designated agent would be the taxpayer member that had the most significant operations in this state on a recurring basis, as determined by the Department. The designated agent would change only when the designated agent was no longer subject to the state corporate income and franchise tax, in which case, the combined group would be required to notify DOR of such a change in a manner prescribed by the Department.

The designated agent would be responsible for acting on behalf of the taxpayer members of the combined group and would do all of the following:

- (a) File with the Department a combined report.
- (b) File any extensions.
- (c) File any amended combined reports and claims for refund or credit.
- (d) Send and receive all correspondence with the Department regarding the combined report.
- (e) Remit all taxes, including estimated taxes, to DOR. For purposes of computing interest on late payments, all payments remitted would be considered to be made on a proportionate basis by all taxpayer members of the combined group, unless otherwise specified by the designated agent.
- (f) Participate on behalf of the combined group members in any investigation or hearing requested by DOR regarding a combined report, produce all information requested by the Department regarding the combined report, and file any appeal related to a combined report. Any appeal filed by the designated agent would be considered as filed by all members of the combined group.
- (g) Execute waivers, closing agreements, power of attorney, or other documents regarding the combined report filed. Any waiver, agreement, or document executed by the designated agent would be considered as executed by all members of the combined group.
- (h) Receive notices regarding the combined report. Any such notice the Department sent to the designated agent would be considered as sent to all taxpayer members of the combined group.
- (i) Receive refunds regarding the combined report. Any such refund would be paid to,

and in the name of, the designated agent and would discharge any liability of the state to any member of the combined group regarding the refund.

DOR could relieve the designated agent from any of the duties described, to the extent the duties relate to income, expense, or loss that is not includable in the business income of the combined group. Unless the Department provided for such relief by rule, a designated agent would be required to obtain written approval from the Department to be relieved of any such duties.

### **Tax Year of the Combined Group**

The combined group's tax year would be the designated agent's tax year. If a member's tax year was different from the combined group's tax year, the designated agent could elect to determine the portion of that member's income to be included in the combined report either from a separate income statement from each member prepared from the books and records for the months included in the combined group's taxable year, or by including all of the income for the year that ends during the combined group's tax year.

If two or more members of a combined group filed a federal consolidated return, the combined group's tax year would be the tax year of the federal consolidated group.

Any election made under these provisions would remain in effect for subsequent years unless the designated agent submitted a request to change the election to DOR and DOR approved the change in writing.

### **Part-Year Members of a Combined Group**

If a corporation became a member of a combined group or ceased to be a member of a combined group after the beginning of the tax year of the combined group, the corporation's income would be determined as provided under combined reporting provisions, for the portion of the year in which the corporation was a member of the combined group, and the income would be included in the combined report. The income for the remaining short period would be reported on a separate return or separate combined report.

### **Presumptions and Burden of Proof**

A commonly controlled group would be presumed to be engaged in a unitary business and all of the income of the unitary business would be presumed to be apportionable business income under these provisions. A corporation would have the burden of proving that it was not a member of a combined group that was subject to these provisions.

IRC sections related to consolidated returns would not apply for state purposes under the combined reporting provisions, except for U. S. Treasury regulations relating to deferred gain or loss from an intercompany transaction.

### **Effective Date**

These provisions would first apply to taxable years beginning on or after January 1, 2008.

### **Fiscal Effect**

The Department of Revenue estimates that this proposed method of combined reporting would increase corporate income and franchise tax revenues by \$40.5 million in 2007-08, and \$90 million in 2008-09 and thereafter.

In general, Wisconsin corporate income and franchise tax liability is computed using federal provisions to determine income and deductions, and then apportioning the net income of a multistate corporation, applying the tax rate, and allowing for any credits. A corporation that conducts all of its business and owns property only in Wisconsin has all of its income subject to taxation in Wisconsin. The taxable income of a corporation that is operating within and outside of Wisconsin through multiple divisions or branches is generally determined through formula apportionment. In certain cases, separate accounting is permitted, and certain types of income (nonapportionable income -- gain or loss from sales, rents, and royalties from nonbusiness real or tangible personal property) are specifically allocated to the state for tax purposes.

Under Wisconsin law, formula apportionment is used if a corporation's Wisconsin activities are an integral part of a unitary business which operates both within and outside of the state. Generally, a unitary business is one that operates as a unit; its business cannot be segregated into independently operating branches. Its operations are integrated, and each branch is dependent upon or contributory to the operating of the business as a whole. In these cases, the corporation adds its total gross income from its in-state and out-of-state unitary activities, subtracts its deductions, and multiplies the amount of net income by its apportionment ratio as determined by the Wisconsin apportionment formula. The apportionment ratio is used to approximate how much of a corporation's total net income is generated by activities in Wisconsin.

Under provisions included in 2003 Wisconsin Act 37, enacted in July, 2003, use of a single sales factor apportionment formula for most multistate corporations will be phased in over three years, beginning in 2006. In general, the phase-in of the single sales factor apportionment formula will be accomplished as follows (insurance companies and financial institutions have special provisions): (a) for tax years beginning before January 1, 2006, income was apportioned using an apportionment formula with the sales factor representing 50% of the apportionment ratio, the property factor representing 25%, and the payroll factor representing 25%; (b) for tax years beginning after December 31, 2005, and before January 1, 2007, the apportionment ratio was calculated with the sales factor representing 60% of the apportionment ratio, the property factor representing 20%, and the payroll factor representing 20%; (c) for tax years beginning after December 31, 2006, and before January 1, 2008, the apportionment ratio will be calculated with the sales factor representing 80% of the apportionment ratio, the property factor



representing 10%, and the payroll factor representing 10%; and (d) for tax years beginning after December 31, 2007, a single sales factor apportionment formula will be used to apportion income to Wisconsin.

Wisconsin taxes each corporation separately. Consequently, taxable income is determined using only the gross income, business expenses, and apportionment factors that reflect the unitary operations of a single corporation that is conducting business, at least in part, in Wisconsin. The income, business expenses, and formula factors of affiliated corporations are not included, even if the business operations of the affiliated corporations would be considered part of a single unitary business. If the state has nexus with affiliated corporations engaged in a unitary business they are taxed separately. If the state does not have nexus with such corporations, they are not taxed by the state.

**Assembly/Legislature:** Delete provision.

### **31. REGULATED INVESTMENT COMPANY AND REAL ESTATE INVESTMENT TRUST -- DIVIDENDS PAID DEDUCTION**

**Senate:** Modify the method of calculating net income for regulated investment companies (RICs) and real estate investment trusts (REITs) to specify that the dividend paid deduction otherwise allowed by federal law in computing the net income of an RIC or REIT that is subject to federal income tax would be required to be added back to income in computing the state income and franchise tax, unless the RIC or REIT was a qualified RIC or qualified REIT, respectively.

"Qualified REIT" would be defined to mean an REIT, except an REIT: (a) of which more than 50% of the voting power or value of the beneficial interests or shares are owned or controlled, directly or indirectly, by a single entity that is subject to federal Internal Revenue Code provisions governing corporate distributions and adjustments (including distributions, liquidations, organizations and reorganizations, carryovers, and treatment of certain interests as stock or indebtedness); (b) that is not exempt from taxation under state law; and (c) that is not an REIT or a qualified real estate trust subsidiary as defined under the IRC.

"Qualified RIC" would be defined as an RIC, except an RIC: (a) of which more than 50% of the voting power or value of the beneficial interests or shares are owned or controlled, directly or indirectly, by a single entity that is subject to IRC provisions governing corporate distributions and adjustments; (b) that is not exempt from taxation under state law; and (c) that is not an RIC as would be defined under state provisions.

State definitions of REIT, RIC, and real estate mortgage investment conduit (REMIC) would be referenced to the IRC. Statutory provisions that are currently used to update references to the IRC for REITs, RICs, and REMICs would be deleted. The Department of Revenue indicates that these updating provisions are not necessary because federal provisions related to REITs, RICs, and REMICs are included whenever state law is referenced to the IRC

for corporations. Specific provisions defining income for REITs, RICs, and REMICs through references to the appropriate sections of the IRC would be adopted. These definitions would be automatically updated whenever state corporate income and franchise tax references were updated by the Legislature. Also, statutory provisions would specify the state treatment of differences between depreciation or adjusted basis for federal and state income tax purposes.

These provisions would first apply to tax years beginning on or after July 1, 2007, and would increase income and franchise tax revenues by an estimated \$3.0 million in 2007-08.

Under another provision adopted by the Senate, corporations would be required to file a combined report for state corporate income and franchise taxes, for tax years beginning after December 21, 2007. Under the combined reporting provisions, corporations would no longer be able to reduce income through the specific practices these provisions would prevent. Additional revenue generated is reflected in the fiscal effect for combined reporting.

Regulated investment companies, commonly known as mutual funds, are corporations that act as investment agents for their shareholders. RICs typically invest in government and corporate securities and distribute dividend and interest income earned from the investments as dividends to their shareholders. A corporation must meet all of the following in order to be classified as an RIC:

- a. It must be a domestic corporation.
- b. It must be registered under federal law either as a management company or unit investment trust, or have an election under the law to be treated as a business development company, or it must be a common trust fund or similar fund that is neither an "investment company" under the law, nor a "common trust fund" maintained by a bank.
- c. It must derive at least 90% of its gross income for the current tax year from dividends, interest, payments with respect to securities loans, gains from the sale or other disposition of stock, securities, or foreign currencies, or other income (including gains from options, futures, or forward contracts) derived from the RIC's business of investing in stock or securities or currencies.
- d. At the close of each quarter, at least 50% of the value of its assets must be represented by cash, cash items, government securities, securities of other RICs and other issuers.
- e. It does not have more than 25% of the value of its total assets invested in the securities of any one issuer that are controlled by a single parent corporation and in a similar business.
- f. It distributes at least 90% of its ordinary income and tax-exempt interest income to its shareholders.

- g. It files an election to be treated as an RIC for tax purposes.

In addition, to qualify as an RIC, a corporation is required to distribute at least 90% of its ordinary and exempt interest income to its shareholders each tax year. If the thresholds are met, the corporation will only be taxed on the undistributed portion of its income. The ordinary income distribution threshold for an RIC is met by distributions out of its investment company taxable income. Any portion of this income that remains undistributed at the end of the tax year is subject to ordinary corporate income tax rates. Investment company taxable income is the taxable income of the RIC, calculated in the same manner as the taxable income of regular corporations, with certain modifications, including: (a) a dividends paid deduction may be claimed for any ordinary income distributions; (b) net capital gains are not included; (c) net operating losses may not be claimed; and (d) no deduction may be claimed for dividends received from other corporations.

There is no distribution threshold for the net capital gains of a RIC. Any distribution must be paid out from the net capital gain for that year. If any net capital gains remain undistributed, the RIC will be taxed at the corporate capital gains rate on the difference between all of the RICs net capital gains and the deduction for dividends paid (computed only with respect to capital gains dividends).

An REIT is an organization or corporation that is designed to act as an investment agent for its shareholders to enable small investors to pool resources together to make real estate investments that they might not otherwise be able to individually. A corporation, association, or trust must meet the following ownership and purpose requirements in order to qualify as an REIT:

- a. Beneficial ownership in the organization must be held by at least 100 persons for at least 335 days during the 12-month tax year.
- b. The beneficial ownership must be evidenced by transferable shares or certificates of beneficial interest.
- c. The organization's management must be in the hands of one or more trustees or directors, with the trustees generally holding legal title to the organization's property and having exclusive authority over management.
- d. The organization must possess all other necessary attributes that would, except for its treatment as a REIT, cause it to be taxed as a corporation.
- e. Five or fewer individuals may not directly or indirectly own more than 50% of the value of the organization's stock during the last six months of the organization's tax year.
- f. The organization cannot be a financial institution or an insurance company.
- g. The organization must distribute at least 90% of its taxable income for the tax year to its shareholders.

h. The organization must elect to be treated as an REIT.

An REIT must also meet the following income and investment requirements:

a. At least 95% of the REIT's gross income must be from dividends, interest, rents from real property (including rents from interests in real property), net gains from the sale or other disposition of stock, securities, real property, and interests in mortgages on real property, abatements and refunds of taxes on real property (including foreclosure property involuntarily acquired), and gain from the sale of a real estate asset that is not a prohibited transaction.

b. At least 75% of the REIT's gross income must be derived from real property. Included within this 75% category are rents from real property, interest on obligations secured by mortgages on real property, net gain from the sale of real property and interests in mortgages on real property, dividends and other distributions from, and net gain on sale or other disposition of transferable shares in, other REITs, abatements and refunds of taxes on real property, and gain from the sale of a real estate asset that is not a prohibited transaction.

At the close of each quarter of the tax year, REITs must meet two tests regarding their assets: (a) 75% of the value of total assets must be represented by real estate assets, cash and cash items, or government securities; and (b) not more than 25% of the value of the REIT's assets may be represented by securities other than those described in the 75% test, and the entire amount of securities of any one issuer may not exceed 5% of the value of the total assets of the REIT or 10% of the voting securities of the issuer.

As noted, to qualify as a REIT, an organization is required to distribute to its shareholders at least 90% of its taxable income each tax year. If this threshold is met, the REIT is only taxed on the undistributed portion of its income at corporate income tax rates. To the extent the income is paid out as an ordinary dividend, the REIT may claim a dividends paid deduction for the amount of the dividend distribution. Under federal law, the REIT shareholder is not permitted to claim a dividends received deduction for the dividend, and the dividend distribution is taxed at the shareholder level. The REIT is a pass-through entity and the shareholder pays the tax on the REIT income when received as a dividend.

There is no distribution threshold for the net capital gains of a REIT. But any distribution of capital gains to shareholders must be paid out of the organization's net capital gains for that year. No deduction is provided for capital gains dividends distributions, and any undistributed capital gains are subject to taxation at the REIT level.

The modifications adopted by the Senate are designed to address two general types of business practices where REITs have been used to avoid state taxation. One type of practice generally involves large multi-state retailers that transfer ownership of the retailer's real property to a related REIT. The REIT charges the retailer rent for use of the property, which reduces the retailer's taxable income and state tax liability. Due to the ownership of property in the state, the REIT is subject to state income taxes. However, the REIT typically distributes the rental payments as dividends to an affiliated or holding company that is located in a state that

allows a dividends received deduction for REIT distributions, has no state corporate income tax, or that allows combined reporting. The REIT would not pay taxes on the rental income because it may claim a dividends paid deduction for the distributions of rental income to the affiliated or holding company. The affiliated or holding company also would not pay taxes on the distribution because it could: (a) claim a dividends received deduction for the rental payments distribution; (b) is located in a state, such as Delaware, that imposes no state income tax on this type of income; or (c) is located in a state that allows or requires combined reporting, which requires all intercompany transfers, such as dividend payments, to be eliminated in calculating taxable income.

A second similar practice generally involves multi-state banks. In this case, the bank transfers its mortgages or mortgage-backed securities to a related out-of-state REIT. As a result, the bank would shift its mortgage-related income to the REIT. If the REIT has no nexus with the bank's state, interest on the mortgages and related securities cannot be taxed by that state. In such cases the REIT may be located in a state which imposes no state income tax on the REIT, and the interest income is not taxed. If the REIT is subject to taxation by the bank's state or the state in which it operates, it can distribute the interest income as a dividend to an affiliate or holding company and claim a dividends paid deduction for that interest dividend. In turn, the affiliated or holding company would not pay taxes on the interest dividend for the reasons described in the preceding paragraph.

It should be noted that the inherent nature of an REIT is that it is a pass-through entity and generally not subject to taxation. When used as designed, an REIT is intended to result in income being taxed only once at the shareholder level. Moreover, most publicly-traded REITs are established for investment purposes, and not as vehicles for tax avoidance.

RICs are included because they operate very similar to REITs.

**Assembly/Legislature:** Delete provision.

## **32. WORKPLACE WELLNESS TAX CREDIT**

**Assembly:** Create a workplace wellness tax credit, under the state individual income and corporate income and franchise taxes, for tax years beginning on or after January 1, 2009, equal to 30% of the amount paid by a claimant in a tax year to provide a workplace wellness program to any employee who is employed in Wisconsin, excluding amounts paid to acquire, construct, rehabilitate, remodel, or repair real property. The tax credit could be claimed for three years, and unused credit amounts could be carried forward up to 15 years to offset future tax liabilities. The total amount of credits that could be claimed in a year would be limited to \$2,500,000 for all claimants who employ 50 or fewer employees, and to \$2,500,000 for all claimants who employ more than 50 employees.

"Workplace wellness program" would be defined as a health or fitness program, as defined by rule promulgated by the Department of Commerce, that is provided with health risk

assessments and includes the following programs or services: (a) smoking cessation; (b) weight management; (c) stress management; (d) worker injury prevention programs; (e) health screenings; (f) nutrition education; and (g) health or fitness incentive programs. "Health risk assessment" would mean a computer-based health-promotion tool consisting of a questionnaire; a biometric health screening to measure vital health statistics, including blood pressure, cholesterol, glucose, weight and height; a formula for estimating health risks; an advice database; and a means to generate reports.

Partnerships, limited liability companies (LLCs), and tax-option corporations (S corporations) could not claim the tax credit, but eligibility for, and the amount of, the tax credit would be based on payments for workplace wellness programs. Partnerships, LLCs, or tax-option corporations would be required to compute the amount of credit that each of their partners, members, or shareholders may claim and provide that information to them. Partners, members of LLCs, and shareholders of tax-option corporations could claim the credit in proportion to their ownership interest. The Department of Revenue would administer the tax credit under individual income and corporate income and franchise tax provisions, and provisions related to change of business or ownership, administration, and timely claims would apply to the credit.

The Department of Commerce would be required to implement a program to certify workplace wellness programs as eligible for tax credits and to allocate credits to businesses, subject to the annual total credit limitations (\$5,000,000 total; \$2,500,000 for businesses with 50 or fewer employees; and \$2,500,000 for businesses with more than 50 employees). Commerce would have to inform DOR of every business that had a workplace wellness program certified, and of the amount of tax credits allocated to the business. Commerce, in consultation with the Departments of Revenue and Health and Family Services, would also be required to promulgate rules to administer certification and allocation of workplace wellness tax credits.

These provisions would reduce state income and franchise taxes by an estimated \$2,000,000 in 2008-09 and \$5,000,000 in 2009-10, and annually thereafter.

**Conference Committee/Legislature:** Delete provision.

## General Sales and Use Tax

### 1. IMPOSE SALES TAX ON DIGITAL PRODUCTS [LFB Paper 330]

	Governor (Chg. to Base)	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR-REV	\$6,300,000	-\$2,900,000	-\$3,400,000	\$0

**Governor:** Impose the state sales and use tax on certain digital products that would be subject to the tax if furnished in tangible form. Specify that the proposal would take effect on January 1, 2008.

Under current law, the 5% state sales and use tax is generally imposed on the gross receipts from the sale and rental of tangible personal property. In addition, the tax is specifically imposed on the sale and use of selected services. There is no imposition of tax on sales of real property or intangible property, unless the item would fall within one of the services that are subject to Wisconsin sales tax.

With some exceptions, items transferred in electronic form through the Internet are not taxable, even if the item would be taxable if transferred in tangible form (for example, a novel purchased via the Internet in digital format and then printed would not be subject to the tax, whereas the same novel purchased as a paperback book would be subject to the tax). However, current law makes the following exceptions to this general approach:

- a. Computer software, excluding custom software, is defined by state law to be tangible personal property for purposes of the sales and use tax, without regard to the form in which it is transferred.
- b. Taking photographs, reproducing them in a digital format, and delivering them electronically is a taxable service.
- c. Pay-per-view movies, movie channels, and similar means of viewing motion pictures are cable television services that are specifically subject to tax. However, movies downloaded via the Internet may not meet Wisconsin's current definition of cable television service, which requires amplification of the program.

The bill would impose the 5% sales tax on the privilege of selling, licensing, leasing, or renting specified digital goods or additional digital goods at retail, regardless of whether the purchaser has the right to permanently use such goods or whether the purchaser's right to access or retain such goods is not permanent.

The bill would also impose the 5% use tax on the storage, use, or other consumption of specified digital goods or additional digital goods purchased from any retailer, regardless of whether the purchaser has the right to permanently use such goods or whether the purchaser's right to access or retain such goods is not permanent.

The bill would, however, provide an exemption from tax for specified digital goods or additional digital goods that are transferred electronically to the purchaser, if the sale of and the storage, use, or other consumption of such goods sold in a tangible form is exempt from tax.

The bill would create the following definitions related to digital goods:

- a. "Specified digital goods" would mean digital audio works, digital audiovisual

works, and digital books.

b. "Additional digital goods" would mean video greeting cards sent by email, finished artwork, periodicals, and video and electronic games. The bill would specify that, for sales and use tax purposes, the sale, storage, use, or other consumption of a digital code (as defined below) would be treated the same as the sale, storage, use, or other consumption of any specified digital goods or additional digital goods for which the digital code relates.

c. "Digital audio works" would mean works that result from the fixation of a series of musical, spoken, or other sounds that are transferred electronically, including prerecorded or live music, prerecorded or live readings of books or other written materials, prerecorded or live speeches, or ringtones, but not including audio greeting cards sent by email.

d. "Digital audiovisual works" would mean a series of related images that, when shown in succession, impart an impression of motion, along with accompanying sounds, if any, that are transferred electronically. "Digital audiovisual works" would include motion pictures, musical videos, news programs, and live events, but would not include video greeting cards sent by email or video or electronic games.

e. "Digital books" would mean works that are generally recognized as books and are transferred electronically. "Digital books" would include novels, nonfiction works, and short stories, but would not include newspapers, periodicals, chat room discussions, or blogs.

f. "Digital code" would mean a code that provides the person who holds the code a right to obtain an additional digital good, a digital audiovisual work, digital audio work, or digital book and that may be obtained by any means, including tangible forms and email, regardless of whether the code is designated as song code, video code, or book code. "Digital code" would include codes used to access or obtain any specified digital goods, or any additional digital goods that have been previously purchased, and promotion cards or codes that are purchased by a retailer or other business entity for use by the retailer's or entity's customers. "Digital code" would not include the following: (i) a code that represents any redeemable card, gift card, or gift certificate that entitles the holder of such card or certificate to select any specified digital goods or additional digital goods at the cash value indicated by the card or certificate; or (ii) digital cash that represents a monetary value that a customer may use to pay for a future purchase.

g. "Finished artwork" would mean the final art used for actual reproduction by photomechanical or other processes or for display purposes. "Finished artwork" would also include all of the following items regardless of whether such items are reproduced: drawings, paintings, designs, photographs, lettering, paste-ups, mechanicals, assemblies, charts, graphs, and illustrative materials.

h. "Ringtones" would mean digitized sound files that are downloaded onto a device



and that may be used to alert the customer with regard to a communication. "Ringtones" would include MP3 or musical tones, polyphonic tones, and synthetic music mobile application format tones, but would not include ring-back tones.

i. "Transferred electronically" would mean accessed or obtained by the purchaser by means other than tangible storage media.

Additional modifications would be made to the sales and use tax statutes in order to treat digital goods in the same fashion as their counterparts in tangible form.

The administration has estimated that these provisions would result in increased state sales and use tax revenues of \$2,600,000 in 2007-08 and \$3,700,000 in 2008-09, for a total increase of \$6,300,000 in the 2007-09 biennium. It should be noted, however, that the estimate for the first year is based on the provisions taking effect September 1, 2007, whereas the bill would provide an effective date of January 1, 2008. Based on the administration's estimates and the January 1, 2008, effective date, the estimated revenue in 2007-08 would be \$1,100,000 lower than the estimate included in the bill.

**Joint Finance:** Approve the Governor's proposal, including a number of technical corrections requested by the administration. However, reduce the estimated sales and use tax revenues to reflect a more conservative estimate of likely compliance rates of 50% for all sales of digital products other than music and to reflect the effective date provided under the bill of January 1, 2008. Compared to the estimates in the bill, reduce estimated sales and use tax revenues by \$1,600,000 in 2007-08 and \$1,300,000 in 2008-09. Compared to current law, estimate increases in state sales and use tax revenues of \$1,000,000 in 2007-08 and \$2,400,000 in 2008-09.

**Assembly/Legislature:** Delete provision.

**2. SALES AND USE TAX EXEMPTIONS FOR BIOTECHNOLOGY [LFB Paper 331]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Legislature (Chg. to JFC)</b>	<b>Net Change</b>
GPR-REV	-\$5,000,000	-\$2,800,000	\$7,800,000	\$0

**Governor:** Create five sales and use tax exemptions related to biotechnology. Three of the exemptions would apply directly to biotechnology businesses, while the other two would apply with respect to businesses raising laboratory animals that are sold to biotechnology businesses. Currently, there are no sales and use tax exemptions specific to biotechnology.

**Description of Provisions**

Under the bill, "biotechnologies" would be defined (for purposes of the sales and use tax statutes) to include recombinant deoxyribonucleic acid (DNA) techniques, biochemistry, molecular and cellular biology, genetics, genetic engineering, biological cell fusion, and other

bioprocesses. "Biotechnology business" would be defined as a business primarily engaged in the application of biotechnologies that use a living organism, or parts of an organism, for one of the following purposes: (a) to produce or modify products to improve plants or animals; (b) to develop microorganisms for specific uses; (c) to identify targets for small molecule pharmaceutical development; or (d) to transform biological systems into useful processes or products. To qualify as a biotechnology business, a business would also have to be certified by DOR in a manner prescribed by the Department.

The following definitions would also apply with respect to the proposed sales and use tax exemptions:

- a. "Animals" would include bacteria, viruses, and other microorganisms;
- b. "Manufacturing" would have the same meaning as under the current sales and use tax exemptions related to manufacturing, for which "manufacturing" is defined as the production by machinery of a new article with a different form, use, and name from existing materials by a process popularly regarded as manufacturing.
- c. "Qualified research" would mean qualified research as defined under section 41(d)(1) of the Internal Revenue Code, which pertains to the federal credit for increasing research activities. Under the IRC definition, qualified research includes research: (i) with respect to which expenditures may be treated as research and experimental expenditures for purposes of federal itemized deductions for individuals and corporations; (ii) which is undertaken for the purpose of discovering information that is technological in nature and the application of which is intended to be useful in the development of a new or improved business component of the taxpayer; and (iii) for which substantially all of the associated activities constitute elements of a process of experimentation for the purpose of a new or improved function, performance, reliability, or quality. Under the proposal, research conducted by a public or private institution of higher education or by a governmental unit would also be "qualified research" if the research was intended to be useful in developing a new or improved product or service, was undertaken for the purpose of discovering information that is technological in nature, and satisfied condition "iii," above (that is, conditions specific to business entities that would otherwise apply would not apply in the case of a public or private institution or a governmental unit).

Based on the reference to the IRC, research related to style, taste, cosmetic, or seasonal design factors could not be considered qualified research. The IRC reference would further exclude research after commercial production has begun and research involving adaptation of existing business components, duplication of existing business components, certain surveys, certain computer software, foreign research, and research funded by another source.

Under the proposal, the gross receipts from the sale of and the storage, use, or other consumption of the following would be exempted from the sales and use tax:

- a. Machines and specific processing equipment, including accessories, attachments,

and parts for the machines or equipment, that are used exclusively and directly in raising animals that are sold primarily to a biotechnology business, a public or private institution of higher education, or a governmental unit for exclusive and direct use by any such entity in qualified research or manufacturing;

b. The following tangible personal property used exclusively and directly in raising animals that are sold primarily to a biotechnology business, a public or private institution of higher education, or a governmental unit for exclusive and direct use by any such entity in qualified research or manufacturing: (i) certain tangible personal property the sales of which are currently exempt when used in the business of farming [including seeds for planting; plants; feed; fertilizer; soil conditioners; animal bedding; sprays, pesticides, and fungicides; breeding and other livestock; poultry; farm work stock, baling twine and baling wire; containers for fruits vegetables, grain, hay silage, and animal wastes; plastic bags, plastic sleeves, and plastic sheeting used to store or cover hay or silage]; (ii) medicines; (iii) semen for artificial insemination; (iv) fuel; and (v) electricity;

c. Machines and specific processing equipment, including accessories, attachments, and parts for the machines or equipment, that are sold to a biotechnology business and used exclusively and directly in qualified research in biotechnology;

d. Tangible personal property that is sold to a biotechnology business, if the property is consumed or destroyed or loses its identity while being used exclusively and directly in qualified research in biotechnology; and

e. Animals that are sold to a biotechnology business and used exclusively and directly in qualified research in biotechnology.

A person claiming an exemption under "a" or "b" above would be required to obtain written documentation from the person's customers related to each customer's use of animals, including the percentage of animals sold to the customer that are used exclusively and directly in qualified research.

DOR would be required to publish on the Department's Internet site a list of all biotechnology businesses certified by the Department.

These provisions would take effect on the first day of the second month beginning after publication of the budget bill.

#### **Fiscal Effect**

The administration estimates that the provisions would reduce state sales and use tax revenues by \$2,500,000 in each year of the 2007-09 biennium.

**Joint Finance:** Adopt the Governor's proposal, with certain technical corrections recommended by the administration. In addition, reestimate the fiscal effect as a reduction in sales and use tax revenues of \$3,300,000 in 2007-08 and \$4,500,000 in 2008-09. Compared to the

bill, reduce estimated sales and use tax revenues by \$800,000 in 2007-08 and \$2,000,000 in 2008-09.

**Assembly/Legislature:** Delete provision.

### 3. STREAMLINED SALES AND USE TAX [LFB Paper 332]

	<b>Governor (Chg. to Base)</b>	<b>Legislature (Chg. to Gov)</b>	<b>Net Change</b>
GPR-REV	\$4,800,000	-\$4,800,000	\$0
PR	\$60,000	-\$60,000	\$0

**Governor:** Modify Wisconsin's sales and use tax laws to conform to the provisions of the Streamlined Sales and Use Tax Agreement (SSUTA), effective January 1, 2008. In addition, create a sum sufficient PR appropriation for the purpose of paying associated annual fees and provide funding of \$20,000 in 2007-08 and \$40,000 in 2008-09 for such fees.

#### **Background**

Under current federal law and U.S. Supreme Court decisions, a state may not require a seller to collect and remit sales and use taxes unless the seller has a sufficient business connection (or "nexus") with the state, which is established by the seller having a physical presence in the state. In Wisconsin, a seller has nexus if it does any of the following: (a) owns real property in this state; (b) leases or rents out tangible personal property located in this state; (c) maintains, occupies, or uses a place of business in this state; (d) has any representative or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or taking orders for any tangible personal property or taxable services; (e) services, repairs, or installs equipment or other tangible personal property in Wisconsin; (f) delivers goods into this state in company operated vehicles; or (g) performs construction activities in this state.

Sellers that do not have nexus with Wisconsin can voluntarily agree to collect and remit the tax on their sales to Wisconsin residents. Such agreements also are permitted in other states. In Wisconsin and other states, if a seller does not have nexus and has not voluntarily agreed to collect the tax, the state imposes a use tax on taxable purchases from the seller by state residents. However, collecting the use tax from individual purchasers presents a very difficult enforcement issue. Multi-state retailers have long resisted efforts by the states, and legislation introduced in Congress, to compel use tax collection, citing the high costs and difficulty of complying with numerous, disparate state and local sales tax systems.

The SSUTA is a multi-state agreement that is the product of the Streamlined Sales Tax Project (SSTP), an effort begun by state revenue departments in March, 2000. The Project's goal is to simplify and modernize sales and use tax administration in the hope that out-of-state

businesses without a requirement to collect sales tax will, as a result, voluntarily agree to collect the tax. An additional goal of the Project is to persuade Congress to pass legislation permitting states to require additional out-of-state sellers to collect and remit taxes.

One of the principal aims of the SSUTA is to make sales and use taxes more uniform across states and local taxing jurisdictions. In addition, in order to streamline administration of the tax, states participating in the Agreement jointly certify sales tax service providers and automated systems. Retailers may contract with certified service providers (CSPs) to assume the seller's sales and use tax responsibilities or use certified automated systems (CASs) for tax calculation and record-keeping purposes. Participating states must also maintain databases that retailers use to determine whether a transaction is taxable and the appropriate tax rate. The Agreement also includes an "amnesty" provision that forgives back taxes for sellers that agree to collect and remit taxes.

Wisconsin was authorized to participate in the development of the SSUTA under 2001 Wisconsin Act 16. The SSUTA was developed by participating states with involvement of various members of the business community. Under the terms of the SSUTA, which was adopted by the participating states in November, 2002, and which has been amended several times since then, the Agreement would become binding when at least 10 states comprising at least 20% of the total population of all states imposing a state sales tax had petitioned for membership and been found to be in compliance with the Agreement's requirements by the Agreement's governing board. The SSUTA became effective on October 1, 2005. At that time, there were 18 member states. As of January 1, 2007, there were 21 member states, and about 600 sellers had voluntarily registered under the SSUTA to collect and remit sales and use tax in those states. As of the end of February, 2007, there were just over 1,000 voluntary sellers.

In order to become a member state and to collect tax from voluntary registrants under the SSUTA, Wisconsin would have to modify certain aspects of its sales and use tax laws, including provisions related to uniformity with other states as well as provisions related to sales tax administration. The SSUTA does not require participating states to have identical tax bases. However, the Agreement does require states to use uniform definitions in establishing their tax bases and also requires uniform treatment of certain items such as sourcing and treatment of drop-shipments. As a result of such uniformity provisions, under the SSUTA, certain items that are currently taxable would be exempt (for example, fruit drink with 51% to 99% juice) and certain sales that are currently exempt would be taxable (for example, ready-to-drink tea).

In terms of the administrative requirements under the SSUTA, examples include certain database requirements, monetary compensation to sellers voluntarily registering to collect and remit tax, the use of uniform rounding rules and uniform tax returns, and tax amnesty (under specified conditions) for sellers registering to collect tax under the SSUTA.

The following summary highlights the most significant changes to state law under SB 40 to conform state sales and use tax statutes to the provisions of the SSUTA.

## **Duties and Responsibilities of the Department of Revenue**

2001 Act 16 authorized DOR to enter into the Streamlined Sales and Use Tax Agreement to simplify and modernize sales and use tax administration in order to reduce the tax compliance burden for all sellers and all types of commerce. DOR may promulgate rules to administer the provisions, procure goods and services jointly with other states that are signatories to the Agreement in furtherance of the Agreement, and take other actions reasonably required to implement these provisions.

Current law also authorizes the Department to act jointly with other states that are signatories to the Agreement to establish standards for the certification of certified service providers and certified automated systems and to establish performance standards for multi-state sellers. A "certified service provider" is an agent that is certified by the signatory states to perform all of a seller's sales tax and use tax functions related to the seller's retail sales. A "certified automated system" is software that is certified by the signatory states and that is used to calculate state and local sales and use taxes on transactions by each appropriate jurisdiction, to determine the amount of tax to remit to the appropriate state, and to maintain a record of the transaction.

Current law provides that a certified service provider is the agent of the seller with whom the provider has contracted and is liable for the sales and use taxes that are due the state on all sales transactions that the CSP processes for a seller, except in cases of fraud or misrepresentation by the seller. A person that provides a certified automated system is responsible for the system's proper functioning and is liable to this state for tax underpayments that are attributable to errors in the system's functioning. A seller that uses a CAS is responsible and liable to this state for reporting and remitting sales and use tax. A seller that has a proprietary system for determining the amount of tax due and that has signed an agreement with the signatory states establishing a performance standard for the system is liable for the system's failure to meet the performance standard.

Current state law also provides that no law of this state, or the application of such law, may be declared invalid on the ground that the law, or the application of such law, is inconsistent with the SSUTA. No provision of the Agreement in whole or in part invalidates or amends any law of this state and the state becoming a signatory to the Agreement does not amend or modify any law of this state.

The bill would require and authorize DOR to participate as a member state of the SSTOP governing board, which administers the SSUTA and enters into contracts that are necessary to implement the Agreement on behalf of the member states, and to pay the dues necessary to participate in the governing board of the multistate SSTOP. The bill would create a sum sufficient PR appropriation in DOR to pay such dues, which would be funded with a portion of the sales and use tax revenues collected under the Agreement. The remaining collections would be deposited into the general fund.

Under current law, DOR may not enter into the SSUTA unless the Agreement requires signatory states to meet certain requirements. The bill would add the requirement that signatory states must provide that a seller who registers with the Agreement's central electronic registration system may cancel the registration at any time, as provided under uniform procedures adopted by the governing board of the states that are signatories to the Agreement, but is required to remit any Wisconsin taxes collected pursuant to the Agreement to DOR.

Under the bill, DOR would be authorized to certify compliance with the SSUTA and, pursuant to the Agreement, certify certified service providers and certified automated systems. The bill would modify the current law definition of a CSP to provide that a CSP is not responsible for a retailer's obligation to remit tax on the retailer's own purchases. The Department would also be authorized to maintain databases that indicate: (a) whether specific items are taxable or nontaxable; and (b) tax rates, taxing jurisdiction boundaries, and zip code or address assignments related to the administration of state and local taxes imposed in Wisconsin. These databases would have to be accessible to sellers and CSPs and the databases referred to in "b" would have to be available in a downloadable format.

The bill would also specifically permit DOR to audit (or authorize others to audit) sellers and certified service providers who are registered with the Department pursuant to the SSUTA.

#### **Modifications to the Tax Base**

The sales tax base is the array of goods, services, and transactions that are subject to the tax. The SSUTA does not require participating states to have identical tax bases. However, the Agreement does require states to use uniform definitions in establishing their tax bases. The bill includes the following changes to the current sales and use tax base in Wisconsin:

- Most types of food sales would be treated the same as under current law. However, some food sales that are now exempt would become taxable and certain sales that are now taxable would become exempt.
- The bill would expand the types of medical equipment that are exempt from tax to include items such as hospital beds, patient lifts, and I.V. stands that are purchased for in-home use.
- The bill would eliminate the current exemption for antiembolism elastic hose.
- The current exemptions for equipment used in the treatment of diabetes and equipment used to administer oxygen would be limited to equipment purchased for in-home use.
- The bill would repeal the current exemption for cloth diapers.
- Certain currently exempt sales of pre-written computer software that is customized for a specific purchaser would become taxable.

- The bill would generally impose the tax on the entire sales price of products comprised of exempt items that are bundled with taxable items by the seller. However, if the retailer can identify, by reasonable and verifiable standards from the retailer's books and records, the portion of the price that is attributable to nontaxable products, that portion of the sales price would not be taxable. Currently, the seller is not required to pay tax on the value of the nontaxable items. Certain exceptions would apply to the general treatment of bundled transactions, such as an exception for transactions in which the value of the taxable products is no greater than 10% of the value of all the bundled products. The bill would also exclude from treatment as bundled transactions certain goods packaged and sold together containing food and food ingredients, drugs, durable medical equipment, mobility enhancing equipment, prosthetic devices, or medical supplies if the value of the nontaxable items is at least 50% of the value of all of the tangible personal property included (in what would otherwise be a taxable, bundled transaction). In such cases, the entire bundle of goods would be exempt from tax. This treatment is similar to the treatment of certain combinations of nontaxable food, food products, and beverages with taxable items under current law.

- Under the bill, if tangible personal property (such as a construction crane) is provided along with an operator, the transaction would be considered a service (which may or may not be taxable) rather than a lease (which generally is taxable) as long as the operator is necessary for the property to perform in the manner for which it is designed and the operator does more than maintain, inspect, or set up the property. Under current law, the determination of whether such transactions are a lease of property or a service depends upon the amount of control maintained by the operator and the degree of responsibility for completion of the work assumed by the operator.

- Purchases of items (such as telephone directories or candy) that are sold by an out-of-state seller to a Wisconsin purchaser and distributed directly by the seller by common carrier or U.S. mail to Wisconsin residents without the purchaser ever taking possession of the items would become taxable regardless of whether or not the out-of-state seller has nexus with Wisconsin. Under current law, as interpreted by the courts, such sales are not subject to the sales or use tax if the seller is located out-of-state and does not have nexus with Wisconsin.

- The bill would define a "prepaid wireless calling service" as a telecommunications service that provides the right to utilize mobile wireless service as well as other nontelecommunications services, including the download of digital products delivered electronically, content, and ancillary services, and that is paid for prior to use and sold in predetermined dollar units whereby the number of units declines with use in a known amount. Based on this definition, if an otherwise nontaxable nontelecommunications service were purchased through a prepaid wireless calling service and sourced to this state under the sourcing rules, then the service would be subject to the tax imposed on a prepaid wireless calling service.

According to DOR, all of these modifications are required in order to conform to the terms of the SSUTA Agreement.



### **Non-Exempt Use of Property After Purchase**

Currently, if a purchaser certifies that the items purchased will be used in a manner entitling the sale to be exempt from tax and the purchaser subsequently uses the property in some other manner, the purchaser is liable for payment of the sales tax. The tax is measured by the sales price of the property to the purchaser unless the taxable use first occurs more than six months after the sale. In that case, the purchaser may base the tax either on that sales price or on the fair market value of the property at the time the taxable use first occurs. The bill would eliminate the option to base the tax on fair market value if the taxable use first occurs more than six months after the purchase, so that the tax would always be based on the sales price to the purchaser.

### **Treatment of Drop-Shipments**

A Wisconsin "drop-shipment" occurs when a purchaser located in Wisconsin orders an item from an out-of-state retailer not registered to collect Wisconsin sales or use tax and the product is delivered to the customer directly from a Wisconsin manufacturer, without the retailer taking possession. Under current law, the Wisconsin manufacturer is required to collect the sales tax from the purchaser on such transactions. Under the bill, Wisconsin manufacturers would no longer be liable for the sales tax on drop-shipments to Wisconsin purchasers. Instead, the purchaser would be liable for use tax.

### **Sourcing**

The bill includes detailed provisions for determining the taxing jurisdiction in which a sale or lease of property or services occurs (sourcing). In general, the sourcing rules under these provisions are destination-based, which is consistent with the current sourcing provisions in Wisconsin. However, the Department of Revenue has identified several situations where the SSUTA provisions would differ from current law and practice. The most significant change would be to relieve sellers (printers) of direct mail of the burden of determining the destination of each piece of mail for tax purposes if the purchaser does not provide this information. Other sourcing changes involve towing services, admissions, certain sales by florists, leases, software and services (such as cable television) delivered electronically, and certain telecommunications services.

### **Agreements With Direct Marketers; Retailer's Compensation**

Under current law, sellers may deduct the retailer's discount from taxes due as compensation for administrative costs. The retailer's discount is equal to 0.5% of the tax liability per reporting period, with a \$10 minimum. Also, under current law, DOR may enter into agreements with out-of-state direct marketers to collect state and local sales and use taxes. An out-of-state direct marketer that collects such taxes may retain 5% of the first \$1 million of the taxes collected in a year and 6% of the taxes collected in excess of \$1 million in a year. This provision does not apply to direct marketers who are required to collect sales and use taxes in Wisconsin because they have nexus with this state. To date, no agreements have been entered

into under this provision.

The bill would repeal the current provisions regarding agreements with direct marketers. Instead, the following persons could retain a portion of sales and use taxes collected on retail sales in an amount determined by DOR and by contracts that the Department enters into pursuant to the SSUTA: (a) certified service providers; (b) sellers that use a certified automated system; and (c) large, multi-state sellers that have a proprietary system that calculates the amount of tax owed to each taxing jurisdiction. Under the compensation formulas currently in use, a CSP would be permitted to retain from 2% to 8% of taxes collected on behalf of voluntary sellers, depending on the total volume of such taxes collected. A CSP would not be eligible for the retailer's compensation. A seller using a CAS would be eligible for the retailer's discount. In addition, to help compensate for the investment in software to assist the retailer in voluntarily collecting taxes in non-nexus states, such sellers would be permitted to retain 1.5% of the first \$10,000 in taxes collected per year for each non-nexus state for a period of two years. Additional compensation for large, multi-state sellers with proprietary systems ("c", above) has not yet been determined.

Under the bill, there would be no statutory limit on the amount of compensation paid to the persons described under "a" through "c," above. Also, such compensation could be paid to any in-state sellers, out-of-state sellers that have nexus with Wisconsin, and out-of-state sellers that do not have nexus, as long as such sellers satisfied the conditions applicable to the persons described under "a" through "c." Sellers that do not meet the above criteria would continue to receive the regular 0.5% retailer's discount.

#### **"Amnesty" Provision**

Under the bill, a seller would not be liable for uncollected and unpaid state and local sales and use taxes (including penalties and interest) on previous sales made to Wisconsin purchasers if the seller registers with DOR to collect and remit state and local sales and use taxes on such sales in accordance with the SSUTA. In order to receive amnesty, the seller would have to: (a) register within one year after the effective date of this state's participation in the Agreement; and (b) collect and remit state and local sales and use taxes on sales to purchasers in this state for at least three consecutive years after the date on which the seller registers.

The amnesty would not be available to: (a) sellers that were already registered with DOR during the year immediately preceding the effective date of Wisconsin's participation in the Agreement; (b) sellers that are being audited by DOR; or (c) sellers that have committed or been involved in a fraud or an intentional misrepresentation of a material fact.

#### **Erroneous Collection of Tax**

The bill would establish a procedure to settle disputes between purchasers and sellers regarding erroneous collections of sales or use tax. Under this procedure, customers who believe that the amount of sales or use tax assessed on a sale is erroneous could send a written notice to the seller requesting that the alleged error be corrected. The seller would have to

review its records within 60 days to determine the validity of the customer's claim. If the review indicates that there is no error as alleged, the seller would have to explain the findings of the review in writing to the customer. If the review indicates that there is an error as alleged, the seller would have to correct the error and refund the amount of any tax collected erroneously, along with the related interest. A customer could take no other action against the seller, or commence any action against the seller, to correct an alleged error in the amount of sales or use tax assessed unless the customer has exhausted his or her remedies through this review process.

Under current law, such disputes are handled through the court system. The procedure under the bill is intended to provide a more efficient dispute resolution process.

### **Rounding**

The bill would modify the rounding rules used by retailers so that sellers would be allowed to compute the amount of tax to be collected based on each invoice (including numerous items) or on each item included in the sale. Under current law, the amount of tax collected must be calculated by multiplying the tax rate by the total transaction price, not by the prices of individual items. These provisions do not affect the amount of tax due to the state from the retailer, only how the retailer may calculate the amount of tax collected from purchasers.

### **SSUTA Agents**

The bill would authorize sellers to appoint an agent to represent the seller before the states that are signatories to the SSUTA. Under these provisions, sellers could designate such agents to: (a) register with DOR for a business tax registration certificate; (b) file an application with DOR for a permit for each place of operations; and (c) remit taxes and file returns under the sales and use tax statutes.

### **Business Tax Registration**

Under current law, any person who is not otherwise required to collect Wisconsin sales and use taxes (because of a lack of nexus) and who makes sales to persons within this state of taxable property or services may register with DOR to voluntarily collect the tax. Sellers who register with DOR must obtain a business tax registration certificate, which authorizes and requires the person to collect, report, and remit the state use tax. The bill would specify that registration with DOR under this provision could not be used as a factor in determining whether the seller has nexus with this state for any tax at any time.

In addition, the bill would specify that registration under the above provision would authorize and require the retailer to collect, report, and remit local use taxes, and local jurisdictions would be specifically authorized to impose the tax on such sellers. Under current law, voluntary registration only obligates out-of-state retailers to collect state use taxes, not local taxes.

The bill would also authorize DOR to waive the business tax registration fee for sellers that voluntarily register to collect sales and use taxes.

## Exemption Certificates

Under current law, it is presumed that all receipts are subject to the sales tax until the contrary is established. The burden of proving that a sale is not taxable is upon the person who makes the sale unless that person takes from the purchaser a certificate to the effect that the property or service is purchased for resale or is otherwise exempt.

An exemption certificate relieves the seller from the burden of proof only if either of the following is true:

a. The certificate is taken in good faith from a person who is engaged as a seller of tangible personal property or taxable services and who holds a seller's permit and who, at the time of purchasing the property or services, intends to resell it in the regular course of operations or is unable to ascertain at the time of purchase whether the property or service will be sold or will be used for some other purpose.

b. The certificate is taken in good faith from a person claiming exemption.

The exemption certificate must be signed by and bear the name and address of the purchaser, and indicate the general character of the tangible personal property or service sold by the purchaser and the basis for the claimed exemption. The certificate must be in such form as DOR prescribes.

If a purchaser who gives a resale certificate makes any use of the property other than retention, demonstration, or display while holding it for sale, lease, or rental in the regular course of the purchaser's operations, the use is taxable to the purchaser as of the time the property is first used by the purchaser, and the sales price of the property to the purchaser is the measure of the tax. Only when there is an unsatisfied use tax liability on this basis because the seller has provided incorrect information about that transaction to DOR will the seller be liable for sales tax with respect to the sale of the property to the purchaser.

Under the bill, an exemption certificate would relieve the seller from the burden of proof only if the seller obtains a fully completed exemption certificate, or the information required to prove the exemption, from a purchaser no later than 90 days after the date of the sale, except as provided below. The certificate would not relieve the seller of the burden of proof if the seller fraudulently fails to collect sales tax, solicits the purchaser to claim an unlawful exemption, accepts an exemption certificate from a purchaser who claims to be an entity that is not subject to the sales tax, if the subject of the transaction sought to be covered by the exemption certificate is received by the purchaser at a location operated by the seller in this state and the exemption certificate clearly and affirmatively indicates that the claimed exemption is not available in this state. The certificate would have to provide information that identifies the purchaser and indicate the basis for the claimed exemption, and a paper certificate would have to be signed by the purchaser. The certificate would have to be in such form as DOR prescribes by rule.

If the seller has not obtained a fully completed exemption certificate or the information

required to prove the exemption, the seller could, no later than 120 days after DOR requests that the seller substantiate the exemption, either provide proof of the exemption by other means or obtain, in good faith, a fully completed exemption certificate from the purchaser.

If a purchaser who purchases taxable items without paying a sales or use tax on such purchase because such items were for resale makes any use of the items other than retention, demonstration or display while holding the items for sale, lease or rental in the regular course of the purchaser's operations, the use would be taxable to the purchaser as of the time that the items are first used by the purchaser, and the purchase price of the items to the purchaser would be the measure of the tax. The current provision making the seller liable for the tax under certain circumstances would be deleted.

Under current law, no certificate is required for certain types of tax-exempt livestock sales. The bill would repeal this provision so that an exemption certificate would be required for such sales.

#### **Program for Children and Families**

Under current law, the Department of Health and Family Services has a GPR appropriation for grants to counties for services for children and families. The amount of the appropriation is equal to one-eleventh of the amount of sales tax collected from out-of-state direct marketers who have entered into agreements with DOR, under which the sellers receive compensation over and above the normal 0.5% retailer's discount (described above). The bill would repeal this appropriation and the statutory language relating to the grants. The program was created in 1999 Wisconsin Act 9. To date, no funding has been provided for the program because no agreements with direct marketers have been entered into.

#### **Sales Tax Exemption and Income and Franchise Tax Credits for Certain Broadband Equipment**

As provided under 2005 Act 479, current law provides a sales and use tax exemption for certain purchases of Internet equipment used in the broadband market, which takes effect July 1, 2007. Current law also provides an income and franchise tax credit based on the value of the sales tax exemption. Claimants of the sales tax exemption and income/franchise tax credit must be certified by Commerce. The total amount of exemptions and credits that may be awarded is limited to \$7.5 million.

The SSUTA does not generally permit caps with respect to sales tax exemptions. In order to comply with this aspect of SSUTA, the bill would convert the sales tax exemption (under Chapter 77) for Internet equipment used in the broadband market to a sales tax deduction, and would change applicable references in the income and franchise tax statutes (Chapter 71) from "exemption" to "deduction". Based on these provisions, the purchaser of the Internet equipment used in the broadband market would pay the sales tax at the time of purchase. The purchaser would subsequently claim a deduction for such taxes on a sales and use tax return filed by the purchaser with DOR. The bill would specify that the deduction must be claimed in the same

reporting period as the period in which the purchaser paid the sales and use tax on the purchase of the Internet equipment.

### **Other Provisions**

The bill would eliminate specific requirements relating to the content of sales and use tax returns and, instead, provide that the return must show the amount of taxes due for the period covered by the return and such other information as DOR deems necessary. This modification is intended to provide DOR with flexibility to simplify sales tax returns and make the returns conform to standards required under the SSUTA.

Under current law, in order to protect the revenue of the state, DOR may require sellers to provide security in an amount determined by the Department, but not more than \$15,000. The bill would authorize DOR to require a larger amount of security from certified service providers.

The bill would restrict the use of personally identifiable information obtained by certified service providers from purchasers, and require CSPs to provide consumers clear and conspicuous notice of their practices regarding such information. CSPs would also have to provide sufficient technical, physical, and administrative safeguards to protect personally identifiable information from unauthorized access and disclosure.

The bill would require the state to provide to consumers public notice of the state's practices related to collecting, using, and retaining personally identifiable information for sales tax purposes. The state would be prohibited from retaining personally identifiable information obtained for purposes of administering the sales tax unless the state is otherwise required to retain the information by law or as provided under the agreement. The state would be required to provide an individual reasonable access to that individual's personally identifiable information and the right to correct any inaccurately recorded information. If any person, other than another state that is a signatory to the SSUTA or a person authorized under state law to access the information, requests access to an individual's personally identifiable information, the state would be required to make a reasonable and timely effort to notify the individual of the request.

Current law specifies that counties and special districts do not have jurisdiction to impose county and special district taxes in regard to tangible personal property purchased in another county or special district that does not impose such taxes and later brought into the a county or special district that does. The bill would provide that this provision does not apply in the case of snowmobiles, trailers, semitrailers, and all-terrain vehicles.

The bill would specify that counties and special districts would have jurisdiction to impose local sales taxes on Wisconsin sellers and retailers who have filed an application to operate as a seller in Wisconsin as well as out-of-state retailers who voluntarily register with DOR to collect use taxes, regardless of whether such retailers are engaged in business in the county or special district. Such retailers would be required to collect, report, and remit sales

taxes to DOR for all counties and special districts that have an ordinance or resolution imposing a local sales tax.

The bill would require additional notice (120 days) of repeal of a county sales tax or cessation of local baseball park or football stadium taxes.

### **Fiscal Effect**

Under these provisions, Wisconsin would conform to the SSUTA effective January 1, 2008. The administration estimates a cost of \$20,000 PR in the first year and \$40,000 PR in the second year for dues to participate in the SSTP governing board. The dues would be paid through the sum sufficient appropriation that the bill would create for this purpose.

The administration estimates that the modifications in product definitions to comply with the SSUTA would result in a reduction in state sales tax revenues of \$1,900,000 in 2007-08 and \$3,500,000 in 2008-09. However, the administration also estimates that sales tax revenues would increase by \$3,200,000 in 2007-08 and \$7,000,000 in 2008-09 as a result of voluntary collections, including those volunteering in order to take advantage of the amnesty provisions. The net effect of these provisions would be an increase in state sales tax revenues of \$1,300,000 in 2007-08 and \$3,500,000 in 2008-09.

In the aggregate, the administration estimates that county and stadium sales and use tax collections would increase, as a result of these provisions, by \$100,000 in 2007-08 and by \$300,000 in 2008-09, and that exposition district taxes would increase by the same amounts. The sourcing provisions under the bill could also result in tax shifting across counties.

In addition, the component of these provisions that would allow a higher rate of retailer's compensation in certain cases would result in a state revenue decrease. At this time, it is not possible to reliably estimate the cost of the higher retailer's compensation, because the number and sales volume of voluntary sellers that would use a system to which such higher compensation would apply is not known. The cost of this provision could be considerable if significant use were made of certified service providers, certified automated systems, and proprietary systems (described previously). To-date, only a small number of voluntary sellers under the Agreement have made use of CSPs or such systems.

It is also possible that the passage of the bill, along with similar laws in other states, could result in a significant increase in sales and use tax collections from remote sales in future years. This could occur if the provisions resulted in additional retailers voluntarily agreeing to collect and remit use taxes to Wisconsin or if Congress were persuaded to pass federal legislation allowing states to require out-of-state sellers to collect and remit the tax.

**Joint Finance:** Approve the Governor's proposal with technical modifications requested by the administration.

**Assembly/Legislature:** Delete provision.

#### 4. SALES TAX EXEMPTIONS RELATED TO WIND, SOLAR, AND GAS FROM ANAEROBIC DIGESTION OF AGRICULTURAL WASTE

**Assembly:** Create a sales and use tax exemption for a product, other than an uninterruptible power source for computers, whose power source is wind energy, direct radiant energy received from the sun, or gas generated from anaerobic digestion of animal manure and other agricultural waste, if the product produces at least 200 watts of alternating current or 600 British thermal units per day. In addition, create a sales and use tax exemption from the sale of, and the use or other consumption of, electricity or energy that is produced from such a product. Provide that the exemptions would take effect July 1, 2008. Estimate a reduction in sales and use tax revenues of \$1,300,000 in 2008-09 and annually thereafter.

**Conference Committee/Legislature:** Modify the provisions to specify that the exemptions take effect July 1, 2009.

Due to the effective date of the provisions, there will be no fiscal effect in the 2007-09 biennium. In 2009-10 and thereafter, it is projected that sales and use tax revenues will be reduced by \$1,300,000 annually. It should be noted, however, that if the proportion of electricity or energy sales from such products increases in future years, the reduction in sales and use tax revenues as a result of the provision would also increase, compared to current law.

[Act 20 Sections: 2419c and 9441(2j)]

#### 5. SALES TAX ON CERTAIN INTERCOMPANY TRANSFERS OF ASSETS

**Senate:** In response to a March 8, 2007, decision of the Wisconsin Supreme Court in *Wisconsin Department of Revenue v. River City Refuse Removal, Inc.* that concluded that certain intercompany transfers of assets between subsidiaries of the same parent company in which no money exchanged hands did not qualify as retail sales (and were, therefore, not subject to Wisconsin use tax), modify the sales and use tax to provide that the tax would apply in the case of such transfers.

Specify that a person who makes sales of tangible personal property or taxable services is a retailer regardless of the following: (a) whether the transaction is mercantile in nature (as is also the case under current law); (b) whether the seller sells smaller quantities of goods from an inventory; (c) whether the seller makes or intends to make a profit from the sale; (d) whether the seller or buyer reaps a bargained-for benefit; (e) the percentage of the seller's total sales that the sale represents; and (f) any other activities in which the seller is engaged. Provide that the same changes would apply with respect to the definitions of "sale," "sale, lease, or rental," "retail sale," "sale at retail," and "seller."

In addition, provide that "consideration," as used in the definition of "purchase," would include transactions where a person's books and records showed the transaction created either an obligation to pay a certain amount or an increase in accounts payable (for the transferee), or



a right to receive a certain amount of money or an increase in accounts receivable (for the transferor). Specify that "credits," as used in the definition of "gross receipts," would also include such transactions, as would the terms "sale," "sale, lease or rental," "retail sale," and "sale at retail."

Amend the sales and use tax statutes to provide that, unless specifically exempted: (a) all sales, leases, or rentals of tangible personal property at retail in Wisconsin are subject to the state sales tax; (b) the selling, performing, or furnishing of taxable services at retail in this state are subject to the state sales tax; and (c) the storage, use, or other consumption in this state of all tangible personal property, and the use or other consumption in this state of a taxable service, purchased from any retailer is subject to the state use tax. In addition, modify provisions related to the local food and beverage tax, local rental car tax, state rental vehicle fee, and the regional transit authority fee to include references to "a" and "c."

Provide that these provisions would take effect retroactively to January 1, 2006. The effective date would be consistent with provisions under 2005 Act 25 that specified that a "retailer" includes every seller who makes any sale, regardless of whether the sale is mercantile in nature.

2005 Act 25 provided an exemption for sales of taxable services and tangible personal property physically transferred to a purchaser as a necessary part of certain taxable services if the seller and the purchaser are members of the same affiliated group and are eligible to file a single consolidated return for federal tax purposes. Prior to the Supreme Court decision, DOR had considered other transfers of assets between two companies owned by the same parent to be taxable sales. However, based on the *River City* decision, businesses may be able to make certain purchases through out-of-state subsidiaries and avoid paying sales and use taxes. The Senate provision would avert any potential revenue loss associated with this decision.

**Assembly:** Delete provision. Direct the Legislative Audit Bureau, in consultation with the Department of Revenue, to review the State Supreme Court's March 8, 2007, decision in the case of *Wisconsin Department of Revenue v. River City Refuse Removal, Inc.*, relating to imposition of the sales and use tax on transfers of goods and services between affiliated businesses. Direct the Audit Bureau to estimate the potential state and local revenue losses associated with the decision, and to present options for the Legislature to consider in order to mitigate any potential revenue loss. Require the Audit Bureau to submit a report with its findings to the Legislature on or before October 1, 2007.

Estimate reduced sales tax revenues of \$2,000,000 in 2007-09 to reflect refunds and interest payments associated with the case. In addition, the Department of Revenue has estimated that the *River City* decision could potentially result in future revenue losses of approximately \$70 million annually. However, this estimate assumes that businesses would restructure their operations in order to avoid the sales and use tax by establishing and using out-of-state affiliates to purchase taxable items such as software, computer equipment, and central office equipment. Because the \$70 million annualized estimate is significantly greater than the amount actually associated with the decision, and because it is uncertain as to whether, when,

and to what extent, businesses would change their operations to take advantage of the decision, the Assembly provision would direct the Audit Bureau to develop an estimate of any potential revenue loss and to suggest alternatives for mitigating any such loss.

**Conference Committee/Legislature:** Delete Assembly provision and restore Senate provision.

[Act 20 Sections: 2200m thru 2289d, 2300d, 2326d, 2486ac thru 2492ac, 2495ac, 9341(7p), and 9441(4q)]

**6. SALES TAX EXEMPTION FOR CATALOGS [LFB Paper 333]**

GPR-REV - \$600,000
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**Governor:** Create a sales tax exemption for catalogs and the envelopes in which catalogs are mailed. Specify that the proposed exemption would take effect on April 1, 2009.

Current law imposes the state's 5.0% general sales tax on the gross receipts from the sale and rental of tangible personal property, unless specifically exempted. In addition, the tax is imposed on services specifically listed in the statutes. Under current law, there are two provisions related to the sales tax as it applies to catalog sales. Under the first, the statutes specifically impose the tax on gross receipts from the service of producing, fabricating, processing, printing, or imprinting of tangible personal property for consumers who furnish the materials. However, an exception is provided if the tangible personal property will subsequently be transported and used solely outside this state by the consumer for advertising purposes.

Under the second provision currently applicable to the sales tax on catalog sales, a sales tax exemption is provided for the gross receipts from the storage of printed material designed to advertise and promote the sale of merchandise or to advertise the services of individual business firms, if such printed material is purchased and stored for the purpose of subsequently transporting the material outside the state by the purchaser for use solely outside the state.

The Governor's proposal would create a new exemption for the sale of and the storage, use, or other consumption of catalogs, and the envelopes in which the catalogs are mailed, that are designed to advertise and promote the sale of merchandise or to advertise the services of individual business firms. A "catalog" would mean a printed and bound, stitched, sewed, or stapled book containing a list and description of property or services for sale, regardless of whether a price is specified.

In addition, the bill would modify the exception under the current provision imposing the sales tax on services associated with the fabricating, printing, and imprinting tangible personal property to specify that the tax on the sales price of such services would not apply to the printing or imprinting of tangible personal property that results in printed material, catalogs, or envelopes that are exempt from the sales tax (as would be provided under the bill).

It should be noted that, under another proposal, the bill would conform state sales and use tax provisions to certain terminology under the Streamlined Sales and Use Tax Agreement. Under the SSUTA provisions, current law references to the term "gross receipts" would generally be replaced with the term "sales price". The proposed sales tax exemption for catalogs and the envelopes in which they are mailed would take effect after the SSUTA provisions and, therefore, incorporate the term "sales price," rather than "gross receipts." However, if the proposed sales tax exemption for catalogs and associated envelopes were adopted and the SSUTA provisions were not, then the references to "sales price" in the modifications related to catalog sales would have to be amended to refer to "gross receipts."

The proposed exemption for catalogs would take effect on April 1, 2009. The administration estimates that the proposal would reduce sales and use tax collections by \$600,000 in 2008-09, and by \$2,400,000 per year in subsequent years.

**Joint Finance/Legislature:** Include provision with technical modifications requested by the administration.

[Act 20 Sections: 2178, 2297m, 2383d, 2385, and 9441(11)]

#### **7. SALES TAX EXEMPTION FOR ADMISSIONS TO CERTAIN PERFORMING ARTS EVENTS**

**Joint Finance:** Provide a sales tax exemption for admissions to performances and events produced by a non-profit cultural arts organization, including such events produced by such organization, its affiliates, or agent. Specify that, in order to claim the exemption, an organization would have to create, develop, and put on a public performance of the performance or event. Provide that the exemption would not apply to the sale of admissions to performances and events for which a non-profit cultural arts organization sponsors, but does not produce, the performance or event. Provide that the provision would take effect January 1, 2009. It is estimated that the provision would result in reductions of state sales and use tax revenues of \$375,000, in 2008-09 and \$1,500,000 annually thereafter.

**Assembly/Legislature:** Delete provision.

#### **8. SALES TAX EXEMPTION FOR A HOME EXCHANGE SERVICE OPERATED BY THE DEPARTMENT OF VETERANS AFFAIRS [LFB Paper 334]**

**Governor:** Provide a sales and use tax exemption for tangible personal property and taxable services that are sold by a home exchange service that receives funding from the Department of Veterans Affairs (DVA) and that is operated by DVA.

DVA currently operates two veterans homes, each of which offers a home exchange service where snacks, beverages, gifts, and other items are available for members, staff, and visitors to purchase. Under current law, the state sales tax applies to taxable items sold

through a home exchange service. The proposed sales tax exemption for such sales would take effect on the first day of the second month beginning after publication of the budget bill. The administration estimates that the provision would reduce state sales tax revenues by a minimal amount.

**Joint Finance/Legislature:** Approve the Governor's proposal with a technical modification.

[Act 20 Sections: 2418m and 9441(1)]

## **9. SALES AND USE TAX EXEMPTION FOR COINS, CURRENCY, AND BULLION**

**Assembly:** Provide a sales and use tax exemption for the following: (a) United States coins; (b) United States currency; (c) bars, ingots (not including the mold in which the metal is cast), or coins made from gold, silver, platinum, palladium, or any combination of such metals; and (d) commemorative medallions. Provide that the exemption would take effect on July 1, 2008.

Current law defines tangible personal property, for purposes of the sales tax, to include U.S. coins and stamps sold or traded as collectors' items above their face value. The sales tax is generally imposed on sales of tangible personal property, unless specifically exempted. Based on the inclusion of U.S. coins and stamps sold or traded as collectors' items above their face value in the definition of tangible personal property, and in the absence of a specific exemption for such items, the items are currently subject to the sales and use tax.

The proposal would create a sales and use tax exemption for U.S. coins and currency, commemorative medallions, and bars, ingots, and coins made of certain metals from the sales and use tax.

Based on information provided by the Department of Revenue on companies remitting sales and use tax to whom such an exemption would likely apply, and also on information from the United States Census Bureau, it is estimated that the exemption would result in reduced state tax revenues of approximately \$250,000 in 2008-09 and annually thereafter.

**Conference Committee/Legislature:** Delete provision.

## **10. SALES AND USE TAX EXEMPTION FOR NONPROFIT CEMETERIES**

**Assembly:** Create a sales and use tax exemption for otherwise taxable tangible personal property or taxable services used exclusively by a cemetery company or corporation (as described under federal provisions for organizations that are exempt from federal tax) for the purposes of the company or corporation. Provide that the exemption would take effect July 1, 2008.

Under current state law, all tangible personal property and taxable services sold to nonprofit organizations operated exclusively for religious, charitable, scientific, or educational purposes, or for the prevention of cruelty to children or animals, are exempt from tax if the organization obtains and gives a certificate of exempt status number to the seller. Current law does not provide exemptions specific to cemetery companies and corporations, nor are such entities eligible for the exemption for nonprofit organizations (unless they are owned by an eligible religious or other nonprofit organization with an exemption certificate).

Federal law provides an exemption from federal income taxes for certain nonprofit cemetery companies and corporations chartered solely for the purpose of the disposal of human bodies by burial or cremation for which no part of the net earnings inures to the benefit of any private shareholder or individual. The proposal would provide a state sales and use tax exemption for sales to such companies and corporations

Based on consultation with the Wisconsin Cemetery and Cremation Association, it is estimated that the proposal would reduce state sales and use tax revenues by approximately \$150,000 in 2008-09 and annually thereafter.

**Conference Committee/Legislature:** Modify the provision to specify that the exemption takes effect July 1, 2009.

Due to the effective date of the provision, there will be no fiscal effect in the 2007-09 biennium. In 2009-10 and thereafter, it is projected that sales and use tax revenues will be reduced by an estimated \$150,000 annually.

[Act 20 Sections: 2357d and 9441(3q)]

#### **11. SALES TAX EXEMPTION FOR BIOMASS USED FOR FUEL AND SOLD FOR RESIDENTIAL USE**

**Assembly/Legislature:** Provide a sales and use tax exemption for biomass used for fuel and sold for residential use. "Biomass" would mean a resource that derives energy from wood or plant material or residue, biological waste, crops grown for use as a resource, or landfill gases. "Biomass" would not include garbage or nonvegetation-based industrial, commercial, or household waste, except that "biomass" would include refuse-derived fuel used for a renewable facility that was in service before January 1, 1998. Provide that the proposal takes effect on December 1, 2007. The estimated fiscal effect is unknown but is not expected to be significant.

[Act 20 Sections: 2391d and 9441(4f)]

#### **12. SALES AND USE TAX EXEMPTION FOR CLAY PIGEONS**

**Assembly/Legislature:** Modify the sales and use tax exemption for clay pigeons sold to certain shooting facilities, effective July 1, 2007.

Under current law, clay pigeons that are sold to a shooting facility are exempt from the sales and use tax if either of the following apply: (a) the shooting facility is required to pay the tax imposed on its gross receipts from charges for shooting at the facility; or (b) the shooting facility is a nonprofit organization that charges for shooting at the facility but is not required to pay the tax on such charges as they are exempt as occasional sales.

Current law also provides, effective July 1, 2007, a sales and use tax exemption for the sale of admissions by a gun club that is a nonprofit gun organization and that provides safety classes to at least 25 individuals in the calendar year.

Prior to the budget act, as a result of the sales and use tax exemption for gun clubs, effective July 1, 2007, clay pigeons sold to a shooting facility that were exempt under "a", above, would have become taxable to such a shooting facility if the facility claimed the sales tax exemption for gun club membership. The act modifies the exemption for clay pigeons to specify that a shooting facility that is a nonprofit organization that charges for shooting at the facility but is not required to pay the tax on admissions because they qualify for the exemption for nonprofit gun clubs is also exempt from the sales tax on clay pigeons. It is estimated that the provision will have a minimal fiscal effect.

[Act 20 Sections: 2410d, 9341(15w), and 9441(5f)]

### **13. SALES TAX EXEMPTION FOR DIGITAL PURCHASES RELATED TO MOTION PICTURES AND RADIO AND TELEVISION PROGRAMS**

**Governor/Legislature:** Modify a current sales tax exemption for motion picture film or tape and related advertising materials sold, leased, or rented to movie theaters or radio or television stations to specify that the exemption also applies to motion pictures or radio or television programs for listening, viewing, or broadcast. This provision, which would take effect on the effective date of the budget bill, is intended to clarify current law and would have no fiscal effect.

[Act 20 Section: 2381]

### **14. LEMON LAW STATUTE OF LIMITATIONS**

**Governor:** Impose a four-year statute of limitations for sales tax refunds to vehicle manufacturers who have refunded such taxes to vehicle lessors or purchasers who have returned their vehicles under a motor vehicle warranty (known as the "lemon law"). In addition, impose a four-year statute of limitations for vehicle lessors and purchasers to request a sales tax refund from DOR when they have obtained from the manufacturer a refund of the purchase price but not the sales tax paid on the vehicle. Specify that such vehicle manufacturers, lessors, and purchasers are to receive 9% interest on the sales tax refunded to them under these provisions.

Under current law, DOR is required to refund to a vehicle manufacturer any sales tax refunded by the manufacturer to a consumer under the state's "lemon law" (which requires motor vehicle manufacturers to refund the selling price and associated sales tax on certain leased or purchased motor vehicles based on nonconformance of such a vehicle with an applicable express warranty). DOR must refund the sales tax to a manufacturer if the manufacturer provides DOR with a written request along with evidence that the sales tax was paid when the motor vehicle was purchased and that the manufacturer refunded the sales tax to the consumer.

In addition, DOR is required to refund to a consumer who has returned a motor vehicle under the lemon law all or part of the sales tax paid by the consumer on the purchase of a new motor vehicle, based on the amount of the refund of the purchase price of the motor vehicle actually received by the consumer, as long as the following apply: (a) the consumer returned the motor vehicle to its manufacturer and received a refund of all or part of the purchase price but not the corresponding amount of sales tax; (b) the consumer bought the new vehicle after November 2, 1983; and (c) the consumer provides DOR with a written request for refund of the sales tax along with evidence that the consumer received a certain amount as a refund of the purchase price of the motor vehicle from the manufacturer, that the sales tax was paid when the motor vehicle was bought new, and that the manufacturer did not refund the sales tax to the consumer.

Currently, there are no limitations on when requests for such sales tax refunds may be made to DOR. The bill would require DOR to refund sales taxes associated with lemon law returns if a written request for such a refund is received within four years of the date that the manufacturer issued a refund to the consumer. In addition, the bill would require DOR to pay interest on such refunds at a rate of 9% per year from the date of the manufacturer's refund to the consumer to the date on which the refund is certified on the state's refund rolls.

The provisions would first apply with respect to applications for sales tax refunds filed on the first day of the second month beginning after publication of the budget bill. The fiscal effect is expected to be a minimal increase in tax revenues.

**Assembly/Legislature:** Delete provision.

## **15. SALES TAX ON SERVICES PROVIDED BY TEMPORARY HELP COMPANIES**

**Assembly:** Create an exemption from the sales and use tax for charges for services provided by a temporary help company if the client for whom the services are provided controls the means of performing the services and is responsible for the satisfactory completion of the services. Define "temporary help company" as under the unemployment insurance statutes to mean an entity that contracts with a client to supply individuals to perform services for the client on a temporary basis to support or supplement the workforce of the client in situations such as personnel absences, temporary personnel shortages, and workload changes resulting from seasonal demands or special assignments or projects, and which, both under

contract and in fact:

- a. Negotiates with clients for such matters as time, place, type of work, working conditions, quality, and price of the services;
- b. Determines assignments or reassignments of individuals to its clients, even if the individuals retain the right to refuse specific assignments;
- c. Sets the rate of pay of the individuals, whether or not through negotiation;
- d. Pays the individuals from its account or accounts; and
- e. Hires and terminates individuals who perform services for the clients.

Specify that these provisions would take effect on July 1, 2009. Based on the effective date, there would be no fiscal effect of the provision in the 2007-09 biennium. It is estimated that the provision would reduce sales and use tax revenues by \$4,200,000 annually in 2009-10 and thereafter. This estimate is provided in 2008-09 dollars.

**Conference Committee/Legislature:** Delete provision.

## **Excise Taxes and Regulation of Tobacco and Alcohol**

### **1. CIGARETTE AND TOBACCO PRODUCTS TAX AND REFUND INCREASES [LFB Paper 376]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Legislature (Chg. to JFC)</b>	<b>Net Change</b>
GPR-REV	\$0	\$40,000,000	\$370,900,000	\$410,900,000
SEG-REV	546,200,000	- 40,000,000	- 506,200,000	0
GPR	\$20,500,000	\$0	- \$5,400,000	\$15,100,000

**Governor:** Increase the cigarette tax by \$1.25 per pack (from \$0.77 to \$2.02), and the tobacco products tax from 25% of the manufacturer's established list price to 65.6% of the manufacturer's list price. Provide that the resulting increased tax revenues would be deposited to a new segregated fund, the health care quality fund, to be used as a source of funding for medical assistance (MA) and BadgerCare. Specify that the increases would take effect on September 1, 2007, or on the first day of the third month beginning after publication of the budget bill, whichever is later. Estimate SEG revenue from the tax increases as follows: (a) \$257,500,000 in 2007-08 and \$249,000,000 in 2008-09 from the cigarette tax; and (b) \$18,200,000 in 2007-08 and \$21,500,000 in 2008-09 from the tobacco products tax. The total amount of SEG



revenue under these provisions would be \$275,700,000 in 2007-08 and \$270,500,000 in 2008-09, for a biennial total of \$546,200,000.

The cigarette and tobacco products taxes are excise taxes that are generally imposed on distributors and passed on to the ultimate consumers. Distributors pay the tobacco products tax through monthly returns filed with DOR. The cigarette tax is paid through the purchase of tax stamps from DOR, generally by a manufacturer or distributor. The tax stamp must be affixed to each pack of cigarettes prior to its first sale in the state. Manufacturers and distributors currently receive a 1.6% discount on cigarette tax stamp purchases as compensation for their administrative costs. Under the bill, the manufacturers and distributors discount would be reduced to 0.7%. Under current law, on the effective date of any increase in the cigarette tax rates, a one-time "floor" tax is imposed on existing cigarette inventories, which must be paid to DOR by the 15<sup>th</sup> day after the effective date of a tax increase. The bill would increase the length of time allowed after a tax increase for payment of the inventory floor tax from within 15 days to within 30 days of the effective date of a cigarette tax increase.

The bill would specify that, from cigarette taxes collected in 2007-08, DOR would be required to deposit no more than \$304,000,000 to the general fund and to deposit the remainder to the proposed health quality fund. In 2008-09 and thereafter, DOR would be required to deposit no more than \$305,000,000 to the general fund and to deposit the remainder to the proposed health quality fund. These amounts represent estimated cigarette tax revenues in 2007-08 and 2008-09, respectively, under current law. Similarly, DOR would be required to deposit no more than \$18,400,000 in 2007-08 and no more than \$19,300,000 2008-09 and thereafter to the general fund and, in each year, to deposit the remainder to the proposed health quality fund. The specified thresholds represent estimated tobacco products taxes under current law.

Under current law, for sales of cigarettes that occur on reservations or trust lands, the tribes receive a refund of 100% of the excise tax on cigarettes sold to tribal members and 70% of the tax on sales to non-tribal members. For tobacco products (excluding cigarettes) sold on reservations or trust lands, the tribes receive a refund of 100% of the tax on products sold to tribal members and 50% of the tax on products sold to non-tribal members. The refunds are paid through a sum sufficient GPR appropriation. The bill would increase the estimate of sum sufficient funding required for cigarette and tobacco products tax refunds by \$10,300,000 in 2007-08 and by \$10,200,000 in 2008-09 (from a base funding level of \$12,200,000). Total funding for such refunds would be \$22,500,000 in the first year and \$22,400,000 in the second year. The revised funding estimates reflect the effects of the increases in cigarette and tobacco products taxes under the bill.

The provisions pertaining to the health care quality fund are described in this document under "Health and Family Services -- Health Care Quality Fund."}]

**Joint Finance:** Approve the Governor's proposal to increase the excise tax rates for cigarette and tobacco products, to reduce the 1.6% discount on cigarette tax stamp purchases to 0.7%, and to reestimate the sum sufficient funding for cigarette and tobacco products refunds to

Native American tribes based on the proposed increases in the excise tax rates. In addition, approve the governor's proposal to deposit tax revenues from the increased excise tax rates to the segregated health care quality fund, with the exception of \$20,000,000 in cigarette tax revenues annually, which would be deposited to the general fund rather than the health care quality fund.

Thus, for 2007-08, DOR would be required to deposit not more than \$324 million to the general fund (rather than \$304 million under SB 40) and to deposit the remainder to the health care quality fund. In 2008-09 and thereafter, DOR would be required to deposit no more than \$325 million (rather than \$305 million under SB 40) to the general fund and to deposit the remainder to the health care quality fund.

**Senate:** Approve the Joint Finance provisions that would increase the excise tax rates on cigarettes and tobacco products, with a modification in the total amount of cigarette tax revenues to be deposited in the general fund. Under the Joint Finance provisions, DOR would be required to deposit to the general fund no more than \$324,000,000 in cigarette tax revenues in 2007-08 and no more than \$325,000,000 of such revenues in 2008-09. In each year, all additional cigarette tax revenues would be deposited to the segregated health care quality fund (which would be created under the provisions). The Senate provisions would reduce the cigarette tax revenues to be deposited to the general fund, and correspondingly increase the estimated cigarette tax revenues to be deposited to the health care quality fund, by \$10,000,000 in each year.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Increase the cigarette tax by \$1.00 per pack (from \$0.77 to \$1.77). Increase the tobacco products tax on all tobacco products (which excludes cigarettes), other than moist snuff, from 25% of the manufacturer's established list price to 50% of the manufacturer's list price. Provide, however, that the tax on cigars will be capped at a maximum of \$0.50 per cigar. Convert the tax on moist snuff from the current ad valorem (price-based) tax to a weight-based tax at the rate of \$1.31 per ounce. For purposes of these provisions, define "moist snuff" to mean any finely cut, ground, or powdered smokeless tobacco that is intended to be placed or dipped in the oral cavity. Specify that these changes take effect on January 1, 2008.

Estimate increased general fund tax revenues under these provisions as follows: (a) from the proposed cigarette tax increase, \$152,500,000 in 2007-08 and \$226,000,000 in 2008-09, for a biennial total of \$378,500,000; and (b) from the proposed tobacco products tax modifications, \$10,500,000 in 2007-08 and \$21,900,000 in 2008-09, for a biennial total of \$32,400,000.

The cigarette and tobacco products taxes are excise taxes that are generally imposed on distributors and passed on to the ultimate consumers. Distributors pay the tobacco products tax through monthly returns filed with DOR. The cigarette tax is paid through the purchase of tax stamps from DOR, generally by a manufacturer or distributor. The tax stamp must be affixed to each pack of cigarettes prior to its first sale in the state. Manufacturers and distributors

currently receive a 1.6% discount on cigarette tax stamp purchases as compensation for their administrative costs. Under the provisions, the manufacturers and distributors discount is reduced to 0.7%. Under state law, on the effective date of any increase in the cigarette tax rates, a one-time "floor" tax is imposed on existing cigarette inventories, which must be paid to DOR by the 15<sup>th</sup> day after the effective date of a tax increase; the floor tax does not apply with respect to tobacco products. The provisions increase the length of time allowed after a tax increase for payment of the cigarette inventory floor tax from within 15 days to within 30 days of the effective date of a cigarette tax increase. The provisions also specify that the weight-based tax on moist snuff does not apply to moist snuff in the inventory of a distributor on the effective date of the tax change for which the tobacco products excise tax has already been paid.

Prior to the proposed tax increase, cigarette tax revenues were estimated at \$304,000,000 in 2007-08 and \$305,000,000 in 2008-09. Under the provisions, total cigarette tax revenues are estimated at \$456,500,000 in 2007-08 and \$531,000,000 in 2008-09. Tobacco products tax revenues, which were estimated at \$18,400,000 in 2007-08 and \$19,300,000 in 2008-09 prior to the proposed tax changes, are estimated at \$28,900,000 in 2007-08 and \$41,200,000 in 2008-09 under the provisions.

For sales of cigarettes that occur on reservations or trust lands, state law provides that the tribes receive a refund of 100% of the excise tax on cigarettes sold to tribal members and 70% of the tax on sales to non-tribal members. For tobacco products (excluding cigarettes) sold on reservations or trust lands, the tribes receive a refund of 100% of the tax on products sold to tribal members and 50% of the tax on products sold to non-tribal members. The refunds are paid through a sum sufficient GPR appropriation. The provisions increase the estimate of sum sufficient funding required for cigarette and tobacco products tax refunds by \$5,600,000 in 2007-08 and by \$9,500,000 in 2008-09 (from a base funding level of \$12,200,000). Total funding for such refunds are estimated at \$17,800,000 in the first year and \$21,700,000 in the second year. The revised funding estimates reflect the effects of the modifications in cigarette and tobacco products taxes under the provisions.

**Veto by Governor [F-2]:** Specify that the weight-based tax on moist snuff applies to moist snuff in the inventory of a distributor on January 1, 2008, for which the tobacco products tax had already been paid. The Governor's partial veto deletes "not" from a provision included by the Legislature specifying that the weight-based tax would not (underline added for emphasis) apply to moist snuff in the inventory of a distributor on January 1, 2008, for which the tobacco products tax had already been paid. While both prior law and Act 20 impose an "inventory tax" on cigarettes (in order to adjust the total amount of tax paid on cigarettes in inventory to reflect a change in the tax rate), prior law did not impose a comparable tax with respect to inventories of moist snuff or other tobacco products. The partial veto results in the imposition of an inventory tax on moist snuff (but not other tobacco products) similar to that imposed on cigarettes.

[Act 20 Sections: 2781 thru 2840d and 9441(6)]

[Act 20 Vetoed Section: 2838d]

## **2. DIRECT MARKETING OF CIGARETTES AND TOBACCO PRODUCTS**

**Governor:** Modify current law with respect to the direct marketing of cigarettes and create provisions to permit and regulate the direct marketing of tobacco products.

Current state law prohibits direct market sales of cigarettes and tobacco products to Wisconsin consumers for sellers that do not hold a valid municipal retail permit for the municipality into which each sale is made. Federal law, under provisions referred to as the Jenkins Act, requires a person who sells and ships cigarettes into another state to anyone other than a licensed distributor to file reports to the state on such sales. Compliance with the federal law is intended to enable states to collect cigarette excise taxes from consumers associated with remote sales, such as sales through the Internet. Federal law provides that a person who violates these provisions is guilty of a misdemeanor and is to be fined not more than \$1,000, or imprisoned for not more than six months, or both. States, however, lack the authority to enforce the Jenkins Act, and it is generally thought to be the case that state excise tax avoidance through Internet purchases of cigarettes is significant.

As provided under 2005 Act 25, the 2005-07 biennial budget, current state law allows cigarette sales to consumers in Wisconsin by direct marketing if a direct marketer fulfills certain requirements (including the requirement described above with respect to municipal retail permits). Current law includes no provisions specifically related to the direct marketing of tobacco products. The Governor's proposal would modify certain provisions related to the direct marketing of cigarettes under current law and would require a direct marketer of cigarettes to obtain a direct marketing permit from the Department of Revenue. The bill would also create provisions to permit and regulate the direct marketing of tobacco products.

### **Direct Marketing of Cigarettes Under Current Law**

Current law specifies that it is an unfair method of competition or an unfair trade practice for any person to sell cigarettes to consumers in this state in violation of the provisions on direct marketing of cigarettes. The following definitions apply to the direct marketing of cigarettes:

a. "Direct marketing" means publishing or making accessible an offer for the sale of cigarettes to consumers in this state, or selling cigarettes to consumers in this state, using any means by which the consumer is not physically present at the time of sale on a premise that sells cigarettes;

b. "Direct marketer" means a bonded direct marketer or a nonbonded direct marketer;

c. "Bonded direct marketer" means any person who acquires unstamped cigarettes from the manufacturer thereof, affixes tax stamps to the packages or other containers, stores them and sells them by direct marketing to consumers for their own personal use, and who may also acquire stamped (taxed) cigarettes from manufacturers or distributors for such sales;

d. "Nonbonded direct marketer" means any person who acquires stamped cigarettes

from manufacturers or distributors, stores them, and sells them by direct marketing to consumers for their own personal use.

The cigarette tax is paid through the purchase of tax stamps from DOR, generally by a manufacturer or distributor. The tax stamp must be affixed to each pack of cigarettes prior to its first sale in the state. "First sale" excludes a sale by a manufacturer to a distributor or certain permittees who are allowed to possess unstamped cigarettes (for example, cigarettes sold to post exchanges of the armed forces of the United States and cigarettes sold for shipment outside this state in interstate commerce). In addition, as provided under 2005 Act 25, "first sale" excludes a sale by a manufacturer to a bonded direct marketer, which allows such a direct marketer to purchase unstamped cigarettes and subsequently affix the stamps prior to selling the cigarettes to consumers. However, a nonbonded direct marketer may only acquire stamped cigarettes.

In order to sell to a Wisconsin consumer by direct marketing, a direct marketer is required to submit to DOR the person's name, trade name, address of the person's principal place of business, phone number, email address, and Web site address. The direct marketer must certify to DOR that the direct marketer will: (a) acquire unstamped cigarettes from the manufacturer, pay the state cigarette tax, affix tax stamps to the cigarette packages or containers, store such packages or containers, and sell only such packages or containers to consumers in this state by direct marketing; or (b) purchase stamped cigarettes from a licensed distributor and sell only such packages or containers to consumers in this state by direct marketing.

A direct marketer must also certify to DOR that the person will register with credit card and debit card companies, that the invoices and all means of solicitation for all shipments of cigarette sales from the person will bear the person's name and address, and that the person will provide DOR any information the Department considers necessary to administer the direct marketing provisions. A direct marketer is not permitted to sell cigarettes to consumers in this state unless the state sales or use tax is paid on the sale of such cigarettes. A direct marketer who sells cigarettes to consumers in this state is also required to verify the consumer's name and address and that the consumer is at least 18 years old. A direct marketer must also obtain from the consumer at the time of purchase a statement signed by the consumer that confirms all of the following: (a) the consumer's name, address, and birth date; (b) that the consumer understands that no person who is under 18 years of age may purchase or possess cigarettes or falsely represent his or her age for the purpose of receiving cigarettes; and (c) that the consumer understands that any person who, for the purpose of obtaining credit, goods, or services, intentionally uses, attempts to use, or possesses with intent to use, any personal identifying information or personal identification document of an individual, including a deceased individual, without the authorization or consent of the individual and by representing that he or she is the individual, that he or she is acting with the authorization or consent of the individual, or that the information or document belongs to him or her, is guilty of a Class H felony. (The punishment for a Class H felony is a fine not to exceed \$10,000, or imprisonment not to exceed six years, or both.)

A direct marketer who sells cigarettes by means of the Internet is required to obtain, at the time of the sale, the purchaser's email address and to receive payment for the sale by credit card, debit card, or check prior to shipping. The invoice for any shipment of cigarettes sold to consumers in this state by direct marketing must specify the name and address of the seller and any valid permit issued under the cigarette tax statutes that is held by the seller. All packages of cigarettes shipped to consumers in this state must clearly be labeled "CIGARETTES" on the outside of such packages.

Currently, no person may deliver a package of cigarettes sold by direct marketing to a consumer in this state unless the person making the delivery receives a government issued identification card from the person receiving the package and verifies that the person receiving the package is at least 18 years of age. If the person receiving the package is not the person to whom the package is addressed, the person delivering the package must have the person receiving the package sign a statement affirming that the person to whom the package is addressed is at least 18 years of age.

Finally, no person may deliver a package of cigarettes to a consumer in this state unless the seller of the cigarettes provides proof to the person making the delivery that the seller has complied with all of the requirements related to the cigarette tax statutes. A seller has no course of action against any person who refuses to deliver cigarettes under these provisions.

According to DOR, to date, no one has registered as a direct marketer of cigarettes under the Act 25 provisions.

### **Modifications Related to Retail Licenses and Restrictions on Cigarette and Tobacco Products Sales or Gifts**

The following section describes proposed changes to provisions related to municipal retail licenses to sell cigarettes and tobacco products as well as restrictions on cigarette and tobacco products sales and gifts.

Under current law, as provided in the statutes relating to cigarette and tobacco products retailer licenses under Chapter 134, "Miscellaneous Trade Regulations", no person may sell, expose for sale, possess with intent to sell, exchange, barter, dispose of, or give away any cigarettes or tobacco products to any person not holding a license or permit for the sale of cigarettes or tobacco products without first obtaining a license from the clerk of the city, village, or town where such products are to be sold or otherwise disposed of. Under this provision, a direct marketer is not allowed to sell to consumers in Wisconsin without holding a municipal retail license in each municipality into which a sale is made. The bill would specify that the requirement to obtain a municipal retailer's license would not apply to a person holding a valid permit from DOR as a direct marketer of cigarettes or tobacco products who sells such products solely as a direct marketer.

Current law prohibits a city, village, or town clerk whose duty it is to issue licenses or permits to engage in a business involving retail sales subject to the sales and use tax from

issuing such licenses or permits without proof that the applicant holds a seller's permit or has been informed by DOR that a seller's permit will be issued to the applicant. The bill would modify this provision to permit a municipality to also issue municipal licenses and permits if the applicant is registered to collect, report, and remit use tax or has been informed by DOR that the Department will register the applicant to do so.

The bill would require DOR to prepare an application form for cigarette and tobacco products retailers' licenses. In addition to providing information required under current law with respect to whether the cigarettes or tobacco products are to be sold over the counter, or in a vending machine, or both, the application form would have to require all of the following information: (a) the applicant's history relevant to the applicant's fitness to hold a license; (b) the kind of license for which the applicant is applying; (c) the premises where cigarettes or tobacco products will be sold or stored; (d) if the applicant is a corporation, the identity of the corporate officers and agent; (e) if the applicant is an LLC, the identity of the company members or managers and agent; (f) the applicant's trade name, if any; and (g) any other information required by the Department.

Each applicant for a cigarette and tobacco products retailer license would be required to use the application form prepared by DOR, to swear to the application, and to submit the application with the clerk of every city, village, or town where the intended place of sale is located. The Department would be required to provide a copy of the application to each city, village, and town. Within 10 days of any change in any fact set forth in an application, the applicant or license holder would have to file a written description of the change with the clerk of the city, village, or town where the application was submitted.

The bill would authorize any person to inspect an application for a cigarette or tobacco products retailer license. The clerk of each city, village, or town where such applications are submitted would be required to retain all applications submitted for four years.

Subject to nondiscrimination provisions under current law, the bill would prohibit a municipality from issuing a cigarette or tobacco products retailer's license to any person who: (a) has an arrest record or conviction record; (b) has been convicted of a felony, or as a repeat or habitual offender, unless pardoned; (c) has not submitted proof that the person holds a sales tax seller's permit or is registered to collect, report, and remit use tax or that DOR will issue a seller's permit to the person or register the person; or (d) is not 18 years of age or older. These requirements would apply to all partners of a partnership, all members and agents of an LLC, and all agents and officers of a corporation. Subject to nondiscrimination provisions, if a business entity has been convicted of a crime, the entity could not be issued a license unless the entity had terminated its relationship with the individuals whose actions directly contributed to the conviction.

Under current law, any person violating the cigarette and tobacco products retailer license provisions is subject to a fine of \$25 to \$100 for a first offense and a fine of \$25 to \$200 for a second or subsequent offense. If, upon such a second or subsequent violation, the person was

personally guilty of a failure to exercise due care to prevent the violation, the person is subject to a fine of \$25 to \$300, imprisonment for up to 60 days, or both. Conviction would immediately terminate the license of a person being found guilty of such a failure to exercise due care, and the person would not be able to obtain another license for a period of five years. During the five-year period, such a person would also be prohibited from acting as the servant or agent of a person holding a cigarette and tobacco products retailer license for performance of acts authorized under such a license. Technically, these penalties currently apply in the case of a direct marketer selling without a municipal retail license. However, the administration indicates that it is not practical to enforce such penalties with respect to direct marketers.

The bill would modify this provision by increasing the penalty for a first offense to a fine of \$500 to \$1,000 and by increasing the penalty for a second or subsequent offense to a fine of \$1,000 to \$5,000, imprisonment for up to 180 days, or both. The current provision imposing additional fines and/or imprisonment for individuals who are guilty of failing to exercise due care to avoid a second or subsequent violation would be deleted. In addition, the current provision on termination of a license upon conviction of a failure to exercise due care to prevent a violation would be modified to require the court to terminate a license upon conviction of a second or subsequent offense of the Chapter 134 requirements on cigarette and tobacco products retailer licenses. The current provisions related to the five-year period following such a license termination would continue to apply.

The bill would also prohibit the imposition of such penalties if DOR determined that imposing a penalty would be inequitable because of inadvertent acts, mistakes, or unusual circumstances related to the violation or if the person subject to the penalty had good cause for the violation and such violation did not result from the person's neglect. [Under the bill, a direct marketer holding a direct marketing permit from DOR would not be subject to the penalties described above for violations of retailer license provisions, but would, instead, be subject to specific penalties provided under the bill and described below.]

The bill would specify that no retailer, direct marketer, manufacturer, distributor, jobber, or subjobber could provide cigarettes or tobacco products for nominal or no consideration to any person under the age of 18. These restrictions would also apply to an agent, employee, or independent contractor of a retailer, direct marketer, manufacturer, distributor, jobber, or subjobber and to an agent or employee of an independent contractor.

The bill would specify that proof of all of the following facts by a direct marketer who sells cigarettes or tobacco products to a person under the age of 18 would be a defense to any prosecution for a violation of the restrictions on such sales: (a) that the direct marketer used a mechanism, approved by DOR, for verifying the age of the purchaser; (b) that the purchaser falsely represented that he or she had attained the age of 18 and presented a copy or facsimile of an identification card; (c) that the name and birth date of the purchaser, as indicated by the purchaser, matched the name and birth date on the identification card; and (d) that the sale was made in good faith, in reasonable reliance on the mechanism approved by DOR and the representation of identification as required above, and in the belief that the purchaser had



attained the age of 18. Similar provisions currently exist for persons who sell cigarettes directly to consumers.

### **Modifications Related Specifically to Cigarettes**

The following section describes proposed changes specific to sales of cigarettes.

Chapter 100 of the statutes, which addresses "Marketing and Trade Practices," imposes minimum mark-up requirements on sales of certain products, including cigarettes and tobacco products. The bill would provide that minimum mark-up requirements related to distributors and the wholesale portion of the business of multiple retailers of cigarettes would also apply in the case of a bonded direct marketer. (A "multiple retailer" is a person who acquires stamped cigarettes from manufacturers or distributors, stores them, and sells them to consumers through 10 or more retail outlets that the retailer owns and operates within or outside this state. A multiple retailer that also holds a permit as a distributor has the option to acquire unstamped cigarettes from manufacturers and affix the tax stamps.)

#### ***Definitions under the Cigarette Tax Statutes (Chapter 139)***

Current law, as provided under 2005 Act 25, defines "government issued identification" as including a valid driver's license, state identification card, passport, or military identification. Certain provisions under Act 25 require that a copy of such government issued identification be obtained before selling and delivering cigarettes through direct marketing. The bill would delete the definition for government issued identification and would, instead, replace it with a definition for "identification card." Under the bill, "identification card" would reference a definition provided in Chapter 134 of the statutes, which defines the term to mean either a Wisconsin driver's license containing a photograph, an alternative approved for state residents who do not have a driver's license, or certain cards that had been approved under 1987 law related to identification cards for alcohol beverages. The current law references in the cigarette tax statutes to "government issued identification" would be replaced with references to "identification card."

Chapter 139 of the statutes currently defines a manufacturer as any person who manufactures cigarettes for the purpose of sale, including the authorized agent of such a person. The bill would modify this definition to refer to a person who directly manufactures cigarettes for the purpose of sale.

The bill would also create a new definition for "person," as any individual, sole proprietorship, partnership, LLC, corporation, or association or any owner of a single-owner entity that is disregarded as a separate entity under the income and franchise tax statutes.

#### ***Unlawful Possession of Cigarettes***

Under current law, with exceptions, it is unlawful for any person to possess cigarettes unless the required stamps are properly affixed. These provisions do not apply to manufacturers,

distributors, or warehouse operators possessing valid permits issued by DOR. The bill would modify this provision to apply it to purchases of cigarettes in addition to possession of cigarettes. The bill would also add bonded direct marketers to the list of persons to whom the provision does not apply.

### *Permit Requirements for Cigarette Manufacturers and Distributors*

Under current law, no person may manufacture cigarettes in this state or sell cigarettes in this state as a distributor, jobber, vending machine operator, or multiple retailer and no person may operate a warehouse in this state for the storage of cigarettes for another person without first filing an application for and obtaining the proper permit to perform such operations from DOR. This provision applies to all officers, directors, agents and stockholders holding 5% or more of the stock of any corporation applying for a permit. The proposal would apply the permit requirement to direct marketers, and would also clarify that an out-of-state manufacturer selling in this state would be required to have a permit. [This provision is needed to assist Wisconsin in complying with a requirement under the Master Settlement Agreement (MSA) between 46 states and certain tobacco companies with respect to reporting of cigarette sales.] In addition, the provision regarding corporate officers, directors, agents, and stockholders would be repealed.

Under current law, subject to nondiscrimination provisions, a permit to manufacture or sell cigarettes may not be granted to any person to whom any of the following applies: (a) the person has been convicted of a misdemeanor not involving Chapters 340 to 349 of the statutes (relating to motor vehicles) at least three times; (b) the person has been convicted of a felony, unless pardoned; (c) the person is addicted to the use of a controlled substance or controlled substance analog; (d) the person has income that comes principally from gambling or has been convicted of two or more gambling offenses; (e) the person has been guilty of crimes relating to prostitution; (f) the person has been guilty of crimes relating to loaning money or anything of value to persons holding licenses or permits pursuant to the provisions regarding the regulation of alcohol beverages; or (g) the person does not hold a sales tax seller's permit, if the person is a retailer.

With the exception of item (g), the bill would modify the current provisions limiting the granting of a permit to manufacture or sell cigarettes. Item (a) and items (c) through (f) would be repealed. The bill would provide, instead, that no permit could be granted to any person who has an arrest record or a conviction record (subject to nondiscrimination provisions) or to a person younger than age 18. In addition, item (b) would be modified to refer to a person who has been convicted of a felony or as a repeat or habitual offender, unless pardoned. Finally, the bill would provide that these provisions apply to the following: all partners of a partnership; all members of an LLC; all agents of an LLC or corporation; and all officers of a corporation.

Currently, a separate permit is required for each class of permittee under the cigarette tax statutes, and the holder of any permit may only perform the operations thereby authorized. Such a permit is not transferable among persons or premises. A separate permit is required for each place where cigarettes are stored for sale at wholesale, through vending machines, or multiple retail outlets. Under the bill, a separate permit would also be required for each place where cigarettes are

stored for sale by direct marketing.

Current law authorizes a vending machine operator or a multiple retailer to acquire unstamped cigarettes from manufacturers thereof and affix the stamps to packages or other containers only if the vending machine operator or multiple retailer also holds a permit as a distributor. Under the bill, a vending machine operator or multiple retailer could also satisfy these requirements by holding a permit as a bonded direct marketer.

The law also currently provides that the holder of a warehouse permit is entitled to store cigarettes on the premises described in the permit. The warehouse permit does not authorize the holder to sell cigarettes. Unstamped cigarettes stored in a warehouse for a manufacturer or distributor may be delivered only to a person holding a permit as a manufacturer or distributor. The bill would provide that a bonded direct marketer authorized by DOR to purchase and affix tax stamps would also be permitted to receive deliveries of unstamped cigarettes stored in a warehouse.

#### *Direct Marketing of Cigarettes*

As noted, current law permits the sale of cigarettes to consumers in Wisconsin by a direct marketer if the direct marketer fulfills requirements related to providing information and certifications to DOR and to verifying specified information about the direct marketer's customers. The bill would modify the current provisions to require a direct marketer to also obtain a direct marketer's permit from DOR. Specifically, the bill would modify the existing provisions as follows:

(a) Under current law, no person may sell cigarettes to consumers in this state as a direct marketer unless the person submits to DOR the person's name, trade name, address of the person's principal place of business, phone number, email address, and Web site address. The bill would delete the provisions on submitting information to DOR and would, instead, require a person selling or soliciting sales of cigarettes to consumers in this state by direct marketing to obtain a permit to do so. The person would also be required to file an application for a direct marketing permit in the manner prescribed by DOR.

(b) Current provisions requiring a person selling cigarettes as a direct marketer to a Wisconsin consumer to make certain certifications to DOR would be modified to prohibit DOR from issuing a direct marketing permit to a person unless the person makes such certifications. In addition, a direct marketer would be required to certify to DOR that the invoices and all means of solicitation for all shipments of cigarettes sales from the person would include the direct marketing permit number.

(c) A current provision requiring a direct marketer to verify a consumer's name would be modified to require verification of the consumer's identity. In addition, whereas current law requires a direct marketer to obtain from a consumer a copy of a government issued identification, the bill would require a direct marketer to obtain a copy of an identification card (as defined under the bill) and to verify that the name specified on the identification card matches the name of the

consumer and that the birth date on the identification card indicates that the consumer is at least 18 years of age.

The bill would provide that no person could sell cigarettes to consumers in this state by direct marketing unless the cigarette tax is paid on such cigarettes and tax stamps are affixed to the cigarette packages or containers. In addition, no person could sell cigarettes to consumers in this state by direct marketing unless the person verified that the cigarette brands are approved by DOR and listed in the directory of certified tobacco product manufacturers and brands as provided under the MSA.

With the exceptions described below, any person who, without having a valid permit, sells or solicits sales of cigarettes to consumers in this state by direct marketing would have to pay a penalty to DOR of the greater of \$5,000 or an amount equal to \$50 for every 200 cigarettes, or fraction thereof, sold to consumers in this state by direct marketing.

No sale of cigarettes to a consumer in this state by direct marketing could exceed 10 cartons for each invoice or 20 cartons in a 30-day period for each purchaser or address. With the exceptions described below, any person who sells cigarettes that exceed these maximum amounts would have to pay a penalty to DOR of the greater of \$5,000 or an amount equal to \$50 for every 200 cigarettes, or fraction thereof, sold above the maximum amounts. Any person who purchases cigarettes that exceed the maximum amount would have to pay a penalty to DOR of \$25 per carton purchased above the maximum amount. In addition, the person would have to apply for a wholesale cigarette permit with DOR. (While it is unlikely that the person would subsequently qualify to obtain a wholesaler's permit, the provision is intended to make it clear that a consumer could not purchase large quantities of cigarettes from a direct marketer without acting in a wholesaler capacity and satisfying associated requirements.)

Exceptions to the penalties described above would be provided if: (a) DOR determined that imposing a penalty would be inequitable because of inadvertent acts, mistakes, or unusual circumstances related to the violation; or (b) the person who is subject to the penalty had good cause to violate the provisions and the violation did not result from the person's neglect.

As a condition for obtaining a permit as a direct marketer, the bill would require any nonresident or foreign direct marketer who has not registered to do business in this state as a foreign corporation or business entity to appoint and continually engage the services of an agent in this state who would serve as the direct marketer's agent for the purpose of service of process on the direct marketer concerning or arising out of the enforcement of Chapter 139. The bill would provide that such service of process would constitute legal and valid service of process on the direct marketer. The direct marketer would be required to provide to DOR the name, address, phone number, and proof of the appointment and availability of the agent. A direct marketer would be required to provide notice to DOR no later than 30 calendar days before termination of the authority of such an agent and to provide proof to the satisfaction of DOR of the appointment of a new agent no later than five calendar days before the termination of an existing appointment. In the event an agent terminated an appointment, the direct

marketer would be required to notify DOR of that termination no later than five calendar days after the termination and to include proof to the satisfaction of DOR of the appointment of a new agent.

The bill would specify that the Secretary of State is the agent in this state for the service of process of any direct marketer who has not appointed and engaged an agent as described above, except that the Secretary of State acting as the direct marketer's agent for the service of process does not satisfy the requirement related to the appointment of an agent as a condition for obtaining a permit as a direct marketer.

#### *Cigarette Tax -- Administrative Procedures*

The following modifications related to administrative procedures would also be provided:

**Meter Machines.** Obsolete references to meter machines and a cigarette meter that may be used in lieu of tax stamps would be deleted and replaced with machines and a cigarette tax impression machine.

**Seizures.** Current law provides that all cigarettes acquired, owned, imported, possessed, kept, stored, made, sold, distributed, or transported in violation of the cigarette tax statutes, and all personal property used in connection therewith is unlawful property and subject to seizure by the Secretary of DOR or any peace officer. Under the bill, this provision would also apply to violations of provisions of Chapter 134 related to cigarette and tobacco products retailer licenses.

Currently, if cigarettes that do not bear the proper tax stamps or on which the tax has not been paid are seized under these provisions, they may be given to law enforcement officers for use in criminal investigations or sold to qualified buyers by DOR, without notice. If the cigarettes are sold, the proceeds of the sale, after deducting for costs of the sale and the keeping of the property, are to be paid into the state treasury. The Secretary of DOR may also order the cigarettes to be destroyed or given to a charitable or penal institution for free distribution to patients or inmates. Under the bill, these provisions would apply to any cigarettes that have been seized as a result of violations of the cigarette tax statutes (not just those that do not bear a tax stamp or on which the tax has not been paid).

**Class I Felony.** The bill would provide that any person who manufactures or sells cigarettes in this state without holding the proper permit under the cigarette tax statutes is guilty of a Class I felony. The penalty for a Class I felony is a fine, not to exceed \$10,000, or imprisonment, not to exceed three years and six months, or both. Under current law, any person who manufactures or sells cigarettes in this state without holding the proper permit would be subject to the general penalty for violations of the cigarette and tobacco products tax statutes for which no other penalty is provided, which includes a fine of \$100 to \$1,000, imprisonment for 10 to 90 days, or both. (Under the bill, as described below under a section on "Additional Provisions," this general penalty would be changed to a fine of no more than \$10,000, imprisonment of no more than nine months, or both.)

*License Revocation and Civil Penalty.* Current law provides that DOR may revoke or suspend the license of a cigarette distributor for violations of certain requirements on participating manufacturers under the MSA. The bill would modify this provision to specify that DOR may revoke a license of such a distributor (rather than revoke or suspend).

### **Modifications Related Specifically to Tobacco Products**

In order to permit and regulate the direct marketing of tobacco products, the bill would create provisions that would parallel provisions under current law, as modified under the bill, with respect to the direct marketing of cigarettes.

Current law specifies that it is an unfair method of competition or an unfair trade practice for any person to sell cigarettes to consumers in this state in violation of the provisions on direct marketing of cigarettes. The bill would expand this provision to also apply to selling tobacco products to consumers in this state in violation of the provisions on direct marketing of tobacco products.

#### *Definitions under the Tobacco Products Tax Statutes (Chapter 139)*

The bill would provide the following definitions under the tobacco products tax statutes:

a. "Direct marketing" would mean publishing or making accessible an offer for the sale of tobacco products to consumers in this state, or selling tobacco products to consumers in this state, using any means by which the consumer is not physically present on a premise that sells tobacco products;

b. "Direct marketer" would mean any person who solicits or sells tobacco products to consumers in this state by direct marketing;

c. "Person" would mean any individual, sole proprietorship, partnership, LLC, corporation, association, or any owner of a single-owner entity that is disregarded as a separate entity under the income tax statutes; and

d. "Identification card" would reference the meaning provided under Chapter 134, as described above with respect to a proposed modification to the cigarette tax statutes.

The bill would also modify a number of current definitions. Under current law, a "consumer" means any person who has title to, or possession of, tobacco products in storage for use or other consumption in this state. The bill would change the definition to mean any individual who receives tobacco products for his or her own personal use or consumption or any individual who has title to, or possession of, tobacco products for any purposes other than sale or resale.

Under current law, a tobacco products "distributor" means, among other things, any person engaged in the business of selling tobacco products in this state who brings, or causes to be brought, into this state from outside the state any tobacco products for sale. The bill would change this definition to specify that "distributor" would mean, among other things, any person in this

state engaged in the business of selling tobacco products who brings, or causes to be brought, into this state from outside the state any tobacco products for sale (underline added to emphasize the location of the phrase "in this state"). These modifications would clarify current law and reflect current practice.

The current definition of "distributor" also includes any person engaged in the business of selling tobacco products outside this state who ships or transports tobacco products to retailers in this state to be sold by those retailers. The proposal would modify this definition to refer to any person outside this state engaged in the business of selling tobacco products that ships or transports tobacco products to retailers in this state to be sold by those retailers (underline added to emphasize location of the phrase "outside of this state"). These modifications would clarify current law and reflect current practice.

The definition of "distributor" would also be expanded to include any person outside this state engaged in the business of selling tobacco products who ships or transports tobacco products to consumers in this state. Under this provision, a person outside this state who sells tobacco products to consumers in the state through direct marketing would be defined as a distributor (in addition to a direct marketer) and would be required to obtain a permit as a distributor (in addition to a permit as a direct marketer). The modification is intended to make it clear that a direct marketer would be responsible for collecting and remitting the excise tax on tobacco products and also for submitting to DOR required reports on any wholesale sales of tobacco products made by the direct marketer.

"Retail outlet" is currently defined to mean each place of business from which tobacco products are sold to consumers. The bill would clarify that the definition applies to such products sold to consumers by a retailer.

A "retailer" is currently defined to mean any person engaged in the business of selling tobacco products to ultimate consumers. The bill would delete this definition and replace it with a reference to the definition under Chapter 134, which means any person with a municipal cigarette or tobacco products retailer license.

#### ***Tobacco Products Tax and Associated Permits***

With certain exceptions, the bill would specify that no person could possess tobacco products in this state unless the excise tax on tobacco products is paid on such products, and that no person other than a distributor with a valid permit under these provisions could import into this state tobacco products for which the tobacco products tax has not been paid.

Currently, no person may engage in the business of a distributor or subjobber of tobacco products at any place of business unless that person has filed an application for and obtained a permit from DOR to engage in that business at such place. The bill would similarly prohibit a person from engaging in the business of a direct marketer of tobacco products without a proper permit.

Under current law, provisions limiting the granting of a permit to manufacture or sell cigarettes also apply with respect to tobacco products. The bill would modify the references to such provisions to reflect changes proposed to the cigarette tax provisions under the bill, as described above.

### *Direct Marketing of Tobacco Products*

The bill would prohibit a person from selling tobacco products by direct marketing to consumers in this state as a direct marketer or soliciting sales of tobacco products to consumers in this state by direct marketing unless the person has obtained a permit from DOR to make such sales or solicitations. The person would have to file an application for a permit with DOR, in the manner prescribed by the Department. No person could be issued a direct marketing permit unless the person holds a valid tobacco products distributor's permit.

Under current law, the following provisions that apply with respect to cigarette permits also apply in the case of tobacco products wholesaler permits: (a) provisions requiring denial of a permit by DOR to persons who have been convicted of certain crimes; (b) requirements related to certification from the Department of Financial Institutions before a foreign corporation or a foreign LLC may be granted a permit; and (c) the requirements that: a separate permit be issued for each class of permittee; that the holder of any permit could only perform the operations thereby authorized; that such a permit could not be transferred among persons or premises; and that a separate permit would be needed for each place where tobacco products are stored for sale at wholesale, through vending machines, through direct marketing, or through multiple retail outlets. The bill would also provide that these requirements apply in the case of a permit for direct marketing of tobacco products.

No person could be issued a permit under these provisions unless the person certifies to DOR, in the manner prescribed by the Department, that the person will register with credit card and debit card companies; that the invoices and all means of shipments of tobacco product sales from the person will bear the person's name, address, and permit number; and that the person will provide to DOR any information the Department considers necessary to administer these provisions.

No person could sell tobacco products by direct marketing to consumers in this state unless the tobacco products tax and state sales and use tax have been paid with regard to such products.

No person could sell tobacco products to consumers in this state by direct marketing unless the person verifies the consumer's identity and address and that the consumer is at least 18 years old, using a mechanism approved by DOR. In addition, the person would have to obtain from the consumer at the time of purchase a statement signed by the consumer that confirms all of the following: (a) the consumer's name, address, and birth date; (b) that the consumer understands that no person who is under 18 years of age may purchase or possess tobacco products or falsely represent his or her age for the purpose of receiving tobacco products; and (c) that the consumer understands that any person who, for the purpose of obtaining credit,



goods, or services, intentionally uses, attempts to use, or possesses with intent to use, any personal identifying information or personal identification document of an individual, including a deceased individual, without the authorization or consent of the individual and by representing that he or she is the individual, that he or she is acting with the authorization or consent of the individual, or that the information or document belongs to him or her, is guilty of a Class H felony.

Any person who, without having a valid direct marketing permit, sells or solicits sales of tobacco products to consumers in this state by direct marketing would have to pay a penalty to DOR of the greater of \$5,000 or an amount that is equal to 50% of the tax due on the tobacco products the person sold to consumers in this state by direct marketing.

No person could deliver a package of tobacco products sold by direct marketing to a consumer in this state unless the person making the delivery receives an identification card from the person receiving the package and verifies that the person receiving the package is at least 18 years of age. If the person receiving the package is not the person to whom the package is addressed, the person delivering the package would be required to have the person receiving the package sign a statement affirming that the person to whom the package is addressed is at least 18 years of age.

No person could deliver a package of tobacco products to a consumer in this state unless the seller of the tobacco products provides proof to the person making the delivery that the seller has complied with all of the requirements in the tobacco products tax statutes. A seller would have no course of action against any person who refuses to deliver tobacco products under these provisions.

All packages of tobacco products shipped to consumers in this state would have to be clearly labeled "TOBACCO PRODUCTS" on the outside of such packages.

As a condition for obtaining a permit as a direct marketer of tobacco products, the bill would require any nonresident or foreign direct marketer that has not registered to do business in this state as a foreign corporation or business entity to appoint and continually engage the services of an agent in this state who would serve as the direct marketer's agent for the purpose of service of process on the direct marketer concerning or arising out of the enforcement of Chapter 139. The bill would provide that such service of process would constitute legal and valid service of process on the direct marketer. The direct marketer would be required to provide to DOR the name, address, phone number, and proof of the appointment and availability of the agent. A direct marketer would be required to provide notice to DOR no later than 30 calendar days before termination of the authority of such an agent and to provide proof to the satisfaction of DOR of the appointment of a new agent no later than five calendar days before the termination of an existing appointment. In the event an agent terminated an appointment, the direct marketer would be required to notify DOR of that termination no later than five calendar days after the termination and to include proof to the satisfaction of DOR of the appointment of a new agent.

The bill would specify that the Secretary of State is the agent in this state for the service of process of any direct marketer who has not appointed and engaged an agent as described above, except that the Secretary of State acting as the direct marketer's agent for the service of process does not satisfy the requirement related to the appointment of an agent as a condition for obtaining a permit as a direct marketer.

**Prosecutions by Attorney General.** Under current law, upon request by the Secretary of DOR, the Attorney General may represent this state or assist a district attorney in prosecuting any case arising under the tobacco products tax statutes. The bill would also provide that the Attorney General may take any action necessary to enforce the provisions related to direct marketing of tobacco products.

**Lists of Direct Marketers.** DOR would be required to compile and maintain a list of direct marketers who have complied with the requirements of the provisions on direct marketing and a list of direct marketers who DOR knows have not complied with such requirements. DOR would have to provide copies of the lists to the Attorney General and to each person delivering tobacco products to consumers in the state sold by direct marketing.

#### **Additional Provisions Affecting Both Cigarettes and Tobacco Products**

The following modifications apply to both the cigarette and tobacco products tax provisions.

**Salespersons of Cigarettes and Tobacco Products.** Current law provides that no person may sell or take orders for cigarettes or tobacco products for resale in Wisconsin for a manufacturer or permittee without first obtaining a salesperson's permit from DOR. Further, under current law no manufacturer or permittee can authorize a person to sell or take orders for cigarettes or tobacco products without that person having secured a salesperson's permit. Currently, DOR must issue the required number of permits to manufacturers and permittees who hold a valid business tax registration certificate. Each application for a permit must disclose the name and address of the employer, and the permit will remain effective only while the salesperson represents that employer. If the salesperson is later employed by another manufacturer or permittee, the salesperson must obtain a new salesperson's permit. Each manufacturer or permittee is required to notify DOR within 10 days after the resignation or dismissal of a salesperson holding a permit.

The bill would modify these requirements to provide that: (a) no person could sell or solicit sales of cigarettes or tobacco products in this state unless the person has filed for and obtained a valid Wisconsin business tax registration certificate and a salesperson's permit; (b) no permittee could authorize a person to sell or solicit sales of cigarettes or tobacco products without that person having secured a valid Wisconsin business tax registration certificate and a salesperson's permit; and (c) no person could authorize the sale or solicitation of cigarettes or tobacco products in this state unless that person has a valid business tax registration certificate and a valid permit under the cigarette or tobacco products tax statutes. The bill would also clarify that, under these provisions, each application for a salesperson's permit must disclose the name and address of the employer. In

addition, this and other references to employers of salespersons would be modified so that brokers soliciting sales on behalf of a person other than an employer would be subject to the same requirements as those applicable to a salesperson of an employer. Also, certain references to a "manufacturer and a permittee" would be changed to a "permittee." (Under the bill, a "permittee" would include any manufacturer manufacturing or selling in this state.)

***Penalty for False or Fraudulent Reports.*** Current law provides that any person who makes or signs any false or fraudulent report or who attempts to evade the tax imposed on cigarettes or tobacco products, or who aids in or abets the evasion or attempted evasion of that tax may be fined not more than \$10,000 or imprisoned for not more than nine months or both. The bill would instead provide that a person who performs such actions is guilty of a Class H felony.

***Penalties for Failure to Keep Required Records or to Allow Inspection.*** Under current law, any cigarette or tobacco products permittee who fails to keep the records required under the cigarette or tobacco products tax statutes may be fined not less than \$100 nor more than \$500 or imprisoned not more than six months or both. The proposal would, instead, specify that the penalty for a first offense would be a fine of \$500 to \$1,000. For a second or subsequent offense, the penalty would be a fine of \$1,000 to \$5,000, imprisonment for up to 180 days, or both. In addition, the provisions would apply to a licensee under the cigarette or tobacco products tax statutes as well as to a permittee. [Retailers selling cigarettes and tobacco products are licensees, rather than permittees. The addition of the term "licensee" to this provision would clarify that the penalty provisions for failure to keep required records or to allow inspections also apply to retailers who are subject to such requirements under Chapter 139.]

Currently, any person who refuses to permit any examination or inspection of its premises or records authorized under the cigarette or tobacco products tax statutes may be fined not more than \$500 or imprisoned not more than 90 days or both. In addition, such a refusal provides cause for immediate suspension or revocation of a permit by DOR. The proposal would increase the penalty to a fine of \$500 to \$1,000, imprisonment for up to 180 days, or both. In addition, the bill would modify the current provision specifying that a refusal to permit examinations or inspections serves as cause for immediate suspension or revocation of a permit by DOR to specify, instead, that such a refusal would serve as cause for immediate revocation of a permit or license by DOR. [As in the above provision, the addition of the term "license" to this provision would clarify that such penalties also apply in the case of retailers who are subject to such requirements under Chapter 139.]

***Other Penalties.*** Current law provides that a person who violates the provisions of the cigarette and tobacco products tax statutes for which no other penalty is provided is to be fined not less than \$100 nor more than \$1,000 or imprisoned not less than 10 days nor more than 90 days or both. The bill would specify, instead, a fine of not more than \$10,000 or imprisonment of not more than nine months or both.

Current law also provides that a person who violates any of DOR's rules relating to the taxation of cigarettes and tobacco products is to be fined not less than \$100 nor more than \$500 or

be imprisoned not more than six months or both. The bill would modify these provisions to specify a fine of not less than \$500 nor more than \$1,000 or imprisonment for not more than nine months or both.

Currently, in addition to the other penalties imposed for violation of the cigarette or tobacco products tax statutes or any of the rules of DOR, the permit of any person convicted must be automatically revoked and he or she may not be granted another permit for a period of two years following the revocation. Under the bill, revocation of the permit would only occur after a second or subsequent conviction and would be for a period of five years.

Notwithstanding the provisions described above and additional provisions on interest and penalties related to cigarettes and tobacco products, the bill would prohibit the imposition of the interest and penalties if DOR determined that imposing a penalty would be inequitable because of inadvertent acts, mistakes, or unusual circumstances related to the violation or if the person subject to the penalty had good cause for the violation and such violation did not result from the person's neglect.

#### *Effective Date and Estimated Fiscal Effect*

These provisions would first apply with respect to sales of cigarettes and tobacco products made on the bill's general effective date. The administration has not estimated a fiscal effect from the provisions in the 2007-09 biennium.

**Joint Finance/Legislature:** Delete provision as a non-fiscal policy item.

### **3. THREE-TIER LIQUOR DISTRIBUTION SYSTEM**

**Senate:** Modify current law with respect to the three-tier intoxicating liquor distribution system (which includes distribution of wine and distilled spirits). Provide that the modifications would take effect on the general effective date of the budget bill.

#### **Background**

Under current law, alcohol beverages are generally distributed to consumers under a three-tier distribution system: the manufacturer may sell only to a wholesaler or rectifier; the wholesaler or rectifier may sell only to a wholesaler or retailer; and the retailer may sell only to the consumer. With specific exceptions, no person may sell outside of the three-tier system. With limited exceptions, a manufacturer or rectifier may not hold any direct or indirect interest in a wholesaler, and a manufacturer, rectifier, or wholesaler may not hold any direct or indirect interest in a retailer.

Under current law, DOR is authorized to enter into agreements with other states that allow a winery in one state to ship to individuals in the other state up to 27 liters of wine per year. The wine tax is paid by the wine shipper to the state from which the wine is shipped. Out-

of-state wineries shipping into Wisconsin under reciprocity agreements are required to submit annual reports to the state detailing such sales. Currently, Wisconsin has a reciprocal agreement only with the State of California.

## **Proposal**

Eliminate the current provisions that authorize reciprocal wine agreements and, instead, create a new type of permit, a "direct wine shipper's permit," to authorize and regulate direct shipments of wine. Make additional modifications to the regulation of intoxicating liquor as described below:

### **New Provisions on Direct Wine Shippers' Permits**

*Authorized Activities.* Require DOR to issue direct wine shippers' permits authorizing a permittee to ship wine directly to an individual in this state who is of the legal drinking age, who acknowledges receipt of the wine shipped, and who is not intoxicated at the time of delivery. Specify that a signature on the delivery form of the common carrier by a person of legal drinking age would indicate acknowledgement of the delivery in writing.

*Annual Permit Fee.* Require DOR to charge the following annual fees for each direct wine shipper's permit: (a) for permittees that ship more than 90 liters of wine annually to individuals in this state, \$1,000; (b) for permittees that ship between 27 and 90 liters of wine annually to individuals in this state, \$500; and (c) for permittees that ship less than 27 liters of wine annually to individuals in this state, \$100.

*Persons Eligible.* Specify that a direct wine shipper's permit may be issued to any person who manufactures and bottles wine on premises covered by: (a) a valid state manufacturer's or rectifier's permit; (b) a state winery permit; or (c) a winery license, permit, or other authorization issued to the winery by any state from which the winery will ship wine into this state.

In addition, provide that a winery located outside of this state is eligible for a direct wine shipper's permit if the following apply: (a) the winery holds a valid Wisconsin business tax registration certificate; and (b) the winery submits to DOR, with any initial application or renewal for a business tax registration certificate or a direct wine shipper's permit, a copy of any current license, permit, or authorization issued to the winery by the state from which the winery will ship wine into this state. In addition, specify the following provisions, notwithstanding general qualifications that otherwise apply for licenses and permits under the alcohol beverage statutes: (a) natural persons obtaining direct wine shippers' permits are not required to be residents of this state; (b) a person is not required to complete a responsible beverage server training course to be eligible for a direct wine shipper's permit; and (c) corporations or limited liability companies obtaining direct wine shippers' permits are not required to appoint agents.

*Annual Report Required.* Require a direct wine shipper permittee to submit a report to

DOR, by January 31 of each year, on forms furnished by DOR, providing the identity, quantity, and price of all products shipped to individuals in this state during the previous calendar year, along with the name, address, and birth date of each person who purchased such products and each person to whom the products were shipped.

*Labels.* Specify that containers of wine shipped to an individual in this state under a direct wine shipper's permit must be clearly labeled to indicate that the package may not be delivered to an underage person or to an intoxicated person.

*Restrictions on Use of Wine.* Provide that no individual may sell wine received under these provisions or use it for a commercial purpose.

*Annual Limit.* Specify that no individual in this state may receive more than 27 liters of wine annually under these provisions, and no permittee may ship more than 27 liters of wine annually to an individual in this state. The annual limit would not apply to purchases made under a medicinal alcohol permit.

*Revocation of Permit.* Provide that failure to comply with the requirements of these provisions and certain additional provisions specified under the alcoholic beverage tax statutes pertaining to wine shipped directly to individuals in this state (as created under the proposal and described below) would result in revocation of a direct wine shipper's permit by the Department of Revenue.

#### **Modifications to Alcoholic Beverage Tax Statutes Related to Direct Shipments of Wine**

Currently, provisions authorizing DOR to negotiate reciprocal wine agreements with other states are included under the statutes imposing an occupational tax on alcoholic beverages. The reciprocal wine agreement provisions specify that an agreement may include provisions that this state will tax wine shipped from this state to individuals in another state and that the other state will tax wine shipped to individuals in this state. Under the proposal, the reciprocal wine agreement provisions under the tax statutes would be eliminated and replaced with the following provisions:

a. All wine shipped directly to an individual located in Wisconsin by a person holding a direct wine shipper's permit must be sold with the state's occupational tax on wine included in the selling price. Each person holding a direct wine shipper's permit would be required to file an addendum to the required monthly liquor tax return, on forms furnished by DOR, that provides, at minimum, the identity, quantity, and price of all wine shipped to individuals in this state during the previous calendar month, along with the name, address, and birth date of each person who purchased the wine and a copy of the signature provided by the person of legal drinking age who acknowledged delivery of the wine. DOR must also develop a form for recording an attestation of the delivery person who received the proof of age identification provided at the time of delivery and determined that the recipient was not intoxicated.

b. Any failure of a person holding a direct wine shipper's permit to pay the occupational tax or file the required addendum within 30 days of its due date constitutes grounds for revocation or suspension of the permit. Certain provisions on timely filing with respect to income and franchise taxes also apply to the tax and addendum required under these provisions.

Based on these provisions, a person holding a direct wine shipper's permit would be subject to the occupational tax on intoxicating liquor and associated reporting requirements, recordkeeping, and enforcement provisions.

### **References to Reciprocal Wine Agreements**

Repeal current references to the reciprocal wine agreements under provisions related to manufacturers' and rectifiers' permits, winery permits, out-of-state shippers' permits, and shipments of intoxicating liquor into the state. With respect to out-of-state shippers' permits, replace current provisions providing an exception to requirements that otherwise apply for such permits in the case of wineries in states with reciprocal agreements (when such wineries also satisfy certain additional requirements) with a provision specifying that a winery located out of this state may ship wine into this state as provided under the direct wine shipper's permit provisions and would not be required to obtain an out-of-state shipper's permit.

### **Activities Authorized Under a Wholesaler's Permit**

Under current law, DOR is required to issue wholesalers' permits authorizing the permittee to sell liquor at wholesale from the premises described in the permit. Except for a brewer that is issued a "Class B" license for the retail sale of liquor on the brewery premises and also holds a wholesaler's permit for the sale of wine only, the permittee may not sell liquor for consumption on the premises. The proposal would eliminate the exception to this provision for a brewer holding both a "Class B" retail liquor license and a permit to sell wine at wholesale.

### **Out-of-State Shippers' Permits**

In addition to repealing references to the reciprocal wine agreements and certain other provisions that would be incorporated into the direct wine shipper's permit provisions, the proposal would make an additional modification to current law. Currently, with the exception of shipments from a winery in compliance with the exception to the out-of-state shipper's permit requirements described above (and which also meets certain additional requirements), intoxicating liquor may be shipped into this state to a person holding a manufacturer's, rectifier's, wholesaler's, industrial alcohol, or medicinal alcohol permit. The proposal would specify, instead, that intoxicating liquor may be shipped into this state only to a person holding an in-state wholesaler's permit or, if shipped from an out-of-state manufacturer or rectifier with an out-of-state shipper's permit, to an in-state manufacturer or rectifier. In contrast to current law, an out-of-state wholesaler would not be permitted to ship to anyone other than an in-state wholesaler, and an out-of-state manufacturer or rectifier would not be permitted to ship to

anyone other than an in-state wholesaler, manufacturer, or rectifier.

### **Provisions on Shipments of Intoxicating Liquor into the State**

With respect to shipments of intoxicating liquor into the state, the proposal would make certain additional modifications to current law, as described below. Current law provides that, with the exception of shipments from a winery in compliance with the current exception to the out-of-state shipper's permit requirements (and which also meets certain additional requirements) the following provisions apply: (a) no intoxicating liquor may be shipped into this state unless consigned to a person holding a permit for the sale of intoxicating liquor, other than a retail "Class B" permit (which may allow retail sales for both on- and off-premises consumption); and (b) no common carrier or other person may transport into and deliver within this state any intoxicating liquor unless it is consigned to a person holding a permit for the sale of intoxicating liquor, other than a retail "Class B" permit (underlining added for emphasis). Any common carrier violating "b" is required to forfeit \$100 for each violation. Current law provides that the provisions described above do not apply with respect to purchases made under a medicinal alcohol permit.

The proposal would replace the references to the reciprocal wine agreements with references to the proposed direct wine shippers' permits, but would retain the penalty of \$100 for each violation by common carriers. The proposal would also delete the provisions specifying that the provisions on shipments of liquor into the state do not apply with respect to shipments under a medicinal alcohol permit.

In addition, the proposal would modify the references to person (where underlined, above) as follows:

a. The reference under "a" in the Senate provisions to a person holding a permit for the sale of intoxicating liquor, other than a retail "Class B" permit would be replaced with a reference to a person holding an in-state intoxicating liquor wholesaler's permit or, if shipped from a manufacturer or rectifier with an out-of-state shipper's permit, to a person holding an in-state manufacturer's or rectifier's permit. Under the proposal, an in-state manufacturer or rectifier could receive shipments from an out-of-state manufacturer or rectifier or an in-state wholesaler, but could no longer receive shipments from an out-of-state wholesaler. In addition, a person with a winery permit would not be able to receive shipments from an out-of-state wholesaler or from a manufacturer or rectifier.

b. The reference under "b" in the Senate provisions to a person holding a permit for the sale of intoxicating liquor, other than a retail "Class B" permit, would be replaced with a reference to a person holding an in-state intoxicating liquor wholesaler's permit. Under this provision, a common carrier would only be permitted to deliver intoxicating liquor to a person with an in-state wholesaler's permit (or as provided under the provisions on direct wine shippers' permits). A common carrier could no longer deliver intoxicating liquor to other types of non-retailer, in-state permittees.



## Other Proposed Statutory Changes

**Restatement of Legislative Intent.** Current law states that the statutes regulating alcohol beverages are to be construed as an enactment of the Legislature's support for the three-tier system for alcohol beverages production, distribution, and sale that, through uniform statewide regulation, provides this state regulatory authority over the production, storage, distribution, transportation, sale, and consumption of alcohol beverages by and to its citizens, for the benefit of the public health and welfare and this state's economic stability. The proposal would, in addition, state the following: (a) that without the three-tier system, the effective statewide regulation and collection of state taxes on alcoholic beverage sales would be seriously jeopardized; (b) that it is further the intent of the Legislature that without a specific statutory exception, all sales of alcohol beverages shall occur through the three-tier system, from manufacturers to licensed wholesalers to retailers to consumers; and (c) that face-to-face sales at licensed premises directly advance the state's interest in preventing alcohol sales to underage or intoxicated persons.

**Face-to-Face Sales on Retail Premises.** Under current law, retail "Class B" licenses for intoxicating liquor require the retail sales to be made on the premises specified in the license. While retail sales are generally face-to-face sales, the statutes do not explicitly require face-to-face sales. In addition, certain sales are permitted that are not face-to-face sales, such as the stocking, for the purpose of making sales, of intoxicating liquor in a guest's room in a hotel or a skybox or coliseum suite. In addition, DOR has interpreted current law to permit a caterer with a "Class B" license to supply personnel to dispense alcoholic beverages at catered functions. (However, this does not include authority for a caterer to set up a "cash bar" at such events.) The proposal would specifically provide that a retail license would authorize only face-to-face sales to consumers at the licensed premises. However, the specific exceptions under current law, including DOR's interpretation with respect to caterers, would continue to apply.

Current law does not provide a definition of the term "caterer." The proposal would define the term to mean, for purposes of these provisions, any person holding a state restaurant permit who is in the business of preparing food and transporting it for consumption on premises where gatherings, meetings, or events are held, if the sale of food at each gathering, meeting, or event accounts for greater than 50% of the gross receipts of all the food and beverages served at the gathering, meeting, or event. (This is the same definition used in a separate provision relating to sales of alcohol at the National Railroad Museum.)

**Permitted Actions of Manufacturers and Rectifiers.** Manufacturers' and rectifiers' permits authorize the manufacture or rectification, respectively, of intoxicating liquor on the premises covered by the permit. In addition, a person holding a manufacturer's or rectifier's permit may manufacture, bottle, or wholesale wine without procuring a winery permit. A manufacturer's or rectifier's permit entitles the permittee to sell intoxicating liquor from the premises described in the permit. Holders of rectifiers' permits may sell intoxicating liquor rectified by the permittee to retailers without any other permit. No sales may be made for consumption on the premises of the permittee.

The proposal would modify current law such that a person holding a manufacturer's or rectifier's permit would not be authorized to wholesale wine, and would be permitted to sell intoxicating liquor only to licensed wholesalers and to other manufacturers and rectifiers holding a state manufacturer's or rectifier's permit. (In related provisions, the proposal would repeal current provisions that permit a brewer with a manufacturing permit to hold a permit for the wholesale sale of wine). In addition, the following provisions under current law would be repealed: (a) provisions authorizing a holder of a rectifier's permit to sell intoxicating liquor rectified by the permittee to retailers without holding any another permit; (b) provisions related to sales areas in which rectifiers are acting as distributors (which the proposal would not authorize); and (c) provisions related to shipments of wine by a winery operating under a manufacturer's permit to individuals in states with reciprocal wine agreements.

***Winery Permits.*** Under current law, a winery permit authorizes a manufacturing winery to manufacture and bottle wine on the premises covered by the permit for sale at wholesale to other licensees or permittees. The proposal would authorize such sales only to licensed wholesalers, which would prevent a winery with a manufacturing permit from operating as a wholesaler.

***Restrictions on Dealings Between Manufacturers, Rectifiers, Wholesalers, and Retailers.*** The proposal would modify the following provisions under current law pertaining to restrictions between dealings of intoxicating liquor manufacturers, rectifiers, wholesalers, and retailers:

**Interest Restrictions.** Under current law, no intoxicating liquor manufacturer, rectifier, or wholesaler may hold any direct or indirect interest in a "Class A" license (which authorizes the retail sale of intoxicating liquor for off-premises consumptions) or establishment. The proposal would specify that the provision would also apply in the case of a winery and an out-of-state shipper permittee. However the proposal would retain a current provision that permits a winery with a state wine permit to have an ownership in a "Class A" license.

Current law also provides that, with exceptions, no intoxicating liquor manufacturer, rectifier, or wholesaler may hold any direct or indirect interest in any "Class B" license (which authorizes retail sales of liquor for consumption on the premises and, under certain conditions, for off-premises consumptions), permit (which is available to sports clubs, public facilities, and vessels satisfying certain criteria), or establishment or a "Class C" license (which authorizes the retail sale of wine by the glass or in the opened original container, and may be issued to restaurants meeting certain criteria) or establishment. The proposal would specify that this provision would also apply in the case of a winery and an out-of-state shipper permittee. However, a current provision allowing a winery with a winery permit to have an ownership interest in a "Class B" license would continue to apply.

The proposal would repeal exceptions to the provision restricting interests between intoxicating liquor manufacturers, rectifiers, and wholesalers and "Class B" or "Class C" licensees or permittees that currently allow the following: (a) a wholesaler to have an interest in

a corporation that owns and operates a golf course and leases premises on the golf course to the holder of a retail intoxicating liquor permit if both the wholesaler and retail permits were issued before June 1, 1981; and (b) a brewer to hold both an intoxicating liquor retail license for the sale of liquor on brewery premises and a wholesaler's permit for the wholesale sale of wine only.

Current law provides that, with limited exceptions, no manufacturer (whether located within or without this state) may hold any direct or indirect interest in any wholesale permit or establishment, except as provided under a state winery permit and except that a manufacturer that is also a brewer is permitted to hold a permit for the wholesale sale of wine only. In related provisions, current law specifies that these provisions do not prohibit certain persons from obtaining a permit to solicit for future sales of intoxicating liquor. The proposal would eliminate the exception to these provisions pertaining to a winery and to a manufacturer that is also a brewer, and would also delete the provisions related to permits to solicit for future sales of intoxicating liquor. In addition, the proposal would provide that, with certain exceptions provided under a winery permit, no retail licensee could hold any direct or indirect interest in any manufacturer, rectifier, or winery.

Retail Purchase Credit Restrictions. The proposal would delete a current provision specifying that, for purposes of the restrictions on dealings between manufacturers, wholesalers, and retailers, a person holding both an intoxicating liquor wholesale permit and an intoxicating liquor retail license would be deemed an intoxicating liquor retailer.

Campuses and Retailers to Purchase from Persons Holding Permits. The proposal would remove manufacturers and rectifiers from the persons that a campus or retail licensee or permittee would be permitted to purchase intoxicating liquor from (or to possess intoxicating liquor purchased from).

*Records and Reports.* Under current excise tax law, certain provisions pertaining to confidentiality of income, franchise, and gift tax returns apply to any information obtained from any person on a beer or intoxicating liquor tax return, report, schedule, exhibit, or other document or from an audit report relating to any of such documents. However, DOR is currently required to publish brewery production and sales statistics and to permit the publication of statistics on the total number of gallons of the types and brands of intoxicating liquor sold in the state.

The proposal would also require DOR to publish and make available on its website a current and regularly updated list of intoxicating liquor permit holders that minimally includes detailed information on the name, address, contact person, and date of permit issuance for every manufacturer and rectifier permit, winery permit, direct wine shipper's permit, intoxicating liquor wholesaler permit, and intoxicating liquor out-of-state shipper permit.

*Severability.* The proposal would specify that if any provision or clause of Chapter 125 or its application to any person or circumstance is held invalid, the invalidity will not affect other provisions or applications of the Chapter that can be given effect without the invalid

provision or application, and to this end the provisions of the Chapter are severable.

**Assembly:** Delete provisions.

**Conference Committee/Legislature:** Restore the Senate provisions with the following modifications:

#### **New Provisions on Direct Wine Shippers' Permits**

*Authorized Activities.* Delete the provision that would have specified that a signature on the delivery form of the common carrier by a person of legal drinking age would indicate acknowledgement of the delivery in writing.

*Annual Permit Fee.* Compared to the Senate provisions, reduce the annual fees that DOR is required to charge for each direct wine shipper's permit as follows: (a) for permittees that ship more than 90 liters of wine annually to individuals in this state, from \$1,000 to \$100; (b) for permittees that ship between 27 and 90 liters of wine annually to individuals in this state, from \$500 to \$50; and (c) for permittees that ship less than 27 liters of wine annually to individuals in this state, from \$100 to \$10.

*Annual Limit.* Specify that no individual in this state may receive more than 108 liters, rather than 27 liters, of wine annually under these provisions. Delete the provision that would have specified that no permittee may ship more than 27 liters of wine annually to an individual in this state and provide, instead, that each individual would be responsible for compliance with the annual limit. Specify that an individual who violated the annual limit would be subject to a warning issued by DOR for the first violation and a \$500 fine for each violation by the individual occurring after DOR had issued a warning. Provide that the annual limit would not apply to purchases made under a medicinal alcohol permit.

#### **Modifications to Alcoholic Beverage Tax Statutes Related to Direct Shipments of Wine**

Delete the provisions that would have required each person holding a direct wine shipper's permit to file an addendum to the required monthly liquor tax return, on forms furnished by DOR, including specified information about the shipper's direct wine shipments during the period. Provide, instead, that as directed by DOR: (a) such taxes are to be paid and a quarterly return is to be filed with DOR once every quarter, and (b) in addition to filing a quarterly tax return, each person holding a direct wine shipper's permit is required to file an addendum, on forms provided by DOR, that provides the same information required under the Senate provisions (which includes, at minimum, the identity, quantity, and price of all wine shipped to individuals in this state during the previous calendar month, along with the name, address, and birth date of each person who purchased the wine) and also the name of the person of legal drinking age who acknowledged delivery of the wine.

In addition, delete the following provisions: (a) the provision that would have required a direct wine shipper to also include a copy of the signature provided by the person of legal

drinking age who acknowledged delivery of the wine; and (b) a provision that would have required DOR to develop a form for recording an attestation of the delivery person who received the proof of age identification provided at the time of delivery and determined that the recipient was not intoxicated. Instead, require DOR, working with direct wine shippers' permittees, to develop forms, in both paper and electronic format, for use by such permittees in obtaining this information and complying with any other requirement under state law in connection with the direct shipment of wine.

#### **Activities Authorized Under a Wholesaler's Permit**

Delete a current law provision providing that an intoxicating liquor wholesaler's permit issued to a brewery that holds a retail "Class B" license may authorize the wholesale sale of wine only. This modification, which would be technical in nature, would provide consistency with related provisions on interest restrictions in dealings between manufacturers, rectifiers, wholesalers, and retailers (which would delete the current law provision authorizing a brewer to hold both a "Class B" license for the sale of intoxicating liquor on brewery premises and a wholesaler's permit for the sale of wine).

#### **Combination Permits**

Modify the following current law provisions pertaining to combination permits. Current law authorizes DOR to issue a combination manufacturer's and rectifier's permit and a combination rectifier's and wholesaler's permit. DOR is specifically prohibited from issuing a combination manufacturer's and wholesaler's permit. The modification would continue to authorize DOR to issue a combination manufacturer's and rectifier's permit, but would prohibit DOR from issuing both a combination manufacturer's and wholesaler's permit and a combination rectifier's and wholesaler's permit.

#### **Provisions on Shipments of Intoxicating Liquor into the State**

Modify a Senate provision providing that, with exceptions pertaining to permitted direct shipments of wine, no common carrier or other person would be permitted to transport into and deliver within this state any intoxicating liquor unless it is consigned to a person holding an in-state intoxicating liquor wholesaler's permit. Under the Senate provision, a common carrier would only be permitted to deliver intoxicating liquor to a person with an in-state wholesaler's permit (or as provided under the provisions on direct wine shippers' permits). Compared to current law, this provision would mean that a common carrier could no longer deliver intoxicating liquor to other types of non-retailer, in-state permittees.

The Conference Committee modification would, in addition to allowing deliveries to a person holding an in-state intoxicating liquor wholesaler's permit, also allow a common carrier to deliver intoxicating liquor shipped from a manufacturer or rectifier with an out-of-state shipper's permit as long as it was consigned to a person holding an in-instate manufacturer's or rectifier's permit.

## **Restrictions on Dealings Between Manufacturers, Rectifiers, Wholesalers, and Retailers**

Modify the provisions on interest restrictions in dealings between manufacturers, rectifiers, wholesalers, and retailers as follows: (a) specify that the provisions that would generally prohibit a manufacturer (whether located within or without this state) from holding any direct or indirect interest in any wholesale permit or establishment would also apply with respect to a rectifier, winery, or out-of-state shipper permittee; and (b) provide that a provision specifying that, with certain exceptions provided under a winery permit, no retail licensee could hold any direct or indirect interest in any manufacturer, rectifier, or winery would also apply with respect to an interest in an out-of-state shipper permittee.

## **Other Proposed Statutory Changes**

*Records and Reports.* Delete the Senate provisions on records and reports that would require DOR to publish and make available certain information on its website on a regular basis and, instead make a number of modifications as described below.

Change the title of the current law provision under the "Records and Reports" section from "Confidentiality" to "Confidentiality and Publications." Delete the current confidentiality provisions pertaining to intoxicating liquor, and provide, instead, that with the information provided to DOR on liquor tax returns, DOR would be required to publish the following at least once each month: (a) statistics on the total number of gallons of the types and brands of intoxicating liquor sold in this state; (b) a current and regularly updated list, made available on paper and on DOR's Internet web site, of permit holders that minimally includes detailed information on the name, address, contact person, and date of permit issuance for every manufacturer's and rectifier's permit, winery permit, direct wine shipper's permit, wholesaler's permit, and out-of-state shipper's permit; (c) a report summarizing the identity, quantity, and price of all products sold under each winery and direct wine shipper's permit; and (d) a report summarizing the sales quantity and product date available for all products sold under each intoxicating liquor wholesaler's permit issued by the state.

*Taste Samples Under a "Class A" Liquor License.* Add the following provisions that would permit certain taste samples to be offered under a "Class A" liquor license.

"Class A" Liquor Licenses. Under current law, a "Class A" license authorizes the retail sale of intoxicating liquor for consumption off the premises where sold and in original packages and containers. The proposal would create a new provision that would specify that a "Class A" license would also authorize the licensee to provide, for consumption on the "Class A" premises, certain taste samples of intoxicating liquor, other than wine. Such samples would have to be free of charge, could not be in the original packages or containers, and could not exceed 0.5 fluid ounces each. In addition, the samples could only be provided to customers and visitors that had attained the legal drinking age.

The proposal would specify that no "Class A" licensee would be authorized to provide

more than three of such taste samples per day to any one person, and that such taste samples could only be provided between the hours of 11 a.m. and 7 p.m. In addition, the proposal would provide that: (a) any other provision of Chapter 125 (which pertains to the regulation of alcohol beverages) applicable to retail sales of intoxicating liquor, other than wine, by a "class A" licensee would also apply to the provision of such taste samples; (b) that no "Class A" license would be permitted to provide taste samples under these provisions that such licensee did not purchase from a wholesaler; and (c) that the authorization provided to such a licensee under these provisions would be in addition to an exception for a "Class A" license for wine sampling on "Class A" premises.

Manufacturers' and Rectifiers' Permits. The proposal would create a new provision providing that a manufacturer or rectifier, or an individual representing a manufacturer or rectifier, would be permitted to provide taste samples on "Class A" premises, subject to certain provisions, which the proposal would create, related to restrictions on dealings among the tiers within the liquor distribution system.

Liquor Wholesalers' Permits. The proposal would create a new provision providing that wholesalers holding a state liquor wholesaler permit, along with employees of such wholesalers and individuals representing such wholesalers, would be prohibited from providing or participating in providing the taste samples that would be authorized under the proposal.

Restrictions on Dealings Among Tiers Within the Liquor Distribution System. The proposal would provide that, with the consent of the "Class A" licensee, a manufacturer or rectifier would be permitted to provide, free of charge and on "Class A" premises, taste samples of intoxicating liquor as authorized and limited under a "Class A" license that would be created under the proposal. No manufacturer or rectifier would be permitted to provide as taste samples any intoxicating liquor that the manufacturer or rectifier did not purchase from the "Class A" licensee on whose premises the samples were provided. The proposal would specify that all of these provisions that apply to a manufacturer or rectifier would apply equally to any individual representing a manufacturer or rectifier.

In addition, the proposal would provide that a manufacturer or rectifier would be permitted to provide such taste samples through an individual representing the manufacturer or rectifier if: (a) the individual is hired by the manufacturer or rectifier; and (b) the individual is not employed by, or an agent of, a wholesaler. All of the provisions that apply to a manufacturer or rectifier (as described in the preceding paragraph) would also apply in the case of an individual representing a manufacturer or rectifier.

**Veto by Governor [F-1]:** Delete provisions.

[Act 20 Vetoed Sections: 2757r, 2759c, 2759cm, 2759d thru 2759u, 2759v thru 2759x, 2780b, 2780d thru 2780f, and 9441(13d) as it relates to s. 139.11(4)(a)]

#### 4. EXCEPTION TO QUOTAS ON "CLASS B" INTOXICATING LIQUOR LICENSES

**Assembly:** Amend current law as it applies to an exception for quotas for "Class B" intoxicating liquor licenses for full-service restaurants.

With exceptions, current law imposes certain quotas on retail "Class B" intoxicating liquor licenses. A "Class B" intoxicating liquor license allows retail sales of liquor (including wine) for consumption on the premises, and wine in original containers for consumption off the premises. In addition, if the community elects to, it may permit the sale of not more than four liters of intoxicating liquor (there are no limits on wine), in the original container, for consumption off the premises. Current state law provides certain exceptions from municipal quotas related to the number of "Class B" licenses that may be issued, including an exception for a full-service restaurant that has a seating capacity of 300 or more persons.

For purposes of the statutes regulating alcoholic beverages, the proposal would create a definition of a "full-service restaurant" as an establishment where meals are prepared, served, and sold to transients or the general public for consumption on the premises and in which the sale of alcoholic beverages accounts for 50% or less of the establishment's gross receipts for the most recent alcoholic beverage licensing year. The current exception to quotas on "Class B" licenses for a full-service restaurant that has a seating capacity of 300 or more persons would be modified to refer, instead, to a full-service restaurant. The proposal would also specify the following:

a. Notwithstanding the general provisions pertaining to a "Class B" license, such a license authorized under these provisions would authorize the retail sale of liquor only on the premises where sold.

b. If such a license were surrendered to the issuing municipality, revoked, or not renewed, the municipality would not be allowed to reissue the license to any applicant other than a full-service restaurant.

c. A person holding a "Class B" license, other than one issued under these provisions, that is surrendered, revoked, or not renewed, would be prohibited from applying for a "Class B" license under these provisions.

The proposal would take effect on the general effective date of the budget bill, and would not have a state fiscal effect.

**Conference Committee/Legislature:** Delete provision.

#### 5. SALES OF BEER, WINE, AND LIQUOR AT THE NATIONAL RAILROAD MUSEUM

**Senate/Legislature:** Authorize a caterer with a license to sell beer and/or intoxicating liquor (including wine) at retail for on- and off-premises consumption to sell beer and/or intoxicating liquor at the National Railroad Museum in Green Bay for special events held at the



Museum.

Provide that, for purposes of this provision, a "caterer" would mean any person holding a state restaurant permit who is in the business of preparing food and transporting it for consumption on premises where gatherings, meetings, or events are held, if the sale of food at each gathering, meeting, or event accounts for greater than 50% of the gross receipts of all the food and beverages served at the gathering, meeting, or event.

Provide that a Class "B" license for the retail sale of beer for on-premises or off-premises consumption would also authorize a caterer to provide beer, including the retail sale of beer, at the National Railroad Museum in Green Bay during special events held at the museum, notwithstanding the provisions under current law that specify the following: (a) each application for an alcoholic beverage license or permit must specify the premises where the alcoholic beverages will be sold or stored or both; (b) with certain exceptions, retailers and other alcoholic beverage licensees and permittees must have a separate permit or license covering each location or premises from which deliveries and sales of alcoholic beverages are made or at which alcoholic beverages are stored; and (c) with certain exceptions, owners, lessees, or persons in charge of a public place may not permit the consumption of alcoholic beverages on the premises of the public place unless the person has an appropriate retail license or permit.

In addition, provide that, notwithstanding current provisions that authorize municipal governing bodies to issue a Class "B" license for the sale of beer from a premise within the municipality to be consumed either on the premises where sold or off the premises, a caterer may provide beer at any location at the National Railroad Museum even though the National Railroad Museum is not part of the caterer's licensed premises and even if the Museum is not located within the municipality that issued the caterer's license. Specify that a caterer providing beer under these provisions would be subject to certain provisions related to premises operated under a Class "B" license as if the beer were provided on the caterer's Class "B" licensed premises.

Specify that these provisions would not authorize the National Railroad Museum to sell beer at retail or to procure or stock beer for purposes of retail sale. In addition, specify that all of the provisions described above with respect to sales of beer by a caterer at the National Railroad Museum in Green Bay would not apply if, at any time, the Museum held a Class "B" license.

Provide parallel provisions related to a "Class B" license to sell intoxicating liquor (which includes wine but does not include beer).

Specify that these provisions, which would not have a state fiscal effect, would take effect on the general effective date of the bill.

[Act 20 Sections: 2757w, 2759ce, and 2759cs]

## 6. BREWPUB PERMITS

**Conference Committee/Legislature:** Create a brewpub permit, issued by the Department of Revenue, authorizing a brewpub -- together with up to five other members in a brewpub group -- to manufacture a combined total of up to 10,000 barrels of beer annually and to transport the beer to any other brewpub premises or Class "B" premises (which are authorized to sell beer for on-premises consumption at retail) of the brewpub group.

Provide that a brewpub permit authorizes the sale of the brewpub's beer to wholesalers and, to a limited extent, to retailers outside the brewpub group, and the sale of alcohol beverages at retail at a restaurant on the brewpub premises in accordance with the terms of any municipal beer or liquor licenses held by the brewpub. In addition, delete provisions under prior law pertaining to small brewers, and specify that no person issued a brewer's permit after the effective date of these provisions may hold a state restaurant permit.

Specify that these provisions take effect on November 25, 2007. The provisions are not expected to have a significant fiscal effect.

### BACKGROUND

Under state law, alcohol beverages are generally distributed to consumers under a three-tier distribution system: the manufacturer may sell only to a wholesaler or rectifier; the wholesaler or rectifier may sell only to a wholesaler or to a retailer; and the retailer may sell only to the consumer. With specific exceptions, no person may sell outside of the three-tier system.

The following information describes state law as it applied with respect to brewers and the three-tier distribution system prior to the effective date of the modifications enacted under Act 20. State law defined a brewer as a person who manufactures beer for sale or transportation. A brewer's permit authorized certain exceptions to the three-tier system. A brewer could obtain a municipally issued wholesaler's license authorizing the brewer to sell beer (including both beer brewed by the brewer selling the beer as well as others) to wholesalers or retailers. A brewer could also hold a retail Class "A" license for the sale of beer for off-premises consumption but, with an exception for grandfathered licenses, could not hold both a wholesaler's and a Class "A" retail license. State law was interpreted to require a brewer to hold a wholesaler's license in order to sell its own beer at wholesale.

With exceptions, a brewer was not permitted to hold a retail Class "B" beer license for sales of beer for on- and off-premises consumption. One exception was that a brewer was permitted to maintain and operate, and hold Class "B" licenses for, one place on brewery premises and one place on another property owned by the brewer or a subsidiary or affiliate. In addition to these two Class "B" licenses, a "small brewer" (generally one that manufactured less than 4,000 barrels of beer annually) was permitted to possess a Class "B" license for not more than four restaurants under the following conditions: (a) the sale of alcohol beverages accounted for less than 50% of gross receipts; (b) the restaurant also sold other brewers' beer;

and (c) the brewer's own beer was purchased by the restaurant from an independent wholesaler. In addition to the two Class "B" licenses allowed for all brewers, a brewer other than one also possessing a Class "B" license under the "small brewer" provisions was authorized to hold an indirect interest in a Class "B" license for not more than 20 restaurants under the following conditions: (a) in each of the restaurants, the sale of alcohol beverages accounted for less than 60% of the restaurant's gross receipts; and (b) no beer manufactured by the brewer was offered for sale in any of the restaurants.

A "Class B" license authorizes the retail sale of intoxicating liquor for consumption on or off the licensed premises. (However, the authorization for sales for off-premises consumption is subject to certain limitations, some of which depend on whether the issuing municipality has adopted an ordinance related to "Class B" licenses.) Because a "Class B" license may be issued only to the holder of a Class "B" license, a brewer was also limited in the number of "Class B" licenses it could hold.

Under state law, beer could not be sold, transported, or delivered to a Class "A" licensee or Class "B" licensee unless the beer was first unloaded at and distributed from a licensed beer wholesaler's warehouse, which generally had to be at a location physically separate from any retail premises or brewery premises. However, there were a number of exceptions to this prohibition, including exceptions that applied to certain brewers holding wholesale and retail licenses or manufacturing 50,000 barrels of beer or less annually. Also, deliveries of beer to retailers could be made only by licensed wholesalers and could be made to retailers only at their retail premises. No retailer could transport beer from one retail premises to another retail premises to sell it unless a brewer operated both retail premises. State law also required, with limited exceptions, that beer wholesalers enter into written agreements with brewers supplying beer brands granting to the wholesalers distribution rights within exclusive designated sales territories, and further imposed requirements on the termination of such agreements. A brewer, in providing beer to its own retail premises, was not subject to restrictions on the sale, transportation, and delivery of beer generally applicable to wholesalers and retailers.

## **MODIFICATIONS UNDER ACT 20**

The modifications to prior law pertaining to brewers and the creation of a brewpub permit under Act 20 are described below.

### **Modifications to Chapter 125 -- "Alcohol Beverages"**

#### *Definitions and References*

Create the following definitions under Chapter 125 of the Wisconsin statutes, which pertains to the regulation of alcoholic beverages:

a. A "brewer group" means a brewer, including all premises for which the brewer holds a brewer's permit, together with all of the following: (1) all brewers that share membership with the brewer in a controlled group of brewers, as determined under related

federal provisions; (2) all brewers considered with the brewer as one taxpayer under federal regulations; (3) all franchisees of the brewer; (4) all franchisees of the brewer's franchisor; and (5) the franchisor of the brewer.

b. A "brewpub" means a permittee holding a brewpub permit issued by DOR.

c. A "brewpub group" means a brewpub, including all premises for which the brewpub holds a brewpub permit, together with all of the following: (1) all brewpubs that share membership with the brewpubs in a controlled group of brewpubs, as determined under related federal provisions; (2) all brewpubs considered with the brewpub as one taxpayer under federal regulations; (3) all franchisees of the brewpub; (4) all franchisees of the brewpub's franchisor; and (5) the franchisor of the brewpub.

d. A "brewpub premises" means any premises covered by a brewpub permit.

In addition, provide that a "brewer" does not include a permittee holding a brewpub permit.

Modify certain provisions under prior law that referred to a brewer (and/or to a brewer's permit) to also refer to a brewpub (and/or to a brewpub permit), including provisions related to the following: (a) the definition of a "wholesaler;" (b) a requirement that, with exceptions, wholesalers, manufacturers, rectifiers, brewers, and retailers must have a separate permit or license covering each location or premises from which deliveries and sales of alcohol beverages are made or at which alcohol beverages are stored; and (c) permissible possession of alcohol beverages in the course of employment by underaged persons.

In addition, as is the case with respect to employees of beer and liquor wholesalers, provide that a municipality may not prohibit employees of a person holding a brewpub permit, with respect to the permittee's own retail premises, from being present on the premises when the premises are not open for business if those persons are performing job-related activities on premises operating under a retail license or permit to sell beer or liquor.

#### *Brewpub Permit*

Require DOR to issue brewpub permits to eligible applicants authorizing all of the following:

a. The manufacture of beer on the brewpub premises if the entire manufacturing process occurs on these premises and not more than 10,000 barrels of beer are manufactured in a calendar year by the permittee's brewpub group.

b. The bottling on brewpub premises of beer that has been manufactured on the premises.

c. The packaging in refillable containers exceeding 24 ounces in volume, at the request of a customer and on brewpub premises, of beer that has been manufactured on the premises.

- d. The possession and storage of any beer on brewpub premises.
- e. The transportation of beer that has been manufactured on the brewpub premises between these premises and any other brewpub premises or Class "B" premises of the brewpub group.
- f. The sale at wholesale, shipment, transportation, and delivery, in original unopened packages or containers, to wholesalers, from the brewpub premises, of beer that has been manufactured on the premises or on other brewpub premises of the brewpub (subject to certain distribution restrictions that require written agreements on wholesaler distribution rights and designated sales territories, as is the case with respect to such transactions conducted by brewers and out-of-state shippers with wholesalers).
- g. The sale at wholesale, shipment, transportation, and delivery, in original unopened packages or containers, to retailers, from the brewpub premises, of beer that has been manufactured on the premises or on other brewpub premises of the brewpub. A brewpub's brewpub group may not sell, ship, transport, or deliver more than a total of 1,000 barrels of beer in any calendar year to retailers under these provisions. Beer provided by a brewpub to any retail premises for which the brewpub group holds a retail license is not included in any calculation of the 1,000-barrel limitation. Deliveries and shipments of beer by a brewpub under these provisions may be made to retailers only at their retail premises. No retailer receiving such a delivery or shipment may further transport the delivery or shipment to any other retail premises unless both retail premises are operated by a brewpub holding the retail licenses. [This provision is comparable to existing provisions permitting further transport of beer between two retail premises operated by a brewer holding both retail licenses.]
- h. The sale of alcohol beverages at retail at a restaurant on the brewpub premises in accordance with the terms of any retail Class "B" beer license, "Class B" liquor license, or "Class C" liquor license held by the brewpub (in accordance with the eligibility requirements for applying for a brewpub permit, described below) for such a restaurant.
- i. Notwithstanding certain restrictions that would otherwise apply (related to furnishing things of value to retailers), the ownership, maintenance, and operation of places for the sale of beer at the state fair park or on any county fairgrounds located in this state if the beer has been manufactured by the brewpub. [This provision is comparable to existing provisions pertaining to brewers.]

Provide that an applicant is eligible for a brewpub permit only if all of the following apply:

- a. The applicant's brewpub group manufactures a total of not more than 10,000 barrels of beer in a calendar year.
- b. The applicant's entire process for manufacturing beer under the permit occurs on the premises for which the permit is issued. If the applicant holds more than one brewpub

permit, the applicant is not required to manufacture beer on each premises for which a brewpub permit is issued.

c. The applicant operates a restaurant on the premises for which the permit is issued, for which a state restaurant permit has been issued.

d. The applicant holds a retail Class "B" beer license for the restaurant identified in "c" and offers for sale on the premises, in addition to beer manufactured by the applicant, beer manufactured by a brewer other than the applicant and its brewpub group. The applicant must also hold a valid business tax registration certificate.

e. Neither the applicant nor the applicant's brewpub group holds, or has a direct or indirect ownership interest in a premises operating under, any of the following: (1) a retail Class "A" beer license; (2) a retail Class "B" beer license, except as otherwise authorized under a brewpub permit for a restaurant on the brewpub's premises; (3) a beer wholesaler's license; (4) a brewer's permit; (5) a retail "Class B" liquor license or permit or a retail "Class C" liquor license, except as otherwise authorized under a brewpub permit for a restaurant on the brewpub's premises; or (6) an alcohol beverage warehouse permit.

Specify that, if an applicant for a brewpub permit has no current operations, the applicant may certify that the applicant has applied for or will apply for a retail Class "B" beer license or restaurant permit or will comply with any other requirement for eligibility for a brewpub permit prior to or upon commencing operations as a brewpub. Provide that if a Class "B" license or restaurant permit is not subsequently issued to the applicant, or if the applicant otherwise fails to comply with any requirement for eligibility for a brewpub permit, DOR may revoke the brewpub permit.

In addition, specify that if an applicant for a brewpub permit holds any license or permit prohibited under a brewpub permit at the time of its application, the applicant may certify that the applicant will surrender any such license or permit upon issuance of a brewpub permit. If DOR were to issue a permit under this provision and the applicant failed to surrender any license or permit prohibited under these provisions, DOR could revoke the brewpub permit. Under certain conditions, an applicant is not required to surrender a retail Class "B" beer license held by the applicant as permitted under current law provisions pertaining to multiple licenses and permits for brewers if the applicant's continued possession of such a license is consistent with related requirements under a brewpub permit.

Specify that a brewpub group may not hold more than six brewpub permits, and that a brewpub may not hold a Class "B" beer license other than one issued for a restaurant on the brewpub premises. In addition, provide that each Class "B" license must be issued for the brewpub's restaurant in the same name as the brewpub permittee (notwithstanding certain provisions that prohibit, with exceptions, the issuance of a Class "B" license to a person acting as an agent for, or in the employ of, another).

Provide that, notwithstanding certain provisions that generally prohibit a brewpub from

providing items of value to beer retailers (and that also restrict brewers and wholesalers from furnishing items of value to beer retailers), a brewpub may own the furniture, fixtures, fittings, furnishings, and equipment on the Class "B" premises and must pay any license fee or tax required for the operation of the premises. (Similar treatment also applies with respect to brewers.)

In addition, subject to the requirements pertaining to retail "Class B" and "Class C" liquor licenses, specify that a brewpub may also hold "Class B" and "Class C" licenses, but only for restaurants on brewpub premises. Provide that the fee established by DOR for a brewpub permit may not exceed the fee established by the Department for a brewer's permit.

Require the Department of Revenue to promulgate rules and prescribe forms to ensure strict compliance with the requirements under the provisions on brewpub permits.

*Restrictions on Permits and Licenses Issued to a Person Holding a Brewpub or a Brewer's Permit*

Specify the following restrictions on the issuance of certain permits and licenses to a person holding a brewpub permit:

a. Specify that a Class "A" beer license (which is a municipal license for the retail sale of beer for off-premises consumption) may not be issued to a person holding a brewpub permit or to a person who has a direct or indirect ownership interest in a premises operating under a brewpub permit. [With an exception for grandfathered licenses, a brewer may hold either a Class "A" beer license or a wholesaler's license, but not both.]

b. Modify a prior law provision specifying that, with specific exceptions, a retail Class "B" beer license for the retail sale of beer to be consumed either on or off the premises where sold may not be issued to brewers to provide a similar restriction in the case of brewpubs (with the exception described above under the provisions on brewpub permits).

c. Provide that a wholesaler's license may not be issued to a person holding a brewpub permit or to a person who has a direct or indirect ownership interest in a premises operating under a brewpub permit. [This provision would contrast with the treatment of brewers under both prior and current laws, which permit a brewer to also hold a wholesale license.]

d. Specify that no person holding a brewpub permit may register as a brewer.

*Provisions Related to Multiple Licenses and Permits for Brewers*

Modify a prior provision permitting a brewer to maintain and operate, and hold Class "B" licenses for, one place on brewery premises and one place on another property owned by the brewer or a subsidiary or affiliate to delete the requirement that the second property be owned by the brewer or a subsidiary or affiliate. Create a new provision prohibiting a person issued a brewer's permit after the effective date of these provisions from also holding a state restaurant

permit.

Delete the definition under prior law of a "small brewer" as a brewer that, together with the beer manufactured during the same year by all of the following, manufactures less than 4,000 barrels of beer annually: (a) all brewers that share membership with the brewer in a controlled group of brewers, as determined under related federal provisions; (b) all brewers considered with the brewer as one taxpayer under federal regulations; (c) all franchisees of the brewer; (d) all franchisees of the brewer's franchisor; and (e) the franchisor of the brewer. [It should be noted that, while Act 20 deleted the definition of a small brewer, the entities previously identified under such definition (under "a" through "e," above) were incorporated into the new definition of a "brewer group."]

Delete related provisions that previously: (a) permitted a small brewer to possess a Class "B" license for not more than four restaurants in each of which the sale of alcohol beverages accounted for less than 50% of the restaurant's gross receipts and in which beer manufactured by a brewer other than the small brewer who possessed the Class "B" license was offered for sale; and (b) provided that no restaurant whose Class "B" license was issued to a small brewer could sell beer manufactured by the small brewer unless the restaurant purchased the beer from a wholesaler that had no direct or indirect ownership interest in the brewery that manufactured the beer.

In addition, delete cross references to the provisions on small brewers (which the act deleted) that had been included under other provisions on multiple licenses and permits for brewers.

#### *General Restriction and Requirements Related to Beer*

Modify certain provisions under prior law that required signs with brand names near taps at retail Class "B" beer premises and also required beer labels on barrels, kegs, casks, bottles, or other containers of beer to identify the brewer that manufactured the beer to specify, instead, that such signs and labels must identify the brewer or the brewpub that manufactured the beer.

#### *Restrictions on Dealings Between Brewers, Brewpubs, Wholesalers, and Retailers*

Modify a prior law section pertaining to restrictions on dealings between brewers, wholesalers, and retailers to provide related restrictions with respect to brewpubs as follows:

General Restrictions on Furnishing Items of Value. Modify existing provisions that specify, with exceptions, that: (a) no brewer or wholesaler may furnish, give, lend, lease, or sell any furniture, fixtures, fittings, equipment, money, or other things of value to any campus or Class "B" beer licensee or permittee, or to any person for the use, benefit, or relief of any campus of Class "B" licensee or permittee, or guarantee the repayment of any loan or the fulfillment of any financial obligation of any campus or Class "B" licensee or permittee; and (b) such actions may not be taken by the brewer or wholesaler directly or indirectly, or through a subsidiary or



affiliate corporation or limited liability company, or by any officer, director, stockholder, partner, or member thereof. Provide that such restrictions also apply with respect to a brewpub, except as provided under the new provisions on brewpub permits allowing a brewpub to own the furniture, fixtures, fittings, furnishings, and equipment on a Class "B" premises for which the brewpub holds a Class "B" license.

Exceptions to Restrictions on Furnishing Items of Value. Specify that existing provisions providing exceptions to the restrictions described above (including general exceptions as well as exceptions specific to retail trade association contributions) related to brewers or to brewers and wholesalers also apply with respect to a brewpub.

Volume Discounts to Retailers. Provide that the following existing provisions that apply with respect to beer wholesalers also apply with respect to the maximum 1,000 barrels annually that a brewpub permit authorizes a brewpub to sell at wholesale to retailers from the brewpub premises: (a) beer wholesalers must charge the same price to all campuses and retail licensees and permittees making purchases in similar quantities; and (b) any discount offered on beer must be delivered to the retailer in a single transaction and single delivery and on a single invoice.

Retail Purchase Credit Restrictions. Provide that existing retail purchase credit restrictions related to purchases of beer by retail licensees or permittees from licensees or permittees also apply with respect to such purchases from a brewpub acting under its authority to sell up to 1,000 barrels annually at wholesale to retailers from brewpub premises. In addition, provide that limitations on purchases of beer and issuances of retail Class "A" and Class "B" licenses or permits based on indebtedness to a beer licensee or permittee also apply with respect to indebtedness to a brewpub.

Modify an existing provision providing that, for purposes of the retail purchase credit restrictions, a person holding both a beer wholesale license and a beer retail license is deemed a beer retailer. Provide that, for purposes of these provisions, when acting under authority of a retail license with respect to beer not manufactured by the brewpub, a brewpub is deemed a beer retailer. Specify, however, that the provision does not affect the retail purchase credit provisions with respect to a brewpub acting under its authority to sell up to 1,000 barrels annually at wholesale to retailers from the brewpub premises.

In addition, modify a provision specifying that no brewer or wholesaler may be subjected to any penalty as the result of the sale of beer to a campus or retail licensee or permittee when purchased by the campus or retail licensee or permittee in violation of retail purchase credit restrictions to also specify that a brewpub may not be subjected to a penalty under such circumstances.

Exclusive Sales by Wholesalers. Modify an existing provision that states that a wholesaler may not sell or offer to sell a brand of beer exclusively to one Class "A" licensee or to a group of Class "A" licensees affiliated through common ownership, management, or control, with an

exception for a brand beer produced by a brewer that produces less than 300,000 barrels of beer in a calendar year. Provide that the exception to this restriction also applies in the case of beer produced by a brewpub.

Campuses and Retailers to Purchase from Wholesalers. Modify existing law to provide that a current provision specifying that no campus or retail licensee or permittee may purchase or possess beer purchased from any person other than a licensed beer wholesaler does not apply in the case of a brewpub selling up to 1,000 barrels annually at wholesale to retailers from the brewpub premises (as authorized under a brewpub permit).

Additional Provisions. Specify that, for the purpose of certain additional restrictions on dealings between the tiers of the beer distribution system, prior law provisions applicable to a brewer or a brewer's agent also apply with respect to a brewpub or a brewpub's agent. Such provisions concern: (a) conditional purchases of beer; (b) compensation for termination of wholesaler distribution rights; and (c) permissible sources of beer for certain types of sales by wholesalers.

*Distribution Restrictions on Wholesalers, Brewers, Brewpubs, and Out-of-State Shippers*

Modify provisions pertaining to distribution restrictions on wholesalers, brewers, and out-of-state shippers to include restrictions pertaining to brewpubs. Provide that wherever the term "brewer" appears, the term "brewpub" is also added to the following: (a) the title of the section; (b) definitions of "brand" and "designated sales territory;" (c) provisions requiring written agreements between a wholesaler and a brewer or an out-of-state shipper pertaining to distribution rights for specified brands of beer; (d) provisions requiring exclusivity of the distribution rights for a designated sales territory; and (e) provisions that prohibit, with exceptions, sales by wholesalers to retailers located outside of a designated sales territory for a particular brand.

Modify existing provisions that generally require beer to be unloaded at a wholesaler's warehouse premises covered by both a wholesaler's license and an alcohol beverage warehouse permit before being delivered to a retailer to provide exceptions related to the following activities authorized under a brewpub permit: (a) the sale at wholesale, shipment, transportation, and delivery, in original unopened packages or containers, to wholesalers, from the brewpub premises, of beer that has been manufactured on the premises or on other brewpub premises of the brewpub; and (b) the sale of up to 1,000 barrels of beer in any calendar year (in addition to beer delivered by the brewpub to any retail premises for which the brewpub group holds a retail license) at wholesale, shipment, transportation, and delivery, in original unopened packages or containers, to retailers, from a brewpub premises, of beer that has been manufactured on the premises or on other brewpub premises of the brewpub. In addition, add a reference in this section to existing exceptions from the provisions with respect to brewers and out-of-state shippers.

Provide the same exceptions as those described in the preceding paragraph with respect

to existing provisions specifying that: (a) deliveries of beer to retailers may be made only by wholesalers and must be made to retailers only at their retail premises; and (b) no retailer may transport beer from one retail premises to another retail premises for purposes of selling the beer at the other retail premises unless both retail premises are operated by a brewer. In addition, specify that the exception under "b" also applies when both retail premises are operated by a brewpub.

*Restrictions on Dealings Between Intoxicating Liquor Manufacturers, Rectifiers, Wholesalers, and Retailers*

Create a new provision pertaining to restrictions on dealings between manufacturers, rectifiers, wholesalers, and retailers stating that, except as authorized under a brewpub permit, no brewpub may hold any direct or indirect interest in any "Class B" liquor license or permit or establishment or a "Class C" liquor license or establishment. A brewpub permit (as created under the act) authorizes a brewpub to hold retail "Class B" and "Class C" liquor licenses, subject to general provisions pertaining to such licenses, but only for restaurants on brewpub premises.

*Severability.* Specify that if any provision or clause of Chapter 125 or its application to any person or circumstances is held invalid, the invalidity will not affect other provisions or applications of the Chapter that can be given effect without the invalid provision or application, and to this end the provisions of the Chapter are severable.

**Modifications to Chapter 139 -- "Beverages, Controlled Substances, and Tobacco Taxes"**

Make the following changes to general definitions under Chapter 139 of the statutes: (a) modify the definition of a "bottler" as a person, other than a brewer, who places beer in bottles or similar containers to also exclude a brewpub that places beer in bottles or similar containers; (b) clarify that a "brewer" does not include a permittee holding a brewpub permit; and (c) define "brewpub" and "brewpub premises" through references to such terms in Chapter 125 (as created under the act).

Modify a current exclusion from the state's occupational tax on beer in respect to a brewer's furnishing of beer to workmen employed in the brewery for consumption on the brewery premises without charge to specify that the exclusion also applies with respect to a brewpub and brewpub premises.

Specify that the existing law provisions under Chapter 139 pertaining to powers and duties of the Secretary of DOR, registration, records and reports, presumptions from possession, and confiscation, as they relate to brewers and brewery production, also apply with respect to brewpubs and brewpub production.

### Additional Modifications

Specify that a provision under Chapter 346 of the statutes, "Rules of the Road," that provides an exception to a general prohibition against underage persons knowingly having alcohol beverages in any motor vehicle unless the person is employed by a brewer, an alcohol beverage licensee, wholesaler, retailer, distributor, manufacturer, or rectifier, subject to certain provisions of Chapter 125, also apply in the case of a person employed by a brewpub.

[Act 20 Sections: 2757t thru 2757tm, 2757we thru 2757ws, 2759b, 2759ca, 2759cb, 2759cec thru 2759cLh, 2759um, 2777g, 2777r, 2780cd thru 2780cj, 2780m, 2780p, 3425m, and 9441(13d)]

### Miscellaneous Taxes

#### 1. REAL ESTATE TRANSFER FEE AND COUNTY AID FUND [LFB Paper 345]

	Governor (Chg. to Base)	Legislature (Chg. to Gov)	Net Change
GPR-REV	-\$124,000,000	\$124,000,000	\$0
SEG-REV	\$266,100,000	-266,100,000	0

**Governor:** Increase the real estate transfer fee (RETF) upon grantors (sellers) of real estate from \$3.00 to \$6.00 per \$1,000 of value transferred. Also, increase the percentage of collections of the RETF retained by the state from 80% to 90% and decrease the county share from 20% to 10%. Specify that these provisions are effective with conveyances of real estate recorded on the first day of the second month beginning after publication of the budget act. (The proposed language should be clarified to achieve this intent.)

The bill would also provide that all proceeds from the real estate transfer fee are to be deposited in the segregated county aid fund (which would be created under the bill), rather than to the general fund (as is the case under current law). This provision is intended to first apply to RETF collections starting in 2007-08. (The proposed language should be clarified to achieve this intent.)

The county aid fund would be used to fund aid payments under the shared revenue, county and municipal aid, circuit court support grants, and youth and family aids programs and a transfer to the affordable housing trust fund. Other entries related to the county aid fund are located under "Circuit Courts," "Commerce," "Corrections," "Miscellaneous Appropriations," and "Shared Revenue and Tax Relief."

Under current law, the state share of revenues from the RETF is estimated at \$62,000,000 in each year of the 2007-09 biennium. The administration estimates that, under the proposed

increases in the rate and percentage of the state share of the RETF, state RETF revenues would increase by \$64,600,000 in 2007-08 and \$77,500,000 in 2008-09, to a total of \$126,600,000 and \$139,500,000 in the first and second years, respectively. The estimated county share of collections, statewide, would remain at \$15,500,000 in each year.

Based on the proposal to deposit the RETF to the segregated county aid fund rather than the general fund, the fiscal effects of the provisions are estimated as follows: (a) general fund tax revenues would be reduced by \$62,000,000 in each year; and (b) segregated revenues in the county aid fund would total \$126,600,000 in 2007-08 and \$139,500,000 in 2008-09.

It should be noted that, while the proposed increase in the RETF would generally first apply on the first day of the second month after publication of the budget bill, the bill would specify that the rate increase would not apply to conveyances pursuant to a recorded land contract entered into before August 1, 1992. This provision reflects the current treatment of such land contracts, for which current law (as clarified through the administrative code) defers the RETF until a deed in satisfaction of the land contract is recorded by the purchaser. At that time, the RETF, based on the terms of the land contract, is due. For consistency with the current treatment of such land contracts, the budget provision would exempt a recorded land contract entered into before August 1, 1992, from the proposed increase in the fee. In the absence of this provision, even though the RETF is imposed on the seller of real estate, the buyer of such a land contract would have to pay the higher RETF at the time of recording the deed in satisfaction of the contract.

**Joint Finance:** Approve the Governor's proposal, with technical modifications to clarify that the proposed rate increase and change in the county and state shares of the RETF would first apply on the first day of the second month after publication of the bill, and that the deposit of state RETF collections to the county aid fund would apply with respect to state RETF collections for 2007-08 and thereafter.

**Assembly:** Delete provisions. Instead, for conveyances of real estate recorded in 2010-11, reduce the rate of the RETF from \$3 per \$1,000 of value transferred to \$2 per \$1,000 of value, and reduce the state share of the fee from the current rate of 80% to 60% and increase the county share from 20% to 40%. For conveyances recorded during 2011-12 and thereafter, reduce the rate of the RETF to \$1 per \$1,000 of value, and specify that the counties would retain 100% of the fee. Provide that, with respect to state tax revenues from the RETF through 2010-11, the state share of the RETF would continue to be deposited to the general fund, as under current law.

Compared to the Joint Finance budget, it is estimated that the Assembly proposal would have the following effects: (a) increase general fund tax revenues by \$62,000,000 in 2007-08 and 2008-09 and by \$31,000,000 in 2010-11; and (b) reduce estimated deposits to the proposed county aid fund by \$126,600,000 in 2007-08 and by \$139,500,000 in 2008-09 and annually thereafter.

Compared to current law, the Assembly proposal would have no effect on general fund

tax revenues in the 2007-08, 2008-09, or 2009-10. However, general fund tax revenues in 2010-11 would be reduced by \$31,000,000, compared to current law, and by \$62,000,000 in 2011-12 and annually thereafter.

Under the Assembly proposal, county revenues from the RETF would be maintained at the current law estimates of \$15,500,000 annually in 2007-08, 2008-09, and 2009-10. County revenues from the fee would increase by an estimated \$5,200,000 in 2010-11 and \$10,300,000 in 2011-12 and annually thereafter.

All of the out-year estimates are in 2008-09 dollars.

**Conference Committee/Legislature:** Delete provisions and maintain current law.

**2. REPEAL SUNSET OF GROSS REVENUES TAX RATE ON WHOLESALE ELECTRICITY SALES**

**Joint Finance/Legislature:** Repeal current law provisions that sunset the 1.59% tax rate on revenues from the sale of electricity for resale and extend the 1.59% tax rate indefinitely under the state's gross revenues taxes on light, heat, and power companies and electric cooperatives. Under current law, light, heat, and power companies and electric cooperatives are subject to a state license fee imposed at a rate of 3.19% on revenues from the sale of electricity. However, as a result of 2001 Wisconsin Act 16, gross revenues from the sale of electricity for resale that occur from January 1, 2004, through December 31, 2009, are taxed at a rate of 1.59%. This coincides to the state license fees assessed between May 1, 2005, and May 1, 2010. Beginning with the 2011 license fee, imposed on revenues received in 2010, revenues from the sale of electricity for resale will be taxed at a rate of 3.19%. This provision repeals the sunset and retains the 1.59% rate imposed on revenues from the sale of electricity for resale. No fiscal effect is reflected in the 2007-09 biennium because this provision would first affect license fee payments in May, 2010. However, state license fees would be reduced by an estimated \$9 million in 2009-10 and \$18 million annually thereafter.

[Act 20 Sections: 2161g and 2161h]

## **Tax Administration**

**1. TAX SHELTER COMPLIANCE INITIATIVE [LFB Paper 350]**

GPR-REV \$10,200,000

**Governor:** Implement a system to require taxpayers and tax advisors to report certain types of transactions that may indicate the existence of tax shelters. Penalties would be imposed

for engaging in and failure to report on such activities. DOR could waive or abate penalties under a voluntary compliance program. The specific provisions of the compliance initiative are described in the following sections.

### Definitions

"Listed transaction" would mean any reportable transaction that was the same as, or substantially similar to, a transaction, plan, or arrangement specifically identified by the U. S. Secretary of the Treasury as a listed transaction, for the purposes of section 6011 of the IRC (relating to tax shelter transactions), that occurred on or after January 1, 2002, and that was specifically identified by the U. S. Secretary of the Treasury as a listed transaction on or after the date the transaction occurred.

"Material advisor" would be defined as any person who provided any material aid, assistance, or advice with respect to organizing, managing, promoting, selling, implementing, insuring, or carrying out any reportable transaction and who, directly or indirectly, derived gross income from providing such aid, assistance, or advice in an amount that exceeded the following thresholds:

- a. \$50,000, in the case of a reportable transaction, not including a listed transaction, from which a substantial part of the tax benefits are provided to an individual.
- b. \$10,000, in the case of a listed transaction, from which a substantial part of the tax benefits are provided to an individual.
- c. \$250,000, in the case of a reportable transaction, not including a listed transaction, from which a substantial part of the tax benefits are provided to an entity, and not an individual.
- d. \$25,000 in the case of a listed transaction, from which a substantial part of the tax benefits are provided to an entity and not an individual.

"Reportable transaction" would be defined as any transaction, plan or arrangement, including a listed transaction for which a taxpayer was required to submit information to DOR because the taxpayer was required to disclose the transaction, plan, or arrangement for federal income tax purposes, as provided under U. S. Department of Treasury regulations.

"Tax avoidance transaction" would be defined as a transaction, plan, or arrangement devised for the principal purpose of avoiding federal or Wisconsin income or franchise tax and that was a reportable transaction as provided under U. S. Department of the Treasury regulations, as of the effective date of the bill.

"Tax shelter" would mean any entity, plan, or arrangement, if avoiding or evading federal income tax or Wisconsin income or franchise tax is a significant purpose of the entity, plan, or arrangement.

"Taxpayer" would mean a person who was subject to the state individual income or corporate income and franchise taxes, and who has a tax liability attributable to using a tax avoidance transaction for any tax year beginning before January 1, 2007.

### **Disclosure of Reportable Transactions**

*Disclosure Requirement.* Taxpayers would be required to file with DOR a copy of the form prescribed by the Internal Revenue Service for disclosing a reportable transaction, for each tax year that the taxpayer participates in a reportable transaction. The filing requirement would apply to any reportable transaction entered into on or after January 1, 2002, for any tax year for which the transaction remains undisclosed, and for which the statute of limitations on an assessment, including any extension under the provisions of the bill, has not expired as of 60 days after the effective date of the bill. The form would have to be filed no later than 60 days after the date for which the taxpayer was required to file the form for federal tax purposes, except that if the taxpayer filed a form with the IRS on or before the effective date of the bill, the taxpayer would have to file a copy of the form with the Department by December 31, 2007. DOR could require that the disclosure form be filed separately from the taxpayer's state income and franchise tax return.

*Penalty for Failure to Disclose.* Any taxpayer who fails to file a required disclosure form would be subject to a penalty equal to: (a) the lesser of \$15,000 or 10% of the tax benefit obtained from a reportable transaction, if the taxpayer participated in such a transaction that is not a listed transaction; or (b) \$30,000 if the taxpayer participated in a listed transaction. The penalties would apply to: (a) any failure to disclose a listed transaction that was entered into on or after January 1, 2002, including transactions that were not listed transactions when entered into but became such before the effective date of the bill, or (b) any other reportable transaction entered into before the effective date of the bill, for any tax year for which the statute of limitations on assessment, including any extension under the bill, has not expired as of the effective date of the bill. The Secretary of Revenue would be authorized to waive or abate these penalties, or a portion of them, that were related to a reportable transaction that is not a listed transaction, if the waiver or abatement promoted compliance with these provisions and effective tax administration.

*Understatement Penalties.* Taxpayers would also be subject to penalties for reportable transaction understatements. In addition to any tax owed, the taxpayer would be subject to a penalty of either 20% of the reportable transaction understatement, or 30% of the reportable transaction understatement in cases where the reportable transaction was not disclosed. A taxpayer would have a reportable transaction understatement if the following calculation resulted in a positive number:

a. Multiply the taxpayer's highest applicable state individual income or corporate income and franchise tax rate by the amount of any increase in Wisconsin taxable income that results from the difference between the proper tax treatment of the reportable transaction and the taxpayer's treatment of the transaction on the taxpayer's return. This calculation would also



apply to any amended return the taxpayer filed before the date on which the Department first contacted the taxpayer regarding an examination of the tax year for which the amended return was filed. The amount of any increase in Wisconsin taxable income for a tax year would include any reduction in the amount of loss available for carry-forward to the subsequent year.

b. Add the amount determined under "a" to the amount of any decrease in the aggregate amount of Wisconsin income or franchise tax credits that resulted from the difference between the proper tax treatment of a reportable transaction and the taxpayer's treatment of the transaction as shown on the taxpayer's return.

The reportable transaction understatement penalties would apply to any understatement from a reportable transaction, including a listed transaction, that was entered into on or after January 1, 2002, for any tax year for which the statute of limitations on the assessment, including any extension, had not expired on the effective date of the bill.

Additional penalties could be imposed for reportable transaction understatements. A taxpayer that filed an amended return after December 31, 2007, and before the taxpayer was contacted by the IRS or DOR regarding a reportable transaction, would be subject to a penalty equal to 50% of the interest assessed on tax due for any reportable transaction understatement for the tax period for which the IRS or DOR contacted the taxpayer. If the IRS or DOR contacted the taxpayer after December 31, 2007, regarding a reportable transaction, and before the taxpayer filed an amended return with respect to the reportable transaction, the taxpayer would be subject to a penalty equal to the interest assessed on taxes due for any reportable transaction understatement for the tax period for which the IRS or DOR contacted the taxpayer.

These penalties would apply to any reportable transaction understatement that resulted from a reportable transaction, including a listed transaction, entered into on or after January 1, 2002, for any tax year for which the statute of limitations on assessment, including any extension, had not expired by the effective date of the bill.

The Secretary of Revenue would be authorized to waive or abate the understatement penalties, or any portion of the penalties, if the taxpayer demonstrated to the Department that the taxpayer had reasonable cause to act the way the taxpayer acted, and in good faith, in regard to the tax treatment for which a penalty would be imposed, and all the facts relevant to such tax treatment were adequately included in the disclosure statement. If the taxpayer did not fully disclose such facts in the statement, the Secretary could waive the penalty if the taxpayer demonstrated to the Department that the tax treatment for which the penalty was imposed was more likely than not the proper treatment, and that substantial authority exists or existed for such tax treatment.

*Statute of Limitations.* A statute of limitations would be established for assessing taxes related to reportable transactions. In cases where a taxpayer failed to provide any information regarding a reportable transaction, but not including listed transactions, the time for assessing the state income or franchise tax with respect to that transaction would expire on the date that

was six years after the date on which the return for the tax year in which the reportable transaction occurred was filed. In cases where the taxpayer failed to provide any information regarding a listed transaction, the time for assessing the state income or franchise tax with respect to that transaction would expire on the latest of the following dates:

a. The date that was six years after the date on which the return for the tax year in which the listed transaction occurred was filed.

b. The date that was 12 months after the date on which the taxpayer provided disclosure information regarding the listed transaction.

c. The date that was 12 months after the date on which the taxpayer's material advisor provided, at the Department's request, the required list of Wisconsin taxpayers served (described below).

d. The date that was four years after the date on which the Department discovered a listed transaction that was a listed transaction on the date the transaction occurred for which the taxpayer did not provide the required disclosure information, or for which the taxpayer's material advisor did not provide the required list of taxpayers served.

The limitation dates for reportable transactions and listed transactions could be extended by a written agreement between the taxpayer and DOR.

*Material Advisors.* Material advisors to taxpayers would be required to file disclosure statements. Each material advisor who is required to disclose a reportable transaction under the Internal Revenue Code would be required to file a copy of the disclosure with DOR within 60 days after the date for which the material advisor is required to file the disclosure with the IRS. However, if the material advisor filed the disclosure with the IRS on or before the effective date of the bill, the material advisor would be required to file a copy of the disclosure statement with DOR by December 31, 2007.

Each material advisor would be required to maintain a list that identified each Wisconsin taxpayer for whom the material advisor provided services with respect to a reportable transaction, regardless of whether the taxpayer was required to file a disclosure form with DOR. A material advisor who was required to maintain such a list would have to provide the list to the Department, after receiving a written request to provide the list. The material advisor would also have to retain the information contained in the list for seven years or for a period determined by the Department by rule. If two or more material advisors were required to maintain identical lists, DOR could authorize only one material advisor to maintain the list. The material advisor reporting provisions would apply to reportable transactions, not including listed transactions, for which the material advisor provided services after the effective date of the bill. The reporting provisions would apply for listed transactions for which the material advisor provided services, and that were entered into, on or after January 1, 2002, regardless of when the transactions became listed transactions.

*Material Advisor Penalties.* Penalties would be imposed on material advisors for failing to file or maintain required information, or filing false or incomplete information. Specifically, any person who failed to file a required disclosure form or filed a disclosure containing false or incomplete information would be subject to the following penalties: (a) \$15,000 if the disclosure related to a reportable transaction that was not a listed transaction; or (b) \$100,000 if the disclosure related to a listed transaction.

Any material advisor who failed to provide the required list of taxpayers to DOR no later than 20 business days after the date on which the person received the request to provide the list, would be required to pay a penalty to DOR that equaled \$10,000 per day for each day that the person did not provide the list, beginning with the day that was 21 business days after the date on which the person received the Department's request.

The Secretary of Revenue would be authorized to waive or abate the material advisor penalties, or any portion of such penalties, that were related to a reportable transaction that was not a listed transaction, if the waiver or abatement promoted compliance with the material advisor reporting provisions and effective tax administration. In cases where a penalty was imposed for failure to maintain or provide the list of taxpayers served, the Secretary could waive or abate the penalties if, on each day after the time for providing the list without incurring a penalty had expired, the person demonstrated that the failure to provide the list was due to a reasonable cause.

*Tax Shelter Promotion.* The bill includes provisions that would impose a penalty on persons for promotion of tax shelters. Beginning on the effective date of the bill, any person who organized or assisted in organizing a tax shelter, or directly or indirectly participated in the sale of any interest in a tax shelter, and who made or provided, or caused another person to make or provide, in connection with the organization or sale of a tax shelter, a statement that the person knew, or had reason to know, was false or fraudulent as to any material matter regarding the allowability of any tax deduction or credit, the excludability of any income, the manipulation of any allocation or apportionment rule, or the securing of any other tax benefit resulting from holding an interest in the entity or participating in the plan or arrangement, would be required to pay a penalty to DOR, for each such sale or act of organization. The amount of penalty would equal 50% of the person's gross income derived from the sale or act of organization.

The bill also includes statutory language that would provide that, for the purpose of administering the tax shelter compliance provisions, beginning on the effective date of the bill, a written communication between a tax practitioner and any person, director, officer, employee, agent, or representative of the person, or any other person holding a capital or profits interest in the person, regarding the promotion of the person's direct or indirect participation in any tax shelter would not be considered a confidential or privileged communication.

*Injunction.* DOR would be authorized to commence an action in the circuit court of Dane County to enjoin a person from taking any action, or failing to take any action that would be

subject to the tax shelter compliance penalties or would be in violation of the tax shelter compliance provisions included in the bill, or any related rules promulgated by DOR.

### **Tax Avoidance Voluntary Compliance Program**

The bill would create a voluntary compliance program under which DOR would waive or abate all penalties imposed for tax avoidance transactions, if the taxpayer filed amended returns and paid amounts due. DOR would be required to waive or abate all penalties that were applicable to the underreporting or underpayment of Wisconsin income or franchise taxes attributable to using a tax avoidance transaction for any tax year for which the taxpayer met certain conditions (described below). Similarly, DOR could not seek criminal prosecution against a taxpayer for using a tax avoidance transaction for any tax year for which the taxpayer satisfied those conditions.

Specifically, a taxpayer would be eligible for penalty waiver and abatement, and not be subject to criminal prosecution for underreporting or underpayment of income or franchise taxes if, during the period beginning on October 1, 2007, and ending on December 31, 2007, the taxpayer did the following:

a. Filed an amended Wisconsin tax return for each tax year for which the taxpayer had previously filed a state tax return that used a tax avoidance transaction to underreport the taxpayer's Wisconsin income or franchise tax liability, and the amended return reported the total Wisconsin net income and tax for the tax year, computed without regard to any tax avoidance transaction, and without regard to any other adjustment that was unrelated to any tax avoidance transaction.

b. Paid, in full, for each year for which an amended return was filed, the entire amount of Wisconsin income or franchise tax and interest due that was attributable to using a tax avoidance transaction.

A taxpayer who participated in this program could not file an appeal or a claim for credit or refund with respect to the tax avoidance transactions for the tax years for which the taxpayer filed amended returns for penalty waiver or abatement and no criminal prosecution. However, a taxpayer who filed an amended return under the program could file a separate amended return with respect to adjustments that were unrelated to any tax avoidance transaction.

DOR could not waive or abate a penalty if it related to an amount of Wisconsin income and franchise tax that was attributable to a tax avoidance transaction and was assessed or paid prior to October 1, 2007, or after December 31, 2007. DOR would be required to promulgate rules, publish forms, and take any other action necessary to implement and administer the compliance program.

A transaction would not have to be a reportable transaction as provided under U. S. Department of the Treasury regulations in order for DOR to examine the transaction with regard to its principal purpose.

The bill's provisions would increase individual income and corporate income and franchise taxes by an estimated \$9,400,000 in 2007-08 and \$800,000 in 2008-09 and annually thereafter.

**Joint Finance/Legislature:** Adopt provisions with a technical amendment that would make the following modifications:

a. The voluntary compliance program ending date would be extended from December 31, 2007, to February 29, 2008, and taxpayers could enter into installment payment agreements with DOR to pay taxes.

b. The definition of "tax avoidance transaction" would be expanded to include any transaction that provides tax benefits for Wisconsin income and franchise tax purposes, even if there is no federal tax benefit.

c. The definition of "listed transaction" would be modified to eliminate the effective date of transactions occurring after January 1, 2002.

d. The definition of "reportable transaction" would be clarified to specify the disclosure is for the tax year in which the reportable transaction occurred.

e. The definition of "threshold amount" for transactions as they apply to material advisors would be modified to specify that the tax benefits are provided primarily to a certain individual or entity, rather than a substantial amount being provided.

f. Disclosure provisions would be modified to provide that a taxpayer file, with DOR, a form required, rather than prescribed by the IRS, that the copy be filed by February 29, 2008, rather than December 31, 2007, that the disclosure requirement applies to any reportable transaction entered into on or after January 1, 2001 (rather than 2002), or entered into before January 1, 2001, which reduced the taxpayer's liability for tax years beginning on or after January 1, 2001.

g. The Secretary of DOR's authority to waive taxpayer disclosure, understatement, and additional penalties would be final.

h. Taxpayer penalties that apply to failure to disclose a listed transaction or to underreporting due to a reportable transaction would apply to such transactions entered into on or after January 1, 2001 (rather than 2002), or entered into before January 1, 2001, which reduced the taxpayer's liability for tax years beginning on or after January 1, 2001.

i. Additional penalties for reportable transaction understatements by taxpayers would apply in cases where taxpayers that file amended returns or where the IRS contacts the taxpayer after February 29, 2008, rather than after December 31, 2007. In addition, additional understatement penalties would apply to understatements from reportable transactions entered into on or after January 1, 2001 (rather than 2002), or entered into before January 1, 2001, which

reduced the taxpayer's liability for tax years beginning on or after January 1, 2001.

j. The statute of limitations for assessing taxes related to reportable transactions would apply to transactions entered into on or after January 1, 2001 (rather than 2002), or entered into before January 1, 2001, which reduced the taxpayer's liability for tax years beginning on or after January 1, 2001.

k. Material advisors would be required to file a copy of a disclosure form with DOR by February 29, 2008, rather than by December 31, 2007. The reporting requirements would apply to transactions for which services are provided and that were entered into on or after January 1, 2001, (rather than 2002), or entered into before January 1, 2001, which reduced the taxpayer's liability for tax years beginning on or after January 1, 2001.

l. The Secretary of DOR's decision to waive material advisor disclosure penalties would be final.

m. Reference to tax practitioner would be deleted, and advice regarding participation in a tax shelter would not be confidential or privileged information.

[Act 20 Sections: 2137 and 2138]

## GENERAL PROVISIONS

### 1. MILWAUKEE COUNTY PENSION LIABILITIES -- APPROPRIATION BOND AND PROMISSORY NOTE AUTHORITY

**Governor:** Authorize the county board of county having a population of 500,000, or more, (Milwaukee County) to issue appropriation bonds and 20-year general obligation promissory notes, to pay all or part of the county's unfunded prior service liability with respect to an employee retirement system of the county. Provide that the county would not be generally liable for the appropriation bonds and that appropriation bonds would not be a debt of the county for any purpose. The annual principal and interest on the appropriation bonds would be repaid from annual amounts appropriated by the county board.

Authorize the county board to delegate its investment authority over the county retirement system and the other specific investments allowed under the bill. Require that those to whom this authority is delegated would be responsible for the general administration and proper operation of the county's employee retirement system. Specify that if the governing board of the county finds that a person has expertise in the field of investments, the board could delegate this authority to: (a) a public board that is organized for such a purpose under county ordinances; and (b) a trustee, investment advisor, or investment banking or consulting firm.

*Pension Liability Strategic and Financial Plan.* Require that before a county could issue any appropriation bonds, its board would be required to enact an ordinance that establishes a five-year strategic and financial plan related to the payment of all or part of the county's unfunded prior service liability with respect to an employee retirement system of the county. Require the following relative to the strategic and financial plan: (a) that the plan provide that future annual pension liabilities are funded on a current basis; (b) that the plan contain quantifiable benchmarks to measure compliance with the plan; (c) that the county board make a determination that the ordinance establishing the plan meets these statutory requirements and, absent manifest error, the board's determination would be conclusive; and (d) that the board submits a copy of the strategic and financial plan to the Governor and to the Legislature.

*Appropriation Bond Authority.* Authorize a county board to issue appropriation bonds and provide the board all the powers necessary and convenient to carry out its duties and exercise its authority related to the issuance of these bonds. Specify that Chapter 67 of statutes, which relates to the regulation municipal borrowing and municipal bonds, would not apply to these appropriation bonds.

A county would be allowed issue appropriation bonds to: (a) pay all or part of the county's unfunded prior service liability with respect to an employee retirement system of the county; (b) fund or refund outstanding appropriation bonds; (c) pay issuance or administrative expenses; (d) make deposits to reserve funds; (e) pay accrued or funded interest; (f) pay the

costs of credit enhancement; (g) make payments under agreements or ancillary arrangements; or (h) make deposits to the stabilization funds created relative to the appropriation bonds. Specify that all bonds, other than refunding bonds, would have to be issued simultaneously.

Provide that a county may borrow money and issue appropriation bonds under one or more written authorizing resolutions. Unless otherwise provided in the resolution, specify that these borrowings and bonds could occur at any time, in any specific amounts, at any rates of interest, for any term, payable at any intervals, at any place, in any manner, and having any other terms or conditions that the county board considers necessary or useful. Specify that such appropriation bonds could bear interest at variable or fixed rates, bear no interest, or bear interest payable only at maturity or upon redemption prior to maturity.

Provide that as determined by the county board, appropriation bonds could be issued in book-entry form or in certificated form. Notwithstanding the Uniform Commercial Code statutes relating to negotiable instruments, specify that every obligation would be a negotiable instrument.

Require the following related to appropriation bonds issued by a county:

- a. every appropriation bond would be executed in the name of and for the county by the county board chair and county clerk and would be sealed with the seal of the county, if any;
- b. every appropriation bond would have to be dated not later than the date issued, reference by date the appropriate authorizing resolution, and be in accordance with the authorizing resolution;
- c. every appropriation bond would have to indicate that bonds are not a debt of the county, the county is not generally liable for the bonds, and principal and interest of the bonds is payable only from those amounts appropriated by the board; and
- d. an appropriation bond would be in such form and contain such statements or terms, as determined by the county board and could not conflict with law or with the appropriate authorizing resolution.

Specify that a facsimile signature of either the county board chair or county clerk could be imprinted on each appropriation bond issued by the county in lieu of the manual signature of such officer, but the signature of at least one officer would have to be manual. An appropriation obligation bond bearing the manual or facsimile signature of a person in office at the time such signature was signed or imprinted would be fully valid, regardless of whether the person remains in office.

Specify that an appropriation bond would mean a bond issued by a county to evidence its obligation to repay a certain amount of borrowed money that is payable from all of the following: (a) moneys annually appropriated by law for debt service due with respect to such appropriation bond in that year; (b) proceeds on the sale of such appropriation bonds; (c)



payments received under agreements and ancillary arrangements associated with appropriation bonds; and (d) investment earnings from these amounts.

*Appropriation Bond Terms.* Specify that appropriation bonds could not be issued except under a written authorizing resolution adopted by a majority of a quorum of the county board. The resolution could be in the form of a resolution or trust indenture and would be required to include the aggregate principal amount of appropriation bonds authorized, the manner of sale of the bonds, and their form and terms. The resolution could establish funds and accounts, including a reserve fund.

Provide that appropriation bonds could be sold at either public or private sale and at any price or percentage of par value. Require that appropriation bonds sold at public sale to be noticed as provided in the authorizing resolution and any bid received at public sale could be rejected.

Authorize the county board to issue appropriation bonds having any provisions for prepayment considered necessary or useful, including the payment of any premium. Specify that interest would cease to accrue on an appropriation bond on the date that the bond becomes due for payment if payment is made or duly provided for. Specify that all money borrowed by the county through appropriation bond would be lawful money of the United States, and all appropriation bonds would be paid in such money.

Authorize a county at the time of, or in anticipation of, issuing bonds or notes under this provision or as long such bonds or notes are outstanding, to enter into agreements and ancillary arrangements relating to the bonds or notes. Specify that these agreements or ancillary arrangements could include trust indentures, liquidity facilities, remarketing or dealer agreements, letters of credit, and insurance policies, guaranty agreements, reimbursement agreements, indexing agreements, and interest exchange agreements. Specify that any payments made or received under these agreements or ancillary arrangement would be made as provided in the agreement or arrangement.

Specify that all appropriation bonds owned or held by any county fund would be outstanding in all respects, and that the board of the governing body controlling the fund would have the same rights as a private party. Provide that if any sinking fund associated with the bonds would acquire appropriation bonds, the bonds would be considered paid.

*County Moral Obligation Pledge.* Provide that the county board, if it considers in necessary or desirable could express in a resolution authorizing appropriation bonds its expectation and aspiration that it would do the following with respect to the bonds issued: (a) make timely appropriations that are sufficient to pay the principal and interest; (b) to make payments on any agreement or ancillary arrangement related to the bonds; (c) to make deposits into a reserve fund; (d) to make payments to any stabilization fund; and (e) to pay related issuance and administrative expenses.

*Exemption from Current Law Borrowing Limitations on Counties.* Specify that any notes issued by a county to pay unfunded prior liabilities with respect to an employee retirement

system would not be subject to the current law requirement that municipal bonds or notes cannot be issued to fund the operating expenses of the county general fund or any special fund of the county that is supported by property taxes.

Add debt issued by a county to pay unfunded prior service liabilities with respect to an employee retirement system to the current law list of items that allow counties to issue bonds or notes. Specify that debt service on appropriation bonds issued to pay employee retirement system liabilities would be included in the current law definition of debt levy.

Specify that the proposed levy limits under the bill for counties would not apply to: (a) debt service on appropriation bonds issued to fund a county's employee retirement system liability; (b) debt service on appropriation bonds issued to fund or refund outstanding appropriation bonds; (c) related issuance costs or redemption premiums; or (d) to make payments with respect to agreements or ancillary arrangements associated with the appropriation bonds.

*Refunding Bond Authority.* Authorize a county board to issue refunding appropriation bonds. Specify that refunding bonds could be issued, subject to any contract rights of owners of bonds being refinanced, to refinance: (a) all or any part of one or more issues of bonds, even if the bonds may have been issued at different times; or (b) general obligation promissory notes issued by the county to pay the unfunded pension liability with respect to an employee retirement system.

Specify that the principal amount of the refunding bonds could not exceed the sum of: (a) the principal amount of the bonds or notes being refinanced; (b) applicable redemption premiums; (c) unpaid interest on the bonds or notes; (d) in the event the proceeds are to be deposited in trust, interest to accrue on the bonds from the date of delivery to the date of maturity or to the redemption date selected by county board, whichever is earlier; and (e) the expenses incurred in the issuance of the refunding bonds and payment of the refunding bonds or notes. Specify that the county board may authorize the issuance of general obligation promissory notes to refund appropriation bonds.

Provide that if a county board would determine to exchange refunding appropriation bonds, these bonds could be exchanged privately for any of the outstanding appropriation bonds being refinanced. Provide that refunding appropriation bonds could be exchanged for such principal amount as determined by board. Specify that the owners who elect to exchange their bonds need not pay accrued interest on the refunding bonds if interest is accrued and unpaid on the bonds being refunded. If any of the bonds to be refinanced are to be called for redemption, the county board would be required to determine which redemption dates are to be used and would have to, prior to the issuance of the refunding appropriation bonds, provide for notice of redemption in accordance with the resolution authorizing the bonds to be refunded.

*Use of Refunding Appropriation Bond Proceeds.* Require that the principal proceeds from the sale of any refunding appropriation bonds be applied either to the immediate payment and

retirement of the bonds or notes being refinanced or, if the bonds or notes have not matured, to the creation of a trust pledged to the payment of the bonds or notes being refinanced. If a trust would be created, a separate deposit would be required to be made for each issue of appropriation bonds or general obligation notes being refinanced. Each deposit would be required to be with a bank or trust company authorized by the laws of the United States or of the state in which the bank or trust company is located to do business.

Specify that if the total amount of any deposit to a trust, including sale proceeds and other legally available moneys, is less than the principal amount of the appropriation bonds or general obligation promissory notes being refinanced together with applicable redemption premiums and interest to accrue, then the application of the sale proceeds would be legally sufficient only if: (a) the money deposited is invested in securities issued by the United States or one of its agencies, or securities fully guaranteed by the United States; and (b) the principal amount of the securities at maturity and the associated income would be sufficient and available, without the need for any other investment or reinvestment to pay the principal amount of the bonds or notes being refinanced and any applicable redemption premiums and accrued interest. Any income from the securities would be required to be applied solely to the payment of the principal, interest and redemption premiums on the appropriation bonds or general obligation promissory notes being refinanced. However, provision could be made for the pledging and disposition of any surplus.

Specify that none of the requirements relating to the use of refunding proceeds could be considered: (a) as a limitation on the duration of any deposit in trust for the retirement of appropriation bonds or promissory notes being refinanced that have not matured; or (b) to prohibit reinvestment of the income of a trust if the reinvestments mature at such times that sufficient moneys would be available to pay interest, applicable premiums, and principal on the bonds or notes being refinanced.

*Administrative Requirements.* Require that all appropriation bonds be registered by the county clerk or treasurer, or such other officers or agents as determined by the county board. Specify that no transfer of a registered appropriation bond would be valid unless made by the registered owner's duly authorized attorney, on the records of the county and noted on the bond. Specify that a county could treat the registered owner as the owner of the appropriation bond for all purposes.

Unless otherwise provided by the county board, require that payments of principal and interest could only be made by electronic funds transfer, check, share draft, or other draft to the registered owner at the owner's address, as it appears on the register. Specify that information in the register would not be available for inspection and copying under state law relating to access to public records. Authorize the county board to make any other provision with respect to registration that it considers necessary or desirable.

Authorize the county board to appoint one or more trustees or fiscal agents for each issue of appropriation bonds. Provide that the county treasurer could be designated as the trustee and the sole fiscal agent or a co-fiscal agent for any issue of appropriation bonds. Require that

every other fiscal agent be an incorporated bank or trust company, authorized by the laws of the United States or of the state in which it is located for banking or trust company business.

Specify that moneys be deposited with a trustee in a special account, to be used only for the purposes provided in the resolution authorizing the issuance of appropriation bonds or in an agreement between the county and the trustee. Authorize the county board to make other arrangements with respect to trustees and fiscal agents. Authorize the county board to enter into a contract with any trustee or fiscal agent containing such terms, including compensation, and conditions in regard to the trustee or fiscal agent it considers necessary.

If any appropriation bond would be destroyed, lost, or stolen, require the county to deliver a new appropriation bond if the following is provided to county board: (a) satisfactory evidence that the appropriation bond has been destroyed, lost, or stolen; (b) proof of ownership; (c) a satisfactory indemnity; (d) compliance with other rules of the county; and (e) payment of any expenses that the county would incur.

Specify that unless otherwise directed by the county board, every appropriation bond that is paid or otherwise retired would be marked canceled and delivered to the county treasurer, or to such other fiscal agent as applicable with respect to the bond. Require the county treasurer or applicable fiscal agent to destroy the canceled obligation and provide the county clerk a certificate indicating that the bonds have been destroyed.

*Allowable Investors in Appropriation Bonds.* Specify that the following could legally invest sinking funds or other funds belonging to them or under their control in appropriation bonds issued by the county:

- a. the state, the Investment Board, public officers, municipal corporations, political subdivisions, and public bodies;
- b. banks and bankers, savings and loan associations, credit unions, trust companies, savings banks and institutions, investment companies, insurance companies and associations, and other persons carrying on a banking or insurance business; and
- c. personal representatives, guardians, trustees, and other fiduciaries.

*Employee Retirement System Liability; Additional Powers:* Specify that a county board, to facilitate a pension funding plan, could create one or more of the following: (a) a trust; (b) a nonstock corporation; (c) a limited liability company; and (d) a special fund or account of the county. Specify that a trust would mean a common law trust organized under the laws of this state, by the county as settlor, pursuant to a formal, written, declaration of trust.

Provide that any such entity created by a county board would have all the powers provided to it under applicable law and the documents creating it. Require that these powers would be construed broadly in favor of effectuating the entity's purposes. Allow the county to appropriate funds to such entities and to such accounts consistent with the entity's purposes.

Provide that a county board could establish a stabilization fund and appropriate funds for deposit to the fund to facilitate a strategic pension funding plan. Specify that a stabilization fund could be created as a trust or a special fund or account of the county established by separate resolution or ordinance. Allow that the fund could also be a fund or account created under an authorizing resolution or trust indenture in connection with the authorization and issuance of appropriation bonds or general obligation promissory notes.

Specify that moneys in the stabilization fund established could only be used, subject to annual appropriation by the county board, to pay: (a) principal or interest on bonds and notes issued in connection with a pension funding plan; (b) for the redemption or repurchase of such bonds or notes; or (c) to make payments under any agreement or ancillary arrangement entered into with respect to such bonds or notes. Specify that moneys deposited in a stabilization fund would not be subject to any claims, demands, or actions by, or transfers or assignments to, any creditor of the county, any beneficiary of the county's employee retirement system, or any other person, on terms other than those in the resolution or ordinance creating the stabilization fund. Moneys deposited in a stabilization fund could be invested and reinvested in the manner directed by the county board or pursuant to delegation by the board, as allowed under the bill.

*Allowable County Investments.* Subject to current law debt service fund provisions related to general obligation promissory notes, a county, or a person to whom the county has delegated investment authority, could invest any of the following, in the same manner as is allowed under current law establishing the prudent investor rule:

- a. moneys held in a stabilization fund under this provision;
- b. moneys held in a fund or account, including any reserve fund, created in connection with the issuance of bonds or notes under this provision;
- c. moneys appropriated or held by the county to pay debt service on such bonds or notes;
- d. moneys constituting proceeds of bonds or notes that are available for investment until they are spent; and
- e. moneys held in an employee retirement system of the county.

*Legislative Report.* Require the county to annually submit a report to the Governor and the Legislature that includes all of the following:

- a. the county's progress in meeting the benchmarks in the pension liability strategic and financial plan required under the bill;
- b. any proposed modifications to the plan;
- c. the status of any stabilization fund that is established with respect to the financing of an employee retirement system pension liability; and

d. the most current actuarial report related to the county's employee retirement system.

*Legislative Finding and Determination.* Create a legislative finding that the county, by prepaying all or part of its unfunded prior service liability with respect to its employee retirement system, could reduce its costs and better ensure the timely and full payment of retirement benefits to participants and their beneficiaries. Specify that the Legislature determines that it is in the public interest for the county to issue appropriation bonds to obtain proceeds to pay its unfunded service liability.

**Joint Finance/Legislature:** Delete provision as a non-fiscal policy item.

## 2. MILWAUKEE COUNTY PENSION COMMITTEE MEMBERSHIP EXPERTISE

**Governor:** Require that the two public members of the pension study committee, created by Chapter 405, Laws of 1965, have at least 10 years of financial experience. The five-member pension study committee, which was established when Milwaukee County was given authority to oversee its retirement system, consists of three county board supervisors and two citizens, who are residents, but not employees, of Milwaukee County

The committee is responsible for ensuring that proposed changes to retirement benefits are adequately analyzed and represent sound public policy. The committee is also required to provide the county board with a written report on the actuarial effect, cost implications, and desirability of any proposed retirement benefit changes.

**Joint Finance/Legislature:** Delete provision as a non-fiscal policy item.

## 3. REDEVELOPMENT AUTHORITY INSPECTION RIGHTS

**Governor:** Expand the power of a redevelopment authority to enter into properties to make inspections, surveys, appraisals, soundings, or test borings to include any blighted properties that are located in the corresponding city or village. Under current law, this power only applies to properties in a project area, which is defined as a blighted area which the local legislative body declares to be in need of a blight elimination, slum clearance, and urban renewal project.

**Joint Finance/Legislature:** Delete provision as a non-fiscal policy item.

## 4. COMPENSATION FOR ELECTED TOWN OFFICERS WHO ALSO SERVE AS A TOWN EMPLOYEE

**Joint Finance/Legislature:** Modify the current law provision that limits the amount of pay that an elected town officer, who also serves as a town employee, may receive for serving as a

town employee by establishing a limit of \$15,000 for clerks, treasurers, and clerk-treasurers and continuing the current law limit of \$5,000 for all other elected officers. Some elected town clerks and treasurers are also employed by their towns to perform functions in addition to their official responsibilities. Current law limits their pay for such other functions to \$5,000 annually. This provision would increase that limit to \$15,000.

[Act 20 Section: 1860m]

## 5. ISSUANCE OF FIREWORKS PERMITS AND THE SALE OF FIREWORKS

**Joint Finance/Legislature:** Modify the current law provision that limits municipalities' authority to issue fireworks user permits by replacing "a group of resident or nonresident individuals" with "any individual or group of individuals" among those who may receive permits. In addition, repeal the current law provision that allows the sale of regulated fireworks to a person who is located outside of the state and instead allow the sale of fireworks to a nonresident person. Current law regulates the sale, use, and possession of certain fireworks and prohibits the use or possession of regulated fireworks by any person who does not have a fireworks user's permit. Municipalities may issue those permits to: (a) groups of resident or nonresident individuals; (b) public authorities; (c) fair associations; (d) amusement parks; (e) park boards; (f) civic organizations; and (g) agricultural producers for the protection of crops from predatory birds or animals. This provision would eliminate the requirement that individuals be in a group and, instead, would allow a permit to be issued to a single individual. In addition, current law prohibits the sale of regulated fireworks to any person who does not have a fireworks user's permit, except wholesalers are not prohibited from selling fireworks to a person outside the state. The courts have interpreted this provision as requiring the person to be physically located outside the state. This provision would instead allow a wholesaler to sell fireworks to a nonresident person.

[Act 20 Sections: 2913c, 2913d, and 2913e]

## 6. DESIGNATION OF "FIGHTING BOB" LAFOLLETTE DAY

**Joint Finance:** Designate June 14 annually as "Fighting Bob" LaFollette Day. Specify that if June 14 falls on a Sunday, celebrations may be held on either June 13 or June 15.

**Assembly/Legislature:** Delete provision.

## 7. MILWAUKEE POLICE DISCHARGE PROVISIONS

**Senate:** Provide that a police officer employed by a first-class city (Milwaukee) who is discharged would not be provided pay or benefits during the period that the matter that is the subject of the discharge is disposed of by the board of fire and police commissioners, or in which the time for appeal passes without an appeal being made. The provision would first

apply to a police officer who is discharged on the first day of the seventh month beginning after the effective date of the provision.

Under current law, no member of the police force may be suspended or discharged without pay or benefits until the matter that is the subject of the suspension or discharge is disposed of by the board of fire and police commissioners or the time for appeal passes without an appeal being made. Under the amendment, the provision would still apply to suspensions, but not discharges.

**Assembly/Legislature:** Delete provision.

## **8. OBSERVATION OF JUNETEENTH DAY**

**Senate:** Provide that June 19 would be designated as Juneteenth Day and appropriate celebrations may be held in commemoration of that day. Provide that when June 19, falls on a Sunday, celebrations of Juneteenth Day may be held on either June 18, or June 20. The provision would not make Juneteenth Day a paid holiday for state employees.

**Assembly/Legislature:** Delete provision.

## **9. ELIMINATION OF SICK LEAVE FOR CERTAIN ELECTED OFFICIALS**

**Assembly:** Include the provisions of Assembly Substitute Amendment 1 (ASA 1) to 2007 Assembly Bill 31 relating to the elimination of sick leave for legislators, justices and judges, and all other state elected officials. Provide that: (a) no member of the Legislature may receive sick leave as a member of the Legislature during any term of office that begins after the provision's effective date; (b) no Supreme Court justice, court of appeals judge, or circuit court judge may receive sick leave as a justice or judge beginning on the date that the next justice or judge assumes office after the effective date of the provision; and (c) no other state elected official, including a district attorney, may receive sick leave while in state office during any term of office that begins after the provision's effective date. Under current law, elected officials (except legislators) receive 16.25 sick leave days per year; legislators receive 10.56 sick leave days per year.

**Conference Committee/Legislature:** Delete provision.

## **10. POSTING OF LEGAL NOTICES**

**Assembly:** Include the provisions of Assembly Substitute Amendment 1 to Assembly Bill 170 which would specify that the internet may be included as a place in which a legal notice may be posted. Under current law, a municipality may give a legal notice by either: (a) publishing the legal notice in a local newspaper; or (b) posting the document in three public places that are likely to give notice to affected persons. This provision would allow a



municipality to include the internet as one of the three allowable postings.

**Conference Committee/Legislature:** Delete provision.

## 11. NOTICE OF ORDINANCES, RULES, AND ORDERS

**Assembly:** Allow a county, city, village, or town to print the following information in lieu of printing the entire ordinance, rule, order, resolution, motion, or other actions: (a) the number and title of the action; (b) the enactment date of the action; (c) a summary of the action; and (d) information (including a phone number, a street address, and a web site) about where the full text of the action may be obtained or viewed.

Specify that this type of posting could be used as notice for any of the following: (a) an ordinance of a town or village; (b) splitting the terms of a county board of supervisors so that terms are staggered; (c) county ordinances; (d) town rules and orders; (e) resolutions, motions and other actions adopted by a town meeting; (f) ordinances adopted by a town board; and (g) resolutions of general application adopted by a town board and having the effect of law.

Under current law, the complete text of an ordinance that is enacted by a city or village must be published in the official city newspaper or in a newspaper that is published in the village. If no newspaper exists in a village, however, the ordinance may instead be posted in at least three public places in the village. Currently, counties must publish an ordinance as a class 1 notice and distribute copies to the town clerks. Towns must, currently, publish rules and orders as Class 1 notices. Towns must also publish ordinances, resolutions, motions, and other actions as either a Class 1 notice, or post these actions in at least three places in the town that are likely viewing places within 30 days of passage or adoption. This provision would modify the amount of information that would have to be contained in these postings.

**Conference Committee/Legislature:** Delete provision.

## 12. COLLECTION OF FINES AND FORFEITURES BY COUNTIES

**Assembly:** Modify current law to allow counties to retain: (a) 20% of state fines and forfeitures; and (b) 30% of state fines and forfeitures collected within one year of the effective date of the provision that were imposed at least 180 days before the effective date of the provision. Under current law, 10% of state fines and forfeitures are retained by counties. The remaining amounts are deposited to the state's common school fund.

**Conference Committee/Legislature:** Delete provision.

### 13. ASSIGNMENT OF INCOME AND EARNINGS FOR MUNICIPAL COURT JUDGMENTS

**Assembly:** Provide that, if a municipal court orders restitution, forfeiture, costs, fees, or surcharges against a person that are not paid, the municipal court may issue an order assigning not more than 25% of the person's commissions, earnings, salaries, wages, pension benefits, and other money due the person to the court for payment of unpaid restitution, forfeiture, costs, fees, or surcharges.

Under current law, if a person does not pay a municipal court judgment, the municipal court may: (a) defer payment for a period of time or provide installment payments; (b) order the person to perform community service work in lieu of payment; or (c) suspend the person's driving privileges until the judgment is paid. The above provision would add the option of assigning the person's income.

**Conference Committee/Legislature:** Delete provision.

### 14. GARNISHMENT OF A MINOR'S EARNINGS

**Assembly:**

*Definition of Household Income.* Adopt the provisions of 2007 Assembly Bill 34 and provide that for purposes of determining the "household income" of an unemancipated minor debtor when satisfying a judgment for unpaid restitution, court costs, a forfeiture, or a surcharge (during any month in which an earnings garnishment is in effect), household income would mean the disposable earnings and unearned income: (a) of the unemancipated minor debtor; (b) of the parent that the unemancipated minor debtor resides with for at least 50% of the month; and (c) of the parent's dependents. Household income would be reduced by any earnings assigned by court order in an action affecting the family (such as for the payment of child support, family support, or maintenance).

Apart from circumstances in which the law specifically provides for the partial liability of a parent for the acts of a minor, under current law for purposes of determining an unemancipated minor debtor's household income for an earnings garnishment, the disposable earnings and unearned income of the minor debtor's parent is not considered. As a result, under current law an unemancipated minor debtor may be exempt from an earnings garnishment as his or her household income may be below the federal poverty line.

*Length of Garnishment.* Provide that the earnings garnishment of an unemancipated minor debtor continues until the debt is paid in full. Under current law, an earnings garnishment generally lasts for 13 weeks or until the debt is collected through the garnishment, whichever is less.

**Conference Committee/Legislature:** Delete provision.

## 15. JOHN DOE PROCEEDINGS

**Assembly:** Prohibit prisoners from initiating a John Doe proceeding under s. 968.26(1) of the statutes. Under current law related to John Doe proceedings, a person who believes a crime has been committed may complain to a judge, who will ascertain whether a crime has been committed and proceed accordingly. This provision would prohibit prisoners from complaining to a judge, providing that prisoners may only complain to the district attorney.

**Conference Committee/Legislature:** Delete provision.

## 16. CONTRACTING FOR FOOD IN COUNTY JAILS

**Assembly:** Make the sheriff's contracting to provide meals for inmates of the county jail a prohibited subject of bargaining if the sheriff determines that the contract will result in lower costs than if county employees were to provide the meals. Further, specify that the municipal employer is prohibited from bargaining the impact of that decision on wages, hours and other conditions of employment of employees performing these services. Provide that the authority first applies to employees who are covered by a collective bargaining agreement that includes provisions inconsistent with the exercise of the authority by the sheriff on the day the collective bargaining agreement expires or is extended, modified, or renewed, whichever occurs first.

**Conference Committee/Legislature:** Delete provision.

## 17. LEGAL STATUS CHECK

**Assembly:** Require the county sheriff to check the legal status of individuals who are charged with a felony or the offense of operating under the influence while driving an all-terrain vehicle, boat, motor vehicle or snowmobile, and notify the federal Immigration and Customs Enforcement if the individual is not legally in the United States.

**Conference Committee/Legislature:** Delete provision.

## 18. REFUSAL OR TERMINATION OF EMPLOYMENT OF CERTAIN OFFENDERS

**Assembly:** Include the provisions of 2007 Assembly Bill 260 to provide that it is not employment discrimination because of conviction record to refuse to employ or to terminate from employment an individual who has been convicted of a sex offense or a violent offense and who has not been pardoned on that offense, whether or not the circumstances of the offense substantially related to the circumstances of the particular job.

**Conference Committee/Legislature:** Delete provision.

**19. REFUSAL OR TERMINATION OF EMPLOYMENT BY EDUCATIONAL AGENCY OF UNPARDONED FELONS**

**Assembly:** Include the provisions of 2007 Assembly Bill 30 to provide that it is not employment discrimination because of conviction record for an educational agency to refuse to employ or to terminate from employment an individual who has been convicted of a felony and who has not been pardoned for that felony.

**Conference Committee/Legislature:** Delete provision.

**20. INCREASE THE PENALTY FOR EXPOSING GENITALS OR PUBIC AREA**

**Assembly:** Provide that whoever, for the purposes of sexual arousal or sexual gratification, causes a child to expose genitals or pubic area or exposes genitals or pubic areas to a child is guilty of a Class I felony, punishable of up to 1.5 years in prison and two years extended supervision and/or up to \$10,000 fine. Require persons convicted of the offense to provide a DNA specimen to the state crime laboratories. Under current law, this offense is a Class A misdemeanor.

**Conference Committee/Legislature:** Delete provision.

**21. CIVIL LIABILITY FOR INJURIES CAUSED BY ILLEGAL DRUG USE**

**Assembly:** Create a civil cause of action for damages resulting from injuries caused by an individual's use of an illegal drug against a person who knowingly participated in the distribution of the illegal drug. Under this provision, a parent, legal guardian, child, spouse, sibling, or employer of the illegal drug user, medical facility, government agency, individual exposed to the illegal drug in utero, or person injured as the result of the willful, reckless, or negligent action of the illegal drug user, may bring an action for damages.

Allow the illegal drug user to bring an action for damages caused by the use of an illegal drug if he or she discloses to law enforcement authorities the information about his or her sources of illegal drugs, has not used illegal drugs for six months before filing the action, and continues to remain free of illegal drug use throughout the pending action.

**Conference Committee/Legislature:** Delete provision.

**22. PRIVILEGE OF SELF-DEFENSE**

**Assembly:** Include the provisions of 2007 Assembly Bill 35 to modify current law related to self-defense to provide that, if an actor intentionally used force that was intended or likely to cause death or great bodily harm, the court must presume that the actor reasonably believed that the force was necessary to prevent imminent death or great bodily harm to himself or

herself if the actor makes a self-defense claim, if the person against whom force was used was unlawfully and forcibly entering the actor's residence or in the actor's residence. This presumption does not apply if the actor was engaged in an unlawful activity or was using his or her residence to further an unlawful activity, or the person against whom force was used was a peace officer who entered or attempted to enter the actor's residence in the performance of his or her official duties.

**Conference Committee/Legislature:** Delete provision.

### **23. LIMIT THE SCOPE OF DIRECT LEGISLATION**

**Assembly:** Exclude proposed ordinances or resolutions that do not substantially relate to any city or village function or responsibility or are primarily ceremonial or aspirational from the current law provision that requires the governing body of a city or village, upon receipt of a petition requesting the adoption of an ordinance or resolution, to either adopt the ordinance or resolution or submit the ordinance or resolution to a vote of the electorate. Specify that this modification would first apply to petitions filed on the general effective date of the bill. This provision is identical to that included in 2007 Assembly Bill 363.

**Conference Committee/Legislature:** Delete provision.

### **24. IMMUNITY FROM RECREATIONAL LAND LIABILITY**

**Assembly:** Modify the current law exemption from liability for the death or injury of those who use the landowner's property for outdoor recreational activities, to apply to landowners who receive up to \$10,000 in payments annually for these activities, as opposed to \$2,000 currently.

**Conference Committee/Legislature:** Delete provision.

### **25. REMEDIES AGAINST MANUFACTURERS, DISTRIBUTORS, SELLERS, AND PROMOTERS OF PRODUCTS**

**Assembly:** Include the provisions of 2005 SB 402, as passed by the Legislature (and vetoed by the Governor), related to the potential liability for a person's injury by a product. The provisions would specify that a manufacturer, distributor, seller, or promoter of a product may be held liable for a claim of an injury only if the claimant proves, in addition to any other elements required to prove his or her claim, the defendant manufactured, distributed, sold or promoted the specific product that caused the injury.

If a claimant cannot meet the required burden of proof, the manufacturer, distributor, seller, or promoter could be held liable only if the claimant can make all of the following proofs: (a) that no other lawful process exists for the claimant to seek redress from another person for

the injury or harm; (b) that the claimant has suffered an injury or harm that can be caused only be a product chemically identical to the specific product that allegedly caused the claimant's injury or harm; (c) that the manufacturer, distributor, seller, or promoter manufactured, distributed, sold, or promoted a product that meets all of the following criteria: (1) is chemically identical to the specific product that allegedly caused the claimant's injury or harm; and (2) was manufactured, distributed, sold, or promoted in Wisconsin during the time period in which the specific product that allegedly caused the claimant's injury or harm was manufactured, distributed, sold, or promoted; and (d) that the action names, as defendants, those manufacturers of a product who collectively, during the relevant production period, manufactured at least 80 percent of all products sold in this state that are chemically identical to the specific product that allegedly caused the claimant's injury or harm.

No manufacturer, distributor, seller, or promoter of a product would be liable if more than 25 years have passed between the date that the manufacturer, distributor, seller, or promoter last manufactured, distributed, sold, or promoted a product chemically identical to the specific product that allegedly caused the claimant's injury and the date that the claimant's cause of action accrued.

If more than one manufacturer, distributor, seller, or promoter of a product is found liable for the claimant's injury or harm, the Court would be required to apportion liability among those manufacturers, distributors, sellers, and promoters, but that liability would be several and not joint.

The provisions would first apply to actions commenced on the first day of the second month beginning after publication of the biennial budget act.

**Conference Committee/Legislature:** Delete provision.

## GOVERNMENT ACCOUNTABILITY BOARD

<b>Budget Summary</b>							
Fund	2006-07 Base Year Doubled	2007-09 Governor	2007-09 Jt. Finance	2007-09 Legislature	2007-09 Act 20	Act 20 Change Over Base Year Doubled Amount	Percent
GPR	\$0	\$0	\$4,879,100	\$4,879,100	\$4,879,100	\$4,879,100	N.A.
FED	0	0	3,053,300	3,053,300	3,053,300	3,053,300	N.A.
PR	0	0	1,127,400	1,127,400	1,127,400	1,127,400	N.A.
SEG	<u>0</u>	<u>0</u>	<u>1,500,200</u>	<u>1,500,200</u>	<u>1,500,200</u>	<u>1,500,200</u>	N.A.
<b>TOTAL</b>	<b>\$0</b>	<b>\$0</b>	<b>\$10,560,000</b>	<b>\$10,560,000</b>	<b>\$10,560,000</b>	<b>\$10,560,000</b>	N.A.

<b>FTE Position Summary</b>						
Fund	2006-07 Base	2008-09 Governor	2008-09 Jt. Finance	2008-09 Legislature	2008-09 Act 20	Act 20 Change Over 2006-07 Base
GPR	0.00	0.00	14.30	14.30	14.30	14.30
PR	<u>0.00</u>	<u>0.00</u>	<u>3.45</u>	<u>3.45</u>	<u>3.45</u>	<u>3.45</u>
<b>TOTAL</b>	<b>0.00</b>	<b>0.00</b>	<b>17.75</b>	<b>17.75</b>	<b>17.75</b>	<b>17.75</b>

### Budget Change Items

**1. CREATION OF GOVERNMENT ACCOUNTABILITY BOARD [LFB Paper 360]**

**Joint Finance/Legislature:** Effectuate the provisions of 2007 Wisconsin Act 1 creating the Government Accountability Board (GAB) and deleting the Elections and Ethics Boards.

	Funding	Positions
GPR	\$4,635,900	13.30
FED	3,053,300	0.00
PR	1,127,400	3.45
SEG	<u>1,500,200</u>	<u>0.00</u>
<b>Total</b>	<b>\$10,316,800</b>	<b>16.75</b>

*Delete Elections and Ethics Boards Appropriations and Funding.* Delete the Elections and Ethics Boards' Chapter 20 schedule and appropriations on the effective date of the 2007-09 biennial budget act. Transfer funding and position authority provided to the Boards to GAB. The transferred funding and position authority consists of \$2,276,900 GPR and 13.3 GPR positions, \$1,575,500 FED and 1.0 FED position, \$563,700 PR and 3.45 PR positions, and \$750,100 SEG in 2007-08, and \$2,359,000 GPR and 13.3 GPR positions, \$1,477,800 FED, \$563,700 PR and

3.45 PR positions, and \$750,100 SEG in 2008-09.

*Deposit of Revenues to Government Accountability Board Funds or Appropriations.* Provide that the Elections and Ethics Boards (for so long as they remain constituted and vested with authority during 2007-09) must deposit all revenues received into the appropriate GAB fund or appropriation account, consistent with the purposes for which those revenues are directed by law to be deposited to or credited by GAB.

*Expenditures from Government Accountability Board Appropriations.* Provide that the Elections and Ethics Boards (for so long as they remain constituted and vested with authority during 2007-09) may encumber or expend moneys from any GAB appropriation, consistent with the purposes of that appropriation. Further provide that the Elections and Ethics Boards may not encumber or expend funds in an amount greater than the amount that would have been authorized to the respective Boards during 2007-09, if the passage of SB 40 had been delayed.

*Current Law.* The provisions of 2007 Wisconsin Act 1 consolidated the Elections Board and the Ethics Board as a new Government Accountability Board. Under Act 1, the Elections and Ethics Boards cease to exist on the later of either: (a) September 1, 2007; or (b) the 31<sup>st</sup> day beginning after the date on which GAB has given final approval to the hiring of individuals to initially fill the positions of Legal Counsel to the Board, Administrator of the Ethics and Accountability Division of GAB, and Administrator of the Elections Division of GAB.

[Act 20 Sections: 1b, 3938c, 9118m(1u), and 9418m(1t)]

## 2. LEGAL COUNSEL

	Funding	Positions
GPR	\$243,200	1.00

**Joint Finance/Legislature:** Provide \$121,600 and 1.0 position annually to provide funding and position authority for the Legal Counsel position for the Board, which will serve as the administrative head for the agency.

*Current Law.* Under Act 1, the Legislature created GAB and provided that a new Legal Counsel position would serve as the administrative head for the agency. GAB would be required to delete an existing position under the Elections Board or Ethics Board and reallocate funding in order to provide for this position.

## 3. BOARD PER DIEM FUNDING [LFB Paper 360]

**Joint Finance/Legislature:** Reserve \$28,300 GPR annually under the Joint Committee on Finance GPR supplemental appropriation for possible future release to GAB to fund: (a) board member per diem costs for 12 board meetings annually; and (b) per diem costs for the Board Chair, or the Chair's designee, to canvass each state election event.



Provide that during each year of the upcoming biennium, GAB must report to the Co-Chairs of the Joint Committee on Finance concerning its need for board member per diem funding. If, within 14 working days after the date on which they receive the report, the Co-Chairs of the Committee do not notify the Legal Counsel of GAB that the Committee has scheduled a meeting for the purpose of reviewing the Board's report, the per diem funding under the Committee's GPR supplemental appropriation would be transferred to GAB's GPR-funded general program operations appropriation and may be expended by the Board for its per diem payment obligations. If, within 14 working days after the date that the Board submits its report, the Co-Chairs of the Committee notify the Legal Counsel of GAB that the Committee has scheduled a meeting for the purpose of reviewing the Board's proposed expenditures for board member per diem payments, the funding under the Committee's GPR supplemental appropriation for GAB per diem payments will only be transferred to GAB upon approval of the transfer by the Committee. [See "Program Supplements."]

[Act 20 Sections: 9118m(1k) and 9227(1k)]

#### **4. LOBBYING ADMINISTRATION PROGRAM REVENUE APPROPRIATION [LFB Paper 360]**

**Joint Finance/Legislature:** Create a lobbying administration PR annual appropriation to permit lobbying fees to be separated from campaign finance registration fees from non-candidate campaign finance registrants. Re-title GAB's general program operations; program revenue appropriation created under Act 1, the election administration; program revenue appropriation.

The Elections Board currently collects filing fees from non-candidate campaign finance registrants to offset campaign finance administration costs, while the Ethics Board collects license fees from lobbyists and registration fees from lobbying principals to offset lobbying law administration costs. Under current law, each agency deposits these revenues to a general program operations PR appropriation. Under Act 1 creating GAB, these fees are deposited to, and expended from, a single PR-general program operations appropriation.

[Act 20 Sections: 543g, 543r, and 3938b]

#### **5. ALLOWING AN ELECTOR TO REQUIRE IDENTIFICATION**

**Assembly:** Include provisions of 2007 Senate Bill 200, which would allow electors to require identification whenever a ballot is issued under their name. Specify that the elector would have to appear in person at the office of the municipal clerk or board of election commissioners of the municipality where the elector resides and sign a statement, on a form issued by the Government Accountability Board, stating that they wish to require identification shown whenever a ballot is issued to someone claiming to be them at a polling place. Allow the person to also revoke this requirement in a similar manner. All forms would have to be filed at least 31 days before an election.

Specify that the following could be used for identification of an elector: (a) a valid Wisconsin driver's license issued by the Department of Transportation (DOT); (b) a valid identification card issued by a U.S. uniformed service; or (c) a valid Wisconsin identification card issued by DOT. Specify that voting lists provided to poll workers would have to include indications as to which persons required identification to be shown. In cases where a license had been revoked the citation issued upon revocation could be used as proof of identity.

Specify that such an elector, who votes by absentee ballot, would be required to enclose a copy of his or her identification when voting an absentee ballot by mail. If an affected elector voting by absentee ballot failed to enclose a copy of the identification with his or her ballot, the ballot would be treated as a provisional ballot.

Allow an elector who votes at a polling place, and has opted to require identification, to vote provisionally. If the person voted provisionally, require them to provide proper identification either at the polling place before the end of the voting date or at municipal clerk or board of election commissioner's offices by 4 p.m. on the date following the election. If these deadlines were not met, specify that the ballot would not be counted.

Specify that this provision would first take effect on January 1, 2009, and effect all elections beginning with the 2009 spring primary election.

**Conference Committee/Legislature:** Delete provision.

## **6. UTILIZATION OF EMPLOYMENT COMPENSATION FOR POLITICAL PURPOSES**

**Assembly:** Preclude: (a) any employer or labor organization from increasing the salary of an officer or employee, or giving an emolument to an officer, employee, or other person, with the intention that the increase in salary, or the emolument, or a part of it, be used to make a campaign finance contribution or disbursement; (b) any employer or labor organization from discriminating against an officer or employee with respect to any term or condition of employment for failing to make a campaign finance contribution; failing to support or oppose a candidate, proposition, political party, or committee; or supporting or opposing a candidate, proposition, political party, or committee; and (c) any employer or other person responsible for the disbursement of moneys in payment of wages or salaries to withhold any portion of an employee's wages or salary for the purpose of making a campaign finance contribution to a committee or for use as a campaign finance contribution to a committee except upon the written request of the employee.

Any such request under (c) would have to be made on a form prescribed by the Government Accountability Board (GAB) informing the employee of the prohibition under (c). The request would be valid for 12 months from the date on which it was made by the employee unless the employer and employee agreed to an earlier termination date. Each person withholding money under (c) would be required to maintain open for public inspection for a period of no less than three years from the date on which a withholding occurs, during normal business hours, documents and books of accounts which would have to include a copy of each

employee's request for withholding, the amounts and dates on which moneys were withheld under the request, and the amounts and dates on which moneys were transferred to any committee by the person. Each such person would be required to deliver or transmit copies of such information to GAB upon its request.

Further provide that no labor organization could use moneys derived from an all-union agreement or a fair-share agreement (as these agreements are defined under state statute) that are paid by an individual who is not a member of the organization for the purpose of making a campaign finance contribution or disbursement, unless authorized by the individual. Any authorization would have to be made in the manner provided under (c) above.

**Conference Committee/Legislature:** Delete provision.

## **7. BALLOT PRINTING IN MILWAUKEE**

**Assembly:** Include the provisions of 2007 Senate Bill 201, which provide that prior to the date of the election, a first class city is prohibited from printing more than 200% of the ballots used in the previous election corresponding to the election in which ballots are being printed. Specify that this provision would become effective on the first day of the second month after the effective date of the bill.

Under current law, the county clerk or board of election commissioners of each county is responsible for printing ballots for elections, with the following exceptions: (a) municipalities must print ballots when required for local elections; (b) a first class city (Milwaukee), may print its own ballots for any election; (c) any municipality that uses an electronic voting system may print ballots with the permission of the county clerk or board of election commissioners of the county or counties in which the municipality is located; and (d) no ballots are printed for distribution to electors in a municipality that uses voting machines. Currently, a sufficient number of ballots must be printed to assure that there is a ballot for each elector. Currently, there is no limit on the number of ballots that may be printed.

**Conference Committee/Legislature:** Delete provision.

## **8. ELIMINATE STRAIGHT PARTY VOTING**

**Assembly:** Beginning with the 2008 general election, eliminate the option to vote straight party ticket, unless a person is voting absentee from the military or from overseas. Specify that a person would have to vote jointly for a president and vice president of the same ticket, unless the person writes in candidates in both spaces. Under current law, a ballot must include an option that would allow an elector to vote for an entire party (straight party ticket), except in primary elections.

**Conference Committee/Legislature:** Delete provision.

# GOVERNOR

<b>Budget Summary</b>							
Fund	2006-07 Base Year Doubled	2007-09 Governor	2007-09 Jt. Finance	2007-09 Legislature	2007-09 Act 20	Act 20 Change Over Base Year Doubled Amount	Percent
GPR	\$7,733,200	\$8,806,200	\$8,806,200	\$8,095,600	\$8,095,600	\$362,400	4.7%

<b>FTE Position Summary</b>						
Fund	2006-07 Base	2008-09 Governor	2008-09 Jt. Finance	2008-09 Legislature	2008-09 Act 20	Act 20 Change Over 2006-07 Base
GPR	37.25	41.25	41.25	37.25	37.25	0.00

## Budget Change Items

### 1. STANDARD BUDGET ADJUSTMENTS

GPR	\$362,400
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**Governor/Legislature:** Provide standard adjustments to the base budget for full funding of salaries and fringe benefit costs (\$181,200 annually).

### 2. STAFF TO THE GOVERNOR

	<u>Governor</u> <u>(Chg. to Base)</u>		<u>Legislature</u> <u>(Chg. to Gov)</u>		<u>Net Change</u>	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	\$710,600	4.00	-\$710,600	-4.00	\$0	0.00

**Governor:** Provide \$355,300 and 4.0 unclassified positions annually to assist in the development and implementation of policy initiatives in the Office of the Governor.

**Assembly/Legislature:** Delete provision.

**3. REASSIGN EXECUTIVE POSITION TO NEW EXECUTIVE SALARY GROUP LEVEL**  
[LFB Paper 606]

**Governor:** Reassign the executive salary group (ESG) classification of the Governor's Chief of Staff from ESG 4 to ESG 6. 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. Currently, the annual salary range for ESG 4 is from \$71,042 to \$110,117. The range for ESG 6 is from \$82,864 to \$128,441. This provision would affect other executive positions in a number of state agencies. [See "Office of State Employment Relations."]

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

[Act 20 Section: 617]

**4. ELIMINATE VACANT GPR POSITIONS**

**Assembly:** Delete \$4,300 and 0.13 position annually associated with the salary and fringe benefits of a GPR position which has been vacant for 12 months or more.

**Conference Committee/Legislature:** Delete provision.

## HEALTH AND FAMILY SERVICES

<b>Budget Summary</b>							
Fund	2006-07 Base Year Doubled	2007-09 Governor	2007-09 Jt. Finance	2007-09 Legislature	2007-09 Act 20	Act 20 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$5,426,421,000	\$4,639,747,200	\$4,638,954,800	\$5,126,546,100	\$5,126,546,100	-\$299,874,900	- 5.5%
FED	6,858,488,600	7,446,616,700	7,499,991,600	7,043,985,900	7,043,985,900	185,497,300	2.7
PR	842,629,400	972,117,000	936,658,100	940,902,500	940,902,500	98,273,100	11.7
SEG	<u>223,267,400</u>	<u>1,451,508,200</u>	<u>1,419,561,200</u>	<u>522,698,500</u>	<u>522,698,500</u>	<u>299,431,100</u>	134.1
Total	<u>\$13,350,806,400</u>	<u>\$14,509,989,100</u>	<u>\$14,495,165,700</u>	<u>\$13,634,133,000</u>	<u>\$13,634,133,000</u>	<u>\$283,326,600</u>	2.1%

<b>FTE Position Summary</b>						
Fund	2006-07 Base	2008-09 Governor	2008-09 Jt. Finance	2008-09 Legislature	2008-09 Act 20	Act 20 Change
						Over 2006-07 Base
GPR	2,150.57	2,104.13	2,113.69	2,113.69	2,113.69	- 36.88
FED	1,066.56	917.42	926.46	923.46	923.46	- 143.10
PR	2,552.32	2,491.48	2,467.28	2,473.92	2,473.92	- 78.40
SEG	<u>2.00</u>	<u>5.00</u>	<u>5.00</u>	<u>2.00</u>	<u>2.00</u>	<u>0.00</u>
Total	<u>5,771.45</u>	<u>5,518.03</u>	<u>5,512.43</u>	<u>5,513.07</u>	<u>5,513.07</u>	- 258.38

### Budget Change Items

### Departmentwide

#### 1. STANDARD BUDGET ADJUSTMENTS [LFB Paper 446]

**Governor:** Provide \$28,429,100 (\$14,696,100 GPR, \$4,488,300 FED, \$9,236,000 PR, and \$8,700 SEG) in 2007-08 and \$28,542,900 (\$14,703,400 GPR, \$4,488,300 FED, \$9,342,500 PR, and \$8,700 SEG) in 2008-09 and 37.0 positions (-3.0 FED positions and

	Funding	Positions
GPR	\$29,399,500	0.00
FED	8,976,600	- 3.00
PR	18,578,500	40.00
SEG	<u>17,400</u>	<u>0.00</u>
Total	<u>\$56,972,000</u>	<u>37.00</u>

40.0 PR positions), beginning in 2007-08, to adjust the Department's base budget for: (a) turnover reduction (-\$2,095,600 GPR, -\$1,045,400 FED, and -\$2,289,600 PR annually); (b)

removal of noncontinuing items (-\$58,000 GPR, -\$173,800 FED and -\$569,500 PR annually and -3.0 FED positions and -1.0 PR position, beginning in 2007-08); (c) full funding of salaries and fringe benefits (\$11,841,000 GPR, \$5,617,300 FED, \$3,743,200 PR, and \$8,700 SEG annually and 41.0 PR positions, beginning in 2007-08); (d) overtime (\$3,315,500 GPR and \$5,893,300 PR in 2007-08 and \$3,322,800 GPR and \$5,999,800 PR in 2008-09); (e) night and weekend salary differentials (\$1,693,200 GPR, \$90,200 FED, and \$2,458,600 PR annually); and (f) minor transfers within appropriations.

**Joint Finance/Legislature:** Reduce funding for overtime costs at the mental health institutes by \$184,400 GPR in 2007-08 and by \$207,700 GPR in 2008-09 and increase funding for overtime costs at the Sand Ridge Secure Treatment Center and the Wisconsin Resource Center by corresponding amounts.

**2. DEBT SERVICE REESTIMATE**

GPR	\$1,231,700
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**Governor/Legislature:** Provide \$698,700 in 2007-08 and \$533,000 in 2008-09 to reflect anticipated changes in debt service costs associated with mental health facilities operated by the Division of Disability and Elder Services (\$694,100 in 2007-08 and \$530,300 in 2008-09) and the workshop for the blind (\$4,600 in 2007-08 and \$2,700 in 2008-09).

**3. PROGRAM REVENUE FUNDING ADJUSTMENTS**

PR	\$5,169,100
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**Governor/Legislature:** Provide \$2,762,000 2007-08 and \$2,407,100 in 2008-09 to adjust funding for programs that are either wholly or partially supported by program revenues, including revenues transferred from other agencies and revenues transferred within DHFS. These adjustments reflect the administration's estimates of the amount of program revenue that will be available to support program costs in the 2007-09 biennium.

Major funding changes include: (a) increased funding transferred from other agencies and DHFS divisions that support information technology services provided by the Bureau of Information Technology Services (\$974,000 in 2007-08 and \$1,626,900 in 2008-09); (b) decreases in funding DHFS collects by recovering incorrect public assistance payments, which it uses to support fraud and error reduction activities (-\$1,200,000 annually); (c) increases in funding for aids distributed by the Division of Public Health from gifts, grants and bequests (\$1,691,100 in 2007-08 and \$580,000 in 2008-09); (d) increases in inter-agency and intra-agency funding transferred to Mendota Mental Health Institute (\$847,600 in 2007-08 and \$926,300 in 2008-09) and the Winnebago Mental Health Institute (\$327,100 in 2007-08 and \$333,300 in 2008-09); (e) decreases in inter-agency and intra-agency funding that supports local assistance distributed by the Division of Disability and Elder Services (-\$600,000 annually); (f) increases in estimated payments funded from recovery activities under the medical assistance program (\$687,900 annually); (g) decreases in estimated SeniorCare administrative costs funded from enrollment fees (-\$480,000 in 2007-08 and -\$420,800 in 2008-09); (h) decreases in funding for compilations of health data reports (-\$407,100 annually); and (i) increases in funding for the Division of

Disability and Elder Services to conduct background checks (\$317,000 in 2007-08 and \$236,800 in 2008-09).

**4. FEDERAL FUNDING ADJUSTMENTS**

FED	\$60,700
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**Governor/Legislature:** Provide \$1,350,300 in 2007-08 and reduce funding by \$1,289,600 in 2008-09 to adjust funding for selected programs that are either wholly or partially supported by federal revenue. These adjustments reflect the administration's estimates of the amount of federal revenues that will be available to support certain DHFS programs in the 2007-09 biennium.

This item includes increased funding to support: (a) project aids distributed by the Division of Public Health (DPH) (\$7,900,600 annually); (b) benefits under the women, infants, and children (WIC) supplemental food program (\$1,824,000 annually); (c) project aids distributed by the Division of Health Care Financing (DHCF) (\$800,000 annually); and (d) DHFC project operations (\$447,600 annually). Funding reductions include support for: (a) project aids distributed by the Division of Disability and Elder Services (DDES) (-\$8,100,000 in 2007-08 and -\$10,600,000 in 2008-09); (b) program aids distributed by the Division of Children and Family Services (DCFS) (-\$417,200 in 2007-08 and -\$633,500 in 2008-09); (c) DCFS project operations (-\$346,700 in 2007-08 and \$346,100 in 2008-09); (d) DPH staff costs funded from the maternal and child health block grant (-\$334,900 annually); (e) local assistance administered by DDES (-\$344,900 in 2007-08 and -\$267,000 in 2008-09); and (f) aids funded from the community services block grant administered by DCFS (-\$129,800 annually).

**5. EXTEND PROJECT POSITIONS [LFB Paper 365]**

FED	\$538,700
PR	56,400
Total	\$595,100

**Governor:** Provide \$341,700 (\$313,500 FED and \$28,200 PR) in 2007-08 and \$253,400 (\$225,200 FED and \$28,200 PR) in 2008-09 to extend 4.95 positions (4.25 FED positions and 0.70 PR position) that are scheduled to terminate in the 2007-09 biennium.

These positions include: (a) 0.25 FED public health educator position, which provides consultation and direction for the emergency medical services for children public health program, that is scheduled to terminate in July, 2007, to May, 2010; (b) 1.0 FED human services program coordinator position, which serves as the director of the Wiser Choice Resource Center (a pilot project to improve access to recovery treatment services in Milwaukee County), that is scheduled to terminate in July, 2007, to November, 2008; (c) 1.0 FED agency liaison project position, which serves as the Milwaukee faith-based coordinator position, from July 1, 2007, to March 27, 2010; (d) 1.0 FED agency liaison project position, which serves as a liaison to the Governor's Office, that is scheduled to terminate in July 2007, to February 28, 2008; (e) 1.0 FED human services program coordinator position, which works on child welfare issues, that is scheduled to terminate in July, 2007, to June 2009; and (f) 0.7 PR position, which is part of a quality management team that oversees quality management issues at each of the institutions,



which is scheduled to terminate in July, 2007, to March, 2010.

**Assembly:** Delete the provision that would extend 1.0 FED agency liaison project position, which serves as a special assistant to the Secretary on program issues, from July 1, 2007, to February 28, 2008. Transfer \$43,300 FED in 2007-08 from salaries and fringe benefits to instead support supplies and services in the agency's general management appropriation, and reduce GPR funding for supplies and services by a corresponding amount.

**Conference Committee/Legislature:** Delete Assembly modification.

**6. ADMINISTRATIVE TRANSFERS**

**Governor/Legislature:** Provide \$37,300 (\$376,000 FED and -\$338,700 PR) in 2007-08 and \$9,100 (\$376,000 FED and -\$366,900 PR) in 2008-09 and convert 6.23 PR positions to 1.23 GPR positions and 5.00 FED positions in 2007-08 and 6.66 PR positions to 1.66 GPR positions and 5.00 FED positions in 2008-09 to reflect positions transfers in the 2005-07 biennium and to correct funding and position errors in 2005 Act 25.

	Funding	Positions
GPR	\$0	1.66
FED	752,000	5.00
PR	- 705,600	- 6.66
Total	\$46,400	0.00

**7. STATE CONTROLLER'S OFFICE CHARGES**

**Governor/Legislature:** Reduce funding by \$26,100 (\$29,200 FED and -\$55,300 PR) annually to reflect reestimates of the amount of funding several program revenue and federal appropriations will be charged to process WISMART transactions through the state controller's office.

FED	\$58,400
PR	- 110,600
Total	- \$52,200

**8. REQUIRED REPORTS**

**Governor:** Repeal requirements that the Department prepare the following reports.

a. *State Adoption Program.* An annual report to the Joint Finance Committee, submitted by March 1, on the number of children placed for adoption by DHFS during the previous year and costs to the state for services relating to these adoptions.

b. *CIP IA.* An annual report to the Joint Finance Committee and the Chief Clerk of each house of the Legislature for distribution to appropriate standing committees, submitted by March 1, describing the impact of the community integration program (CIP IA) during the preceding calendar year on state employees, including DHFS efforts to redeploy employees into vacant positions and the number of employees laid off.

c. *Hunger Prevention.* An annual plan to the Governor, the Superintendent of Public Instruction, and the appropriate legislative standing committees, submitted by December 31, that documents areas of hunger and populations experiencing hunger within the state and that recommends strategies and state and federal policy changes to address hunger in these areas

and populations.

d. *BadgerCare*. An annual report to the Legislature, submitted by October 1, that summarizes enrollment in, and cost of, the BadgerCare program and any other information that DHFS determines is pertinent information regarding the program.

e. *SeniorCare*. An annual report to the Legislature concerning pharmacies' and pharmacists' compliance with requirements regarding charges for SeniorCare recipients, and information on any pharmacies or pharmacists that discontinue participation as certified MA providers and the reasons they gave for discontinuing their participation.

f. *Long-Term Care Facilities*. A quarterly report to the Board on Aging and Long-Term Care regarding DHFS enforcement actions, consultation, staff training programs, new procedures and policies, complaint investigation and consumer participation in enforcement, and statutory changes, including at least one report annually to the Board regarding implementation of rules that establish procedures for admission, evaluation and care of short-term care nursing home residents.

g. *Nursing Home Violations*. An annual report to the Legislature that: (a) specifies for the previous year the number of class "A" violations, the amount of the forfeiture assessment for each of those violations and, if known; (b) the amount of the forfeiture actually paid and collected with respect to those violations; and (c) an explanation for any assessment that was less than \$2,500 for the violations specified in the report.

h. *Caregiver Criminal History -- Rehabilitation Reports*. An annual report to the Legislature that specifies the number of persons in the previous year that have requested to demonstrate to DHFS that they have been rehabilitated, the number of persons who successfully demonstrated that they have been rehabilitated, and the reasons for the success or failure of person who has attempted to demonstrate that he or she has been rehabilitated.

i. *Birth-to-Three Program*. An annual report to the Legislature on the Department's progress toward full implementation of the birth-to-three program, including the progress of counties in implementing goals for participation in fifth-year requirements specified in federal law.

j. *Alcoholism*. An annual report to the Governor or state health planning and development agency (as defined in federal law) covering activities of DHFS relating to treatment of alcoholism.

k. *Emergency Medical Services*. A biennial plan for state emergency medical services (EMS), including an identification of priorities for changes in the EMS system and recommendations for changes in the statutes or rules that DHFS considers appropriate

l. *Immunization*. An annual report to the Legislature, submitted by July 1, on the success of the statewide immunization program.

m. *Newborn Hearing Screening Programs.* An annual report to the appropriate standing committees of the Legislature, submitted by July 31, that identifies the percentage of deliveries in the state that are performed in hospitals that have newborn hearing screening programs.

n. *Birth Defect Prevention and Surveillance System.* A biennial report to the appropriate standing committees of the Legislature, that details the effectiveness, utilization, and progress of a registry that documents the diagnosis in the state of any infant or child who has a birth defect.

o. *Tobacco Use Control Program.* An annual report submitted to the Governor and the Chief Clerk of each house of the Legislature that evaluates the success of the tobacco use control grant program and specifies: (a) the number of grants awarded during the preceding fiscal year, the purpose for which each grant was made; and (b) donations and grants DHFS received for the program, including the nature, amount and conditions, if any, of the donor or grant and the identity of the donor.

In addition, make the following changes relating to the responsibilities of the Council on Physical Disabilities. First, repeal the requirement that the Council on Physical Disabilities advise the DHFS Secretary and make recommendations, including recommendations for legislation, to specified heads of state agencies, concerning funding, programs, policies and operations of those entities and other matters with respect to physically disabled persons. Second, repeal the requirement that the Council prepare a biennial report to the Legislature concerning time limitations imposed by city ordinances on parking spaces reserved for physically disabled persons.

**Joint Finance/Legislature:** Delete provision as a non-fiscal policy item.

**9. CONSOLIDATION OF EXECUTIVE BRANCH ATTORNEYS AND LEGAL STAFF UNDER DOA [LFB Paper 110]**

	<b>Governor (Chg. to Base) Positions</b>	<b>Jt. Finance/Leg. (Chg. to Gov) Positions</b>	<b>Net Change Positions</b>
GPR	- 9.56	9.56	0.00
FED	<u>- 8.94</u>	<u>8.94</u>	<u>0.00</u>
Total	- 18.50	18.50	0.00

**Governor:** Delete 19.50 classified positions (-10.56 GPR positions and -8.94 FED positions) and create 1.0 unclassified GPR position, beginning in 2008-09, to reflect the consolidation of the agency's attorneys and legal staff under DOA, effective July 1, 2008. Reallocate \$2,052,700 (\$758,100 GPR and \$1,294,600 FED) in 2008-09 from budgeted salaries and fringe benefits to the agency's supplies and services budget to pay for legal services supplied by DOA. Authorize the Secretary of DOA to identify one attorney position in DHFS as general counsel for the agency. The general counsel position would be funded from base level salary and fringe benefits amounts associated with the position identified by the Secretary of DOA.

Specify that all transferred attorneys and legal staff would have the same rights and status as in the agency in which they originated. Specify that attorneys and legal staff that have obtained permanent status would not have to undergo a probationary period in DOA. Provide that all equipment, supplies, and furniture related to the duties of the transferred employees, as specified by the Secretary of DOA, must be transferred to DOA on July 1, 2008. [See "Administration -- Transfers to the Department."]

**Joint Finance:** Delete provision.

**Senate:** Restore provision with the following modifications: (a) specify that the lead attorneys would be under classified service; and (b) exempt the Board on Aging and Long-Term Care, the Department of Military Affairs, and the Department of Public Instruction from the consolidation.

**Conference Committee/Legislature:** Delete provision.

#### 10. REASSIGN EXECUTIVE POSITION TO NEW EXECUTIVE SALARY GROUP LEVEL [LFB Paper 606]

**Governor:** Reassign the executive salary group (ESG) classification of the Secretary of the Department of Health and Family Services from ESG 9 to ESG 8. Under current law, state agency executive positions are assigned to one of ten 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. Currently, the annual salary range for ESG 9 is from \$104,387 to \$161,801. The range for ESG 8 is from \$96,654 to \$149,814. The Governor's provisions would affect other executive positions in a number of state agencies. [See "Office of State Employment Relations."]

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

[Act 20 Sections: 625 and 626]

#### 11. STATE OPERATIONS FUNDING REDUCTIONS

**Assembly:** Reduce funding by \$2,288,800 (-\$1,315,100 GPR and -\$973,700 FED) in 2007-08 and by \$3,811,700 (-\$2,601,000 GPR and -\$1,210,700 FED) in 2008-09 to reflect the following state operations funding reductions.

*FoodShare Contract.* Delete \$1,032,000 (-\$516,000 GPR and -\$516,000 FED) in 2007-08 and \$2,480,000 (-\$1,240,000 GPR and -\$1,240,000 FED) in 2008-09 to reflect reestimates of funding that will be needed to support a new vendor contract for FoodShare benefits.

*Medicaid Claims Processing -- Enhanced Federal Match.* Delete \$487,000 GPR and provide \$487,000 FED in 2008-09 to reflect GPR savings DHFS anticipates will be realized because a new

MA claims processing system will permit DHFS to claim enhanced federal MA funding for certain functions, beginning in 2008-09.

*Bureau of Eligibility Management Contracted Positions.* Delete \$915,400 (-\$457,700 GPR and -\$457,700 FED annually to reflect projected savings of converting 21.0 contracted staff positions that currently support the client assistance for reemployment and economic support (CARES) system to state positions (10.5 GPR positions and 10.5 FED positions, beginning in 2007-08).

*Bureau of Information Technology Services Contracted Positions.* Delete \$227,300 GPR in 2007-08 and \$302,200 GPR in 2008-09 to reflect projected savings of converting 23.0 contracted staff positions that provide information and technology services, to state positions, beginning in 2007-08,

*Office of Strategic Finance.* Delete \$114,100 GPR annually and 1.5 GPR vacant positions in the Office of Strategic Finance.

**Conference Committee/Legislature:** Delete provision.

## 12. ELIMINATE VACANT GPR POSITIONS

**Assembly:** Delete \$1,461,400 and 16.88 positions annually associated with the salary and fringe benefits of GPR positions that have been vacant for 12 months or more.

**Conference Committee/Legislature:** Delete provision.

## 13. LAPSE INCOME AUGMENTATION RECEIPTS

GPR-Lapse	\$37,271,000
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**Conference Committee/Legislature:** Provide that, if, after supporting certain statutory commitments, there remains \$22,271,000 or more in 2007-08 or \$15,000,000 or more in 2008-09 in the income augmentation appropriation accounts budgeted in DHFS and the Department of Children and Families, the DHFS Secretary (in 2007-08) and the Department of Administration (DOA) Secretary (in 2008-09), respectively, is required to lapse \$22,271,000 in 2007-08 and \$15,000,000 in 2008-09 to the general fund. Provide that, if after supporting these commitments, there remains less than these amounts in the income augmentation appropriations, the DHFS and DOA Secretaries are required to lapse to the general fund, from the income augmentation appropriations, those remaining moneys.

Income augmentation funds are unanticipated federal funds DHFS receives under Title IV-E (foster care), Title XIX (medical assistance, or MA), and Title XVIII (Medicare) of the federal Social Security Act as reimbursement for costs that were initially paid with state or local revenue, or revenue from one of these sources that would not otherwise have been available had it not been for activities conducted to augment federal income. Annually, DOA submits a plan for the use of uncommitted income augmentation funds to the Joint Committee on Finance for its review and approval.

[Act 20 Section: 9221(2q)]

## Health Care Quality Fund

### 1. HCQF -- CREATE A HEALTH CARE QUALITY FUND AND FUND OVERVIEW [LFB Paper 370]

**Governor:** Create a health care quality fund (HCQF) as a separate, nonlapsible trust fund that would consist of:

- a. All revenue the state collects from the cigarette tax that exceeds \$304,000,000 in 2007-08 and \$305,000,000 in 2008-09 and in each subsequent year;
- b. All revenue the state receives from the tobacco products tax that exceeds \$18,400,000 in 2007-08 and \$19,300,000 in 2008-09 and in each subsequent year;
- c. All moneys received from a tax on hospital gross revenues that would be created in the bill;
- d. \$50,000,000 in each fiscal year that would be transferred from the permanent endowment fund (the fund consists of all of the proceeds from the sale of the state's right to receive payments under a tobacco settlement agreement, and investment earnings on the proceeds); and
- e. \$175,000,000 that would be transferred from the injured patients and families compensation fund in 2007-08.

In addition to this section, provisions relating to tax increases and revenue transfers that would support the fund, including the fiscal effect of these items, are summarized under "Insurance," "Permanent Endowment Fund," and "Revenue – General Fund Taxes." Items relating to the expenditure of these funds are summarized in this section and under "Healthy Wisconsin Authority."

The fund would support several programs administered by the Department of Health and Family Services, the Health Care Quality and Patient Safety Board, and the Healthy Wisconsin Authority, including: (a) a number of new health programs; and (b) increases in funding for current programs. In addition, the bill would replace GPR base funding for several current programs with segregated revenue from the new fund.

The following table summarizes the Governor's estimates of revenue to the fund, funding that would be provided in the Governor's bill for health programs, and projected fund balances.

**Health Care Quality Fund Overview -- Revenues, Expenditures and Balances  
Governor's Recommendations**

	<u>2007-08</u>	<u>2008-09</u>
<b>Opening Balance</b>	\$0	\$97,300,000
<b>Revenue</b>		
Cigarette Tax	\$257,500,000	\$249,000,000
Tobacco Products Tax	18,200,000	21,500,000
Hospital Assessment	205,532,800	212,726,500
Injured Patients and Families Compensation Fund Transfer	175,000,000	0
Permanent Endowment Fund Transfer	<u>50,000,000</u>	<u>50,000,000</u>
<b>Total Revenue</b>	<b>\$706,232,800</b>	<b>\$533,226,500</b>
<b>Total Available</b>	<b>\$706,232,800</b>	<b>\$630,526,500</b>
<b>Expenditures</b>		
Substitute GPR Base Funds		
Medical Assistance Funding	\$420,809,600	\$432,653,000
Tobacco Control Grants	<u>10,000,000</u>	<u>10,000,000</u>
Subtotal	<u>\$430,809,600</u>	<u>\$442,653,000</u>
Fund New Programs or Increase Funding for Existing Programs		
MA Hospital Rate Increases	\$147,623,200	\$150,976,300
Increase Funding for Tobacco Grants	20,000,000	20,000,000
Grants Distributed by the Health Care Quality and Patient Safety Board	10,000,000	10,000,000
Medical Assistance Eligibility -- Childless Adults	0	6,153,700
Healthy Wisconsin Authority Operations	<u>500,000</u>	<u>500,000</u>
Subtotal	<u>\$178,123,200</u>	<u>\$187,630,000</u>
<b>Total Expenditures</b>	<b>\$608,932,800</b>	<b>\$630,283,000</b>
<b>Closing Balance</b>	<b>\$97,300,000</b>	<b>\$243,500</b>

**Joint Finance:** Modify the Governor's recommendations by: (a) reducing funding for tobacco control grants by \$10,162,500 SEG in 2007-08 and \$10,137,500 SEG in 2008-09; (b) deleting funding and statutory provisions relating to grants to promote the adoption of health care quality and patient safety information technology and to develop exchanges of health information (-\$10,000,000 SEG annually); (c) deleting funding and statutory provisions relating to the Healthy Wisconsin Authority (-\$500,000 SEG annually); (d) increasing funding for the well-woman program and providing ongoing grant funding to an entity to develop and implement a colposcopy program and to fund ongoing operational costs for services provided to MA and BadgerCare recipients (\$162,500 SEG in 2007-08 and \$137,500 SEG in 2008-09). Reduce, by \$20,000,000 per year, the amount of cigarette tax revenue deposited to the fund.

**Senate:** Modify the Joint Finance provisions by: (a) increasing funding for tobacco control grants by \$10,162,500 SEG in 2007-08 and \$10,137,500 SEG in 2008-09; (b) decreasing funding for the well woman program and to provide ongoing funding to an entity to develop and implement a colposcopy program and to provide ongoing operational costs for services provided to MA and BadgerCare recipients (-\$162,500 SEG in 2007-08 and -\$137,500 SEG in 2008-09); (c) increasing funding for the demonstration project to provide MA coverage to low-income, childless adults (\$1,120,300 SEG in 2008-09); and (d) increasing, by \$10,000,000 annually, the amount of cigarette tax revenue that would be deposited to the HCQF so that,

from revenues from the cigarette tax, \$314,000,000 in 2007-08 and \$315,000,000 in 2008-09 would be deposited to the general fund, and the balance would be deposited to the HCQF.

**Assembly/Legislature:** Delete provision.

**2. HCQF -- HOSPITAL ASSESSMENT AND MA RATE INCREASE [LFB Paper 371]**

	<b>Governor (Chg. to Base)</b>	<b>Legislature (Chg. to Gov)</b>	<b>Net Change</b>
SEG-REV	\$418,259,300	-\$418,259,300	\$0
GPR	-\$119,659,900	\$119,659,90	\$0
FED	406,125,000	-406,125,000	0
PR	-3,000,000	3,000,000	0
SEG	<u>418,259,300</u>	<u>-418,259,300</u>	<u>0</u>
Total	\$701,724,400	-\$701,724,400	\$0

**Governor:** Provide \$344,467,500 (-\$57,909,700 GPR, \$198,344,400 FED, -\$1,500,000 PR, and \$205,532,800 SEG) in 2007-08 and \$357,256,900 (-\$61,750,200 GPR, \$207,780,600 FED, -\$1,500,000 PR, and \$212,726,500 SEG) in 2008-09 to reflect the net fiscal effect of the Governor's proposal to: (a) create an assessment on the gross revenues of hospitals; (b) deposit all revenue from the assessment to the health care quality fund (HCQF) to increase MA rates for hospital services; and (c) replace base GPR funding for MA benefits with SEG revenues from the HCQF.

**Statutory Provisions**

Impose on each hospital, for the privilege of doing business in the state, an annual assessment, based on the hospital's gross revenue, that each hospital would be required to pay before December 1. Require that all revenue from the assessment would be deposited into the HCQF.

Require DHFS to verify the amount of each hospital's gross revenue and determine the amount of each hospital's assessment, based on claims information that is currently provided to DHFS by an entity with which DHFS contracts that compiles state hospital information (currently, the Wisconsin Hospital Association). Specify that, although DHFS may consider the MA revenue received by a hospital in the calculation of the assessment, the assessment must be based on a rate not to exceed 1% of the hospital's gross revenue, as adjusted by DHFS.

Specify that certain current law provisions in Chapter 77 relating to tax deficiency and refund determinations, interest and penalties for late taxes, refunds of less than \$2, testimony and disclosure, timely mailings, and the collection of delinquent sales and use taxes, apply to the hospital assessment, except that the revenue would be deposited to the HCQF. Direct DHFS to levy, enforce, and collect the assessment and develop and distribute forms necessary for levying and collection.

Permit an affected hospital to contest an action relating to the assessment by DHFS by submitting a written request for a hearing to the Division of Hearings and Appeals in the Department of Administration within 30 days after the date of the action by DHFS. Provide



that any order or determination made by the Division would be subject to judicial review, as prescribed under Chapter 227 of the statutes.

### Funding and Revenue

*Assessment Revenue.* Estimate that \$205,532,800 in 2007-08 and \$212,726,500 in 2008-09 would be collected in assessment revenue for deposit to the HCQF.

*Rate Increase.* Provide \$345,967,600 (\$147,623,200 SEG and \$198,344,400 FED) in 2007-08 and \$358,756,900 (\$150,976,300 SEG and \$207,780,600 FED) in 2008-09 to increase reimbursement for inpatient and outpatient services MA and BadgerCare recipients receive. The administration estimates that hospitals would be reimbursed for approximately 98% and 88% of their costs of providing inpatient and outpatient services, respectively. DHFS estimates that, in 2004-05, MA payments for inpatient and outpatient services equaled approximately 68% and 51% of hospitals' costs for these services, respectively.

*Replace Base GPR Funding with SEG.* Provide \$57,909,600 SEG in 2007-08 and \$61,750,200 SEG in 2008-09 and decrease GPR funding by corresponding amounts to replace GPR funding currently budgeted for MA benefits with SEG revenues from the HCQF.

*Repeal Current Hospital Assessment.* Repeal the current hospital assessment and delete base MA benefits funding supported by the assessment (-\$1,500,000 PR annually). DHFS currently assesses hospitals, within 90 days of the beginning of each state fiscal year, a total of \$1,500,000, in proportion to each hospital's respective gross private-pay patient revenues during the hospital's most recently concluded entire fiscal year. Each hospital is required to pay its assessment on or before December 1 for the fiscal year. Repeal the PR appropriation from this source and related references in the state's MA statutes.

**Assembly/Legislature:** Delete provision.

### 3. HCQF -- REPLACE BASE GPR MA BENEFITS FUNDING

	Governor (Chg. to Base)	Legislature (Chg. to Gov)	Net Change
GPR	-\$733,802,800	\$433,802,800	-\$300,000,000
SEG	<u>733,802,800</u>	<u>-433,802,800</u>	<u>300,000,000</u>
Total	\$0	\$0	\$0

**Governor:** Reduce MA benefits funding by \$362,900,000 GPR in 2007-08 and \$370,902,800 GPR 2008-09 and increase SEG funding by \$362,900,000 SEG in 2007-08 and \$370,902,800 SEG 2008-09 to support base MA benefits costs. The Governor's intent is to support some of the estimated cost to the MA program of tobacco use with funding from the health care quality fund (HCQF). Under the Governor's bill, additional revenue from the proposed increases in the cigarette tax and the tobacco products tax would be deposited to the HCQF. The administration estimates that \$275.7 million in 2007-08 and \$270.5 million in 2008-09 from these sources would be deposited to the HCQF.

Create four continuing SEG appropriations from the HCQF to support: (a) MA and BadgerCare benefits; (b) MA contracts; (c) SeniorCare benefits; and (d) administration of the SeniorCare program, and create cross references to these appropriations.

**Assembly:** Delete provision. Instead, transfer \$50,000,000 annually from the permanent endowment fund to the MA trust fund. Reduce MA benefits funding by \$50,000,000 GPR annually and increase SEG funding from the MA trust fund by \$50,000,000 annually. The provisions relating to the transfer are summarized under "Permanent Endowment Fund and Tobacco Financing."

**Conference Committee/Legislature:** Include Assembly provision. In addition, increase funding for MA and BadgerCare benefits by \$71,500,000 SEG in 2007-08 and by \$128,500,000 SEG in 2008-09 from the MA trust fund and reduce GPR funding by corresponding amounts to reflect the transfer of these amounts from the injured patients and families compensation fund to the MA trust fund. This transfer is summarized under "Insurance."

**4. HCQF -- HEALTH CARE QUALITY AND PATIENT SAFETY COUNCIL AND GRANT PROGRAM [LFB Paper 372]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
SEG	\$20,000,000	-\$20,000,000	\$0

**Governor:** Provide \$10,000,000 annually from the health care quality fund (HCQF) to fund initiatives to promote the adoption of health care quality and patient safety information technology and to develop exchanges of health information. Create a continuing appropriation in DHFS for this purpose.

Create a Health Care Quality and Patient Safety Council, attached to DHFS, which would consist of the following members: (a) the Secretary of the Department of Administration or his or her designee; (b) the Secretary of the Department of Health and Family Services or his or her designee; (c) the Secretary of Employee Trust Funds or his or her designee; (d) an employer who purchases health care for employees; (e) a representative of the Wisconsin Health and Hospital Association; (f) a physician; (g) a representative of the health insurance industry; (h) a representative of a major health care provider system; and (i) a health care consumer advocate. All council members, except those identified in (a), (b), and (c), would be appointed by the Governor for two-year terms. The initial terms of the members identified in (d), (e), and (f) would expire on July 1, 2009, and the initial terms of the members identified in (g), (h), and (i) would expire on July 1, 2011. Specify that the DHFS Secretary would serve as the chairperson of the Council and appoint chairpersons for subcommittees on patient care, consumer interest and privacy, public health, and statewide health information exchange and interoperability.

Direct the Council, acting in an advisory capacity, to lead implementation efforts for an action plan for health care quality and patient safety by doing all of the following: (a) identifying strategies and actions necessary to attempt to achieve goals established by the

Institute of Medicine of the National Academy of Sciences for health care that is safe, effective, patient-centered, timely, efficient, and equitable, and to extend health care information systems statewide so as to optimize the improvement of health care quality, safety, and efficiency within a reasonable period of time and with reasonable financial investment; and (b) considering the most cost-effective means of implementing a statewide integrated or interoperable health care information system, including assessing the benefits of an integrated or interoperable system for supporting rapid deployment of health care providers, promoting accurate and appropriate shared information about individual patients among health care providers, creating points of reference for performance indicators among health care provider organizations for organizational performance improvement, and reporting to the public on health care quality, safety, and efficiency data for consumer and purchaser decision making.

Require the Council to advise the DHFS Secretary on all of the following: (a) a communication and marketing plan; (b) recommendations, annually, to improve the committee organizational structure of the Council; (c) the distribution of funding to entities to promote the health information technology agenda of the Governor; and (d) whether a health facility or a participating health institution that seeks financial assistance from the Wisconsin Health and Educational Facilities Authority (WHEFA) demonstrates progress in improving medical information systems technology.

Require the Council by January 1, 2008, and at least annually thereafter, to report to the Legislature and to the Governor on the Council's plans, activities, accomplishments, and recommendations. Require that any subcommittee of the Council align its work with recommendations of the American Health Information Community.

Require the DHFS Secretary to determine whether a health facility or a participating health institution that seeks financial assistance from WHEFA demonstrates progress in improving medical information systems technology, and to inform WHEFA of his or her determination. In making that determination, direct the Secretary to consider as a factor the advice of the Council. Require WHEFA to inform the Secretary of any health facility or participating health institution that seeks financial assistance from WHEFA, and prohibit WHEFA from providing any such financial assistance unless the Secretary determines that the health facility or participating health institution demonstrates progress in improving medical information systems technology.

**Joint Finance/Legislature:** Delete provision.

**5. HCQF -- TOBACCO USE CONTROL GRANTS [LFB Paper 373]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Legislature (Chg. to JFC)</b>	<b>Net Change</b>
GPR	-\$20,000,000	\$0	\$30,000,000	\$10,000,000
SEG	<u>60,000,000</u>	<u>-20,300,000</u>	<u>-39,700,000</u>	<u>0</u>
Total	\$40,000,000	-\$20,300,000	-\$9,700,000	\$10,000,000

**Governor:** Provide \$20,000,000 (\$30,000,000 SEG and -\$10,000,000 GPR) annually to: (a) increase the amount of funding that would be provided to support tobacco use control grants

(\$20,000,000 SEG annually); and (b) replace all base GPR funding for grants with segregated funding from the health care quality fund (-\$10,000,000 GPR and \$10,000,000 SEG annually). Create a continuing appropriation from the health care quality fund for this purpose.

**Joint Finance:** Reduce funding for grants by \$10,162,500 SEG in 2007-08 and \$10,137,500 SEG in 2008-09, so that \$19,837,500 SEG in 2007-08 and \$19,862,500 SEG in 2008-09 would be budgeted for tobacco use control grants.

**Senate:** Delete Joint Finance modification.

**Assembly:** Delete provision. Instead, reduce base funding for tobacco use control grants by \$7,500,000 GPR annually so that \$2,500,000 GPR annually would be budgeted for grants.

**Conference Committee/Legislature:** Delete provision. Instead, increase funding for grants by \$5,000,000 GPR annually so that \$15,000,000 GPR annually would be budgeted for tobacco use control grants.

**6. DEMONSTRATION PROJECT TO PROVIDE MA COVERAGE TO CHILDLESS ADULTS [LFB Papers 374 and 375]**

	<b>Governor (Chg. to Base)</b>		<b>Legislature (Chg. to Gov)</b>		<b>Net Change</b>	
	<b>Funding</b>	<b>Positions</b>	<b>Funding</b>	<b>Positions</b>	<b>Funding</b>	<b>Positions</b>
GPR	-\$206,000	0.00	\$206,000	0.00	\$0	0.00
FED	13,320,800	3.00	-13,320,800	-3.00	0	0.00
SEG	<u>6,153,700</u>	<u>3.00</u>	<u>-6,153,700</u>	<u>-3.00</u>	<u>0</u>	<u>0.00</u>
Total	\$19,268,500	6.00	-\$19,268,500	-6.00	\$0	0.00

**Governor:** Reduce GPR funding for MA benefits by \$3,150,000 GPR in 2007-08 and provide \$22,418,500 (\$2,944,000 GPR, \$13,320,800 FED, and \$6,153,700 SEG from the health care quality fund) in 2008-09 and provide 6.0 positions (3.0 FED positions and 3.0 SEG positions), beginning in 2008-09, to reflect the net effect of expanding MA eligibility to childless adults under a demonstration project.

**Statutory Provisions**

Require DHFS to request a waiver from the U.S. Department of Health and Human Services (DHHS) to permit DHFS to conduct a demonstration project to provide health care coverage for primary and preventive care services to adults under the age of 65 who have family incomes up to 200% of the federal poverty level (FPL), who are not otherwise eligible for MA, BadgerCare, or Medicare, and who did not have coverage under the health insurance risk-sharing plan (HIRSP) within six months before applying to participate in the project.

Provide that if the waiver is granted and in effect, DHFS may promulgate rules defining the health care benefit plan, including more specific eligibility requirements and cost-sharing requirements. Specify that DHFS could promulgate the plan details as emergency rules without a finding of emergency. Specify that if a waiver is granted and in effect, the demonstration

project would begin on January 1, 2009, or on the effective date of the waiver, whichever is later.

Modify current DHFS appropriations to: (a) authorize DHFS to fund services under the disease aids program from the MA benefits appropriation; and (b) authorize DHFS to fund benefits under the demonstration project with PR funds the state receives from Milwaukee County under the general assistance medical intergovernmental transfer program. In addition, amend statutes relating to HIRSP to specify that a person is not ineligible for HIRSP if the person is enrolled in the demonstration project.

### **Funding**

Under current law, DHFS provides Milwaukee County relief block grant funds for providing health care services to individuals who meet certain criteria for dependency. Under the bill, the amount that DHFS would otherwise provide in relief block grant funds to Milwaukee County would be offset by amounts paid for individuals in Milwaukee County under the demonstration project to provide health care coverage for eligible adults.

In addition, the bill assumes that all mental health services under this expansion would not be covered under MA, but would instead be delivered by counties. As a result, the services would be eligible for federal matching funds, which under the bill would be passed through to the counties. The bill would also combine the expansion of coverage for childless adults with a simplification of the Wisconsin Medicaid cost reporting (WIMCR) program by: (a) paying counties no more than their costs of providing services under WIMCR; and (b) making changes to how DHFS implements WIMCR.

The bill also provides that recipients under the current chronic diseases program would be eligible for the MA Benchmark plan, as described in the BadgerCare Plus item of the bill, except that these individuals would not be eligible for mental health benefits, which would be provided by counties as described previously. The funding for the chronic diseases program would be used to fund the expansion of services to childless adults, and would be eligible for federal matching funds.

**Senate:** Provide an additional \$1,120,300 SEG from the health care quality fund and reduce funding by \$343,500 FED in 2008-09 to reflect the administration's revised estimates of the cost of the proposal.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore all of the Governor's recommended statutory changes, except the provision that would have specified that a person is not eligible for the demonstration project if the person had coverage under HIRSP within six months before applying to participate in the demonstration project. Instead, specify that if an individual enrolled in HIRSP who is receiving a premium subsidy as of the implementation date for the demonstration project voluntarily terminates coverage under the plan and enrolls in the demonstration project, the HIRSP Authority must transfer to DHFS an amount that is equal to the subsidy amount to which the person would have been entitled on the date on which the

person enrolls in the project had he or she not terminated coverage under the plan. Require the Authority to continue to transfer that subsidy amount to DHFS at the same time intervals the person would have received the HIRSP premium subsidy, for as long as the person is enrolled in the demonstration project. Require DHFS to credit the amounts the HIRSP Authority transfers to a current PR-funded DHFS appropriation that supports MA and BadgerCare benefits costs from premiums paid by enrollees and employer penalty assessments.

Delete all of the Governor's recommended funding changes relating to this item.

[Act 20 Sections: 382, 390, 392w, 393, 1392, 1546, 2881, 2894h, and 9421(4)]

**7. HCQF -- GRANT FOR COLPOSCOPIES AND OTHER SERVICES**

	<b>Jt. Finance (Chg. to Base)</b>	<b>Legislature (Chg. to JFC)</b>	<b>Net Change</b>
GPR	\$0	\$175,000	\$175,000
SEG	175,000	- 175,000	0
Total	\$175,000	\$0	\$175,000

**Joint Finance:** Provide \$100,000 SEG in 2007-08 and \$75,000 SEG in 2008-09 and each subsequent year from the health care quality fund (HCQF) for DHFS to distribute to an entity to provide colposcopic examinations and to provide services to medical assistance (MA) recipients or persons who are eligible for MA. Require DHFS to distribute this funding to an entity that meets the following criteria: (a) the entity is located in the western or northern Wisconsin public health region, as determined by DHFS; and (b) the entity offers Papanikolaou tests (Pap smears) to a patient population of which at least 50% are enrolled in, or eligible for, MA.

**Senate:** Modify provision by funding the grant with GPR, rather than SEG revenues from the HCQF.

**Assembly:** Modify Senate provision by reducing funding by \$62,500 in 2007-08 and by \$37,500 GPR in 2008-09 so that \$37,500 GPR would be provided annually for this purpose.

**Conference Committee/Legislature:** Restore Senate provision.

[Act 20 Sections: 403m and 2870m]

**8. HCQF -- WISCONSIN WELL-WOMAN PROGRAM**

	<b>Jt. Finance (Chg. to Base)</b>	<b>Legislature (Chg. to JFC)</b>	<b>Net Change</b>
GPR	\$0	\$125,000	\$125,000
SEG	125,000	- 125,000	0
Total	\$125,000	\$0	\$125,000

**Joint Finance:** Provide \$62,500 SEG annually from the HCQF to provide breast cancer and cervical cancer screening services under the Wisconsin well-woman program.

**Senate:** Modify Joint Finance provision by deleting all SEG funding (-\$62,500 SEG annually) and instead, providing \$62,500 GPR annually for this purpose.

**Assembly:** Modify Senate provision by reducing funding by \$37,500 GPR annually so that \$37,500 GPR would be provided annually for this purpose.

**Conference Committee/Legislature:** Restore Senate provision.

## **Medical Assistance -- General**

### **1. OVERVIEW OF MEDICAL ASSISTANCE AND BADGERCARE PLUS BENEFITS**

Prior to the enactment of Act 20, funding to support services to medical assistance (MA) recipients and BadgerCare recipients was budgeted in separate GPR- and FED- supported appropriations. As part of the BadgerCare Plus initiative enacted in Act 20 (which combines the Family MA program with the BadgerCare program), the BadgerCare GPR and FED appropriations are repealed. Consequently, beginning in 2007-08, funding to support services under MA and BadgerCare Plus are combined and provided from the same appropriations.

In the 2007-09 biennium, payments DHFS makes to health care providers as reimbursement for serving MA and BadgerCare Plus recipients are supported from several sources. First, general purpose revenue (GPR) provides the primary source of state funding for the program.

Second, the state's share of benefits costs are supported from revenue deposited to the MA trust fund, a segregated, nonlapsible fund into which several types of revenue are deposited, including: (a) all revenue the state collects from monthly assessments on licensed beds in nursing homes and intermediate care facilities for the mentally retarded (ICFs-MR); (b) federal MA matching funds the state claims for nursing home services provided to MA recipients under a certified public expenditure program; (c) federal MA matching funds the state claims for HealthCheck services provided by residential care centers; and (d) federal MA matching funds the state claims for services provided by University of Wisconsin (UW) physicians and the UW Hospital under an intergovernmental transfer (IGT) program.

In addition, Act 20 transfers: (a) \$71.5 million in 2007-08 and \$128.5 million in 2008-09 from the injured patients and families compensation fund to the MA trust fund; and (b) \$50 million annually, beginning in 2007-08, from the permanent endowment fund to the MA trust fund.

Third, the state's share of benefits costs are supported from several program revenue (PR) sources, including: (a) revenue the state receives under an IGT program that supports Milwaukee County's general assistance medical program (GAMP); (b) moneys the state receives under the estate recovery program and other collections; (c) premiums paid by some recipients and employer penalty assessments; (d) revenue DHFS collects from hospital assessments; and (e) county contributions that support services under the Family Care program.

Finally, benefits are supported with federal matching funds the state receives under Title XIX (MA) and Title XXI (the state children's health insurance program, commonly referred to as SCHIP) of the federal Social Security Act. Federal Title XIX (MA) funds are provided, without limit, to support approximately 58% of the costs of most MA-eligible services provided to MA recipients. Federal Title XXI (SCHIP) funds are provided through sum certain annual state allocations, which the state may use as matching funds to support approximately 70% of eligible service costs.

Table 1 identifies MA and BadgerCare Plus benefits funding, by source, for each year of the 2007-09 biennium under Act 20.

**TABLE 1**  
**MA and BadgerCare Plus Benefits Funding, By Source**  
**Act 20**

Source	2006-07 Base	2007-08		2008-09	
		Total	Change from Base	Total	Change from Base
GPR	\$1,803,719,100	\$1,682,533,200	-\$121,185,900	\$1,674,731,900	-\$128,987,200
SEG	<u>110,338,200</u>	<u>237,948,300</u>	<u>127,610,100</u>	<u>284,138,200</u>	<u>173,800,000</u>
Total	\$1,914,057,300	\$1,920,481,500	\$6,424,200	\$1,958,870,100	\$44,812,800
PR	\$32,183,600	\$47,960,400	\$15,776,800	\$82,906,000	\$50,722,400
FED	<u>2,770,545,600</u>	<u>2,851,453,800</u>	<u>80,908,200</u>	<u>3,072,405,800</u>	<u>301,860,200</u>
Total	\$4,716,786,500	\$4,819,895,700	\$103,109,200	\$5,114,181,900	\$397,395,400

Table 2 provides estimates of revenues, expenditures and balances of the MA trust fund from fiscal years 2006-07 through 2008-09.



**TABLE 2**

**MA Trust Fund Condition Statement  
Fiscal Years 2006-07 through 2008-09**

	<u>Actual</u> <u>2006-07</u>	<u>Estimate</u> <u>2007-08</u>	<u>Estimate</u> <u>2008-09</u>
Beginning Balance	-\$25,745,400	\$2,405,500	\$2,263,100
Projected Revenue			
Nursing Home Certified Public Expenditure Program	\$89,980,800	\$40,000,000	\$37,000,000
Nursing Home Bed Assessment	27,759,000	33,715,400	32,557,800
ICF-MR Bed Assessment	0	8,590,500	8,631,300
HealthCheck Services provided by Residential Care Centers	12,440,600	12,000,000	12,000,000
2005 Act 211 Transfer	25,383,900	0	0
UW Physician IGT Program	0	7,000,000	0
UW Hospital Intergovernmental Transfer Program	0	15,000,000	15,000,000
Transfer from Permanent Endowment Fund	0	50,000,000	50,000,000
Transfer from Injured Patients and Families Compensation Fund	0	71,500,000	128,500,000
Interest Earnings/Expenses	<u>-160,200</u>	<u>0</u>	<u>0</u>
Total Revenue	\$155,404,100	\$240,211,400	\$283,689,100
Expenditure Authority	\$127,253,200	\$237,948,300	\$284,138,200
Ending Balance	\$2,405,500	\$2,263,100	\$1,814,000

Table 3 lists all of the items in Act 20 that affected funding for program benefits costs. This information is shown by year and fund source.

**TABLE 3**

**Medical Assistance and BadgerCare Plus Benefits Funding**

	2007-08					2008-09				
	<u>GPR</u>	<u>FED</u>	<u>PR</u>	<u>SEG</u>	<u>Total</u>	<u>GPR</u>	<u>FED</u>	<u>PR</u>	<u>SEG</u>	<u>Total</u>
<b>Base Funding</b>										
Medical Assistance	\$1,725,588,100	\$2,639,684,500	\$24,932,700	\$110,338,200	\$4,500,543,500	\$1,725,588,100	\$2,639,684,500	\$24,932,700	\$110,338,200	\$4,500,543,500
BadgerCare	<u>78,131,000</u>	<u>130,861,100</u>	<u>7,250,900</u>	<u>0</u>	<u>216,243,000</u>	<u>78,131,000</u>	<u>130,861,100</u>	<u>7,250,900</u>	<u>0</u>	<u>216,243,000</u>
Subtotal	\$1,803,719,100	\$2,770,545,600	\$32,183,600	\$110,338,200	\$4,716,786,500	\$1,803,719,100	\$2,770,545,600	\$32,183,600	\$110,338,200	\$4,716,786,500
<b>Cost-To Continue</b>										
MA Base Reestimate	\$35,579,600	\$52,588,900	\$0	-\$24,641,900	\$63,526,600	\$81,436,200	\$252,560,700	\$0	-\$35,878,700	\$298,118,200
BadgerCare Base Reestimate	<u>731,400</u>	<u>15,629,700</u>	<u>384,900</u>	<u>0</u>	<u>16,746,000</u>	<u>10,699,200</u>	<u>33,455,300</u>	<u>855,900</u>	<u>0</u>	<u>45,010,400</u>
Subtotal	\$36,311,000	\$68,218,600	\$384,900	-\$24,641,900	\$80,272,600	\$92,135,400	\$286,016,000	\$855,900	-\$35,878,700	\$343,128,600
<b>Replace GPR Base Funding with SEG Funds</b>										
Injured Patients and Families										
Compensation Fund	-\$71,500,000	\$0	\$0	\$71,500,000	\$0	-\$128,500,000	\$0	\$0	\$128,500,000	\$0
Permanent Endowment Fund	-\$50,000,000	0	0	50,000,000	0	-50,000,000	0	0	50,000,000	0
Create an IGT Program for UW Physician Services	<u>-15,000,000</u>	<u>20,000,000</u>	<u>0</u>	<u>15,000,000</u>	<u>20,000,000</u>	<u>-15,000,000</u>	<u>20,000,000</u>	<u>0</u>	<u>15,000,000</u>	<u>20,000,000</u>
Subtotal	-\$136,500,000	\$20,000,000	\$0	\$136,500,000	\$20,000,000	-\$193,500,000	\$20,000,000	\$0	\$193,500,000	\$20,000,000
<b>Program Changes to Reduce Costs</b>										
MA Benefits Funding Reduction	\$0	\$0	\$0	\$0	\$0	-\$25,000,000	-\$35,886,500	\$0	\$0	-\$60,886,500
Pharmacy Benefits Manager	-2,684,800	-3,768,500	0	0	-6,453,300	-4,881,500	-7,030,800	0	0	-11,912,300
Automated Home Health Provider Monitoring System	-1,920,300	-2,606,500	0	0	-4,526,800	-3,788,000	-5,265,500	0	0	-9,053,500
Claim Common Carrier Transportation as an MA Service	<u>-2,002,900</u>	<u>2,002,900</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>-2,370,500</u>	<u>2,370,500</u>	<u>0</u>	<u>0</u>	<u>0</u>
Subtotal	-\$6,608,000	-\$4,372,100	\$0	\$0	-\$10,980,100	-\$36,040,000	-\$45,812,300	\$0	\$0	-\$81,852,300
<b>Program Expansions</b>										
BadgerCare Plus and Related Initiatives	-\$2,315,200	-\$2,868,200	\$4,284,700	\$0	-\$898,700	\$3,225,800	\$8,675,700	\$19,675,400	\$0	\$31,576,900
Family Care Expansion	700,700	951,200	10,415,200	0	12,067,100	5,031,800	6,994,600	29,480,100	0	41,506,500
Extend MA/BC Coverage Following the Death of a Child	<u>34,500</u>	<u>63,000</u>	<u>4,100</u>	<u>0</u>	<u>101,600</u>	<u>36,900</u>	<u>68,400</u>	<u>3,300</u>	<u>0</u>	<u>108,600</u>
Subtotal	-\$1,580,000	-\$1,854,000	\$14,704,000	\$0	\$11,270,000	\$8,294,500	\$15,738,700	\$49,158,800	\$0	\$73,192,000

TABLE 3 (continued)

Medical Assistance and BadgerCare Plus Benefits Funding

	2007-08					2008-09				
	GPR	FED	PR	SEG	Total	GPR	FED	PR	SEG	Total
<b>Provider Payments and Services</b>										
Non-Institutional Provider										
Rate Increase	\$0	\$0	\$0	\$0	\$0	\$7,109,200	\$10,502,200	\$0	\$0	\$17,611,400
Nursing Home Rate Increase and Treatment of Bed Assessment	-13,800,000	0	0	13,800,000	0	2,468,800	22,517,200	0	13,800,000	38,786,000
Nursing Home Payment Methodology --										
Rock County Labor Region	330,000	447,900	0	0	777,900	330,000	456,700	0	0	786,700
Subtotal	<u>-13,470,000</u>	<u>\$447,900</u>	<u>\$0</u>	<u>\$13,800,000</u>	<u>\$777,900</u>	<u>\$9,908,000</u>	<u>\$33,476,100</u>	<u>\$0</u>	<u>\$13,800,000</u>	<u>\$57,184,100</u>
<b>Administrative and System Changes</b>										
ICF-MR Bed Assessment	-\$411,800	\$2,090,600	\$0	\$1,952,000	\$3,630,800	\$54,400	\$3,367,000	\$0	\$2,378,700	\$5,800,100
Provider Audits	-429,900	-583,600	0	0	-1,013,500	-565,400	-786,000	0	0	-1,351,400
Fund Certain Medicare										
Part B Services with GPR	927,700	-927,700	0	0	0	1,855,400	-1,855,400	0	0	0
Medicare-Medical Assistance										
Fraud Detection	0	0	0	0	0	-119,700	-160,500	19,800	0	-260,400
Medicaid Third Party Liability	0	0	0	0	0	-222,500	-310,800	0	0	-533,300
MA False Claims Recoveries	-580,900	580,900	0	0	0	-1,346,000	902,700	0	0	-443,300
Medicaid Asset Transfers	-1,116,900	-1,508,100	0	0	-2,625,000	-2,349,100	-3,151,000	0	0	-5,500,100
Eligibility Determinations	-877,100	-1,184,300	0	0	-2,061,400	-4,148,200	-5,564,300	0	0	-9,712,500
Program Revenue Reestimates	0	0	687,900	0	687,900	0	0	687,900	0	687,900
Subtotal	<u>-2,488,900</u>	<u>-\$1,532,200</u>	<u>\$687,900</u>	<u>\$1,952,000</u>	<u>-\$1,381,200</u>	<u>-\$6,841,100</u>	<u>-\$7,558,300</u>	<u>\$707,700</u>	<u>\$2,378,700</u>	<u>-\$11,313,000</u>
Chapter 20 Error*	\$3,150,000	\$0	\$0	\$0	\$3,150,000	-\$2,944,000	\$0	\$0	\$0	-\$2,944,000
<b>Total MA and BadgerCare Benefits Funding</b>	<b>\$1,682,533,200</b>	<b>\$2,851,453,800</b>	<b>\$47,960,400</b>	<b>\$237,948,300</b>	<b>\$4,819,895,700</b>	<b>\$1,674,731,900</b>	<b>\$3,072,405,800</b>	<b>\$82,906,000</b>	<b>\$284,138,200</b>	<b>\$5,114,181,900</b>
<b>Total Change to Base</b>	<b>-\$121,185,900</b>	<b>\$80,908,200</b>	<b>\$15,776,800</b>	<b>\$127,610,100</b>	<b>\$103,109,200</b>	<b>-\$128,987,200</b>	<b>\$301,860,200</b>	<b>\$50,722,400</b>	<b>\$173,800,000</b>	<b>\$397,395,400</b>

\*The DHFS appropriation that funds MA payments to counties under the Wisconsin Medicaid cost reporting (WMCR) program, which is not included in the funding amounts shown in this table, has offsetting errors by these amounts so that the total, including the WMCR payment amounts, are correct.

2. MEDICAL ASSISTANCE BASE REESTIMATE [LFB Paper 380]

	Governor (Chg. to Base)	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR	\$155,318,000	\$1,287,700	-\$42,010,700	\$114,595,000
FED	241,543,500	18,522,400	45,083,700	305,149,600
SEG	<u>-68,989,700</u>	<u>8,469,100</u>	<u>0</u>	<u>-60,520,600</u>
Total	\$327,871,800	\$28,279,200	\$3,073,000	\$359,224,000

**Governor:** Provide \$47,198,300 (\$41,840,200 GPR, \$37,541,800 FED, and -\$32,183,700 SEG) in 2007-08 and \$280,673,500 (\$113,477,800 GPR, \$204,001,700 FED, and -\$36,806,000 SEG) in 2008-09 to reflect reestimates of the amount of funding needed to support MA in the 2007-09 biennium, based on current law. Of this amount, \$4,650,900 GPR in 2007-08 and \$3,362,700 GPR in 2008-09 would be provided to increase funding for community aids to reflect reestimates of MA-eligible claims the state makes under the Wisconsin Medicaid cost reporting (WIMCR) program.

*Average Monthly Enrollment.* DHFS projects that the average monthly enrollment will decrease from approximately 668,600 in 2005-06 to approximately 664,700 in 2006-07 (-3.3%), and increase to approximately 650,800 (0.6%) in 2007-08 and approximately 663,500 (2.0%) in 2008-09.

*Rate Increases for Managed Care Providers.* Although this item does not include rate increases for fee-for-service providers, it includes funding to support increases in capitation rates for managed care organizations to reflect changes in average service costs so that the estimated managed care discount rate would be maintained at current levels. The following table identifies, for each MA managed care program, the percentage increase in the capitation rate that would be budgeted under this item, and the (all funds) increase in total funding from the previous year that would be budgeted to support increases in capitation payments.

**Managed Care Capitation Payments -- Funding for Increases**

<u>Program</u>	<u>2007-08</u>		<u>2008-09</u>	
	<u>Percent Increase</u>	<u>Amount (All Funds)</u>	<u>Percent Increase</u>	<u>Amount (All Funds)</u>
AFDC/Health Start HMOs	3.4%	\$18,449,900	3.4%	\$17,112,700
Independent Care (I-Care) Program	5.0	7,857,600	5.0	14,315,400
SSI Managed Care	5.0	19,724,600	5.0	36,800,000
Wraparound Milwaukee and Children Come First	3.0	530,200	3.0	477,500
Program for All-Inclusive Care for the Elderly (PACE)/Wisconsin Partnership Program	4.0	2,685,600	4.0	9,020,700
Family Care CMOs	3.0	4,275,300	3.0	13,682,800

*Federal Financial Participation Rate.* The administration projects that Wisconsin's federal matching rate for MA benefits, or federal MA matching percentage (FMAP) rate, will increase from 57.52% in 2006-07, to 57.58% in 2007-08, and to 58.16% in 2008-09. This change is reflected in the base reestimate. Each state's FMAP is based on a formula that compares the state's per capita income to national per capita income. The administration estimates that the projected increase in the FMAP would decrease GPR benefits costs by approximately \$30.2 million in the 2007-09 biennium and increase FED matching funds by a corresponding amount.

**Joint Finance:** Increase funding in the bill by \$17,165,800 (-\$6,844,400 GPR, \$16,468,400 FED and \$7,541,800 SEG) in 2007-08 and by \$11,113,400 (\$8,132,100 GPR, \$2,054,000 FED, and \$927,300 SEG) in 2008-09 to reflect the projected cost-to-continue MA benefits in the next biennium, based on current law. In addition, the 2007-09 opening general fund balance is increased by \$9,617,500 due to an estimated lapse of that amount in the 2006-07 MA benefits appropriation.

*FMAP Rate.* The FMAP rate is reestimated to be 57.58% in 2007-08 and 58.06% in 2008-09.

*Average Monthly Enrollment.* The following table identifies, by major eligibility group, the actual average monthly enrollment in 2005-06, and the projected enrollment for 2006-07, 2007-08, and 2008-09.

**Actual and Projected MA Enrollment, by Major Eligibility Group  
Fiscal Years 2005-06 through 2008-09**

	2005-06	2006-07	2007-08	2008-09	<u>% Change from Previous Year</u>		
	<u>Actual</u>	<u>Estimate</u>	<u>Estimate</u>	<u>Estimate</u>	<u>2006-07</u>	<u>2007-08</u>	<u>2008-09</u>
Elderly	36,600	34,800	33,600	32,200	-4.9%	-3.4%	-4.2%
Blind and Disabled	108,100	107,300	106,700	106,100	-0.7	-0.6	-0.6
Family Care	12,200	13,200	13,800	14,400	8.2	4.5	4.3
Community Waiver	23,500	23,500	24,100	24,400	0.0	2.6	1.2
Family MA	425,700	425,700	421,000	429,400	0.0	-1.1	2.0
Limited Benefit*	<u>62,500</u>	<u>64,100</u>	<u>67,100</u>	<u>72,700</u>	2.6	4.7	8.3
<b>Total</b>	<b>668,600</b>	<b>668,600</b>	<b>666,300</b>	<b>679,200</b>	<b>0.0%</b>	<b>-0.3%</b>	<b>1.9%</b>

\*Includes individuals enrolled in the family planning waiver program, women who qualify for certain services following screenings they received under the well woman program or the family planning waiver program, and certain Medicare beneficiaries.

**Conference Committee/Legislature:** Increase MA and BadgerCare Plus benefits funding by \$1,728,700 (\$3,150,000 GPR and -\$1,421,300 FED) in 2007-08 and by \$1,344,300 (-\$45,160,700 GPR and \$46,505,000 FED) in 2008-09 to reflect reestimates of benefits costs in the 2007-09 biennium. This reestimate is primarily due to a reestimate of the federal MA matching percentage (FMAP, which is the percentage of MA-eligible service costs that are supported by federal matching funds), which is estimated to be 58.94% in state fiscal year 2008-09, rather than 58.06% in 2008-09, as previously estimated.

**3. BADGERCARE BASE REESTIMATE [LFB Paper 381]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
GPR	\$14,117,900	-\$2,687,300	\$11,430,600
FED	51,591,400	-2,506,400	49,085,000
PR	<u>1,240,800</u>	<u>0</u>	<u>1,240,800</u>
Total	\$66,950,100	-\$5,193,700	\$61,756,400

**Governor:** Provide \$19,997,900 (\$2,902,500 GPR, \$16,710,500 FED, and \$384,900 PR) in 2007-08 and \$46,952,200 (\$11,215,400 GPR, \$34,880,900 FED, and \$855,900 PR) in 2008-09 to reflect the administration's estimates of the amount of funding needed to support BadgerCare in the 2007-09 biennium, based on current law. The Governor's proposal to expand BadgerCare ("BadgerCare Plus") is summarized as a separate item.

**Joint Finance/Legislature:** Decrease funding in the bill by \$3,251,900 (-\$2,171,100 GPR and -\$1,080,800 FED) in 2007-08 and \$1,941,800 (-\$516,200 GPR and -\$1,425,600 FED) in 2008-09 to fund projected BadgerCare benefits costs in the 2007-09 biennium, based on current law.

**4. SENIORCARE BASE REESTIMATE [LFB Paper 382]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Legislature (Chg. to JFC)</b>	<b>Net Change</b>
GPR	\$20,370,200	-\$11,036,000	-\$966,200	\$8,368,000
FED	21,886,500	-12,336,700	966,200	10,516,000
PR	<u>72,833,700</u>	<u>-14,267,400</u>	<u>0</u>	<u>58,566,300</u>
Total	\$115,090,400	-\$37,640,100	\$0	\$77,450,300

**Governor:** Provide \$38,190,100 (\$4,094,900 GPR, \$4,996,500 FED, and \$29,098,700 PR) in 2007-08 and \$76,900,300 (\$16,275,300 GPR, \$16,890,000 FED, and \$43,735,000 PR) in 2008-09 to reflect the administration's estimates of the amount of funding needed to support SeniorCare in the 2007-09 biennium, based on current law.

**Joint Finance:** Reduce funding in the bill by \$17,200,200 (-\$5,111,300 GPR, -\$5,568,900 FED, and -\$6,520,000 PR) in 2007-08 and by \$20,439,900 (-\$5,924,700 GPR, -\$6,767,800 FED, and -\$7,747,400 PR) in 2008-09 to reflect a reestimate of the costs to fully fund SeniorCare in the 2007-09 biennium.

**Conference Committee/Legislature:** Reduce funding by \$966,200 GPR and increase funding by \$966,200 FED in 2008-09 to reflect a reestimate of the federal MA matching funds that will be available to partially support SeniorCare drugs provided to individuals with income under 200% of the federal poverty level under the state's Pharmacy Plus waiver.

It is projected that SeniorCare enrollment will average approximately 105,100 in 2007-08 and approximately 107,100 in 2008-09. The following table shows actual and projected average weekly enrollment for 2005-06 through 2008-09.

**Actual and Projected Average Monthly Enrollment, by Eligibility Group  
Fiscal Years 2005-06 through 2008-09**

Adults Groups, By Benefit Level	2005-06 Actual	2006-07 Estimate	2007-08 Estimate	2008-09 Estimate	2006-07 Percent Change	2007-08 Percent Change	2008-09 Percent Change
0 to 160% FPL	51,600	53,800	48,700	49,700	4.3%	-9.5%	2.1%
160% to 200% FPL	22,200	25,700	24,700	25,100	15.8	-3.9	1.6
200% to 240% FPL	12,900	16,100	15,000	15,300	24.8	-6.8	2.0
>240% of FPL	<u>6,400</u>	<u>16,200</u>	<u>16,700</u>	<u>17,000</u>	153.1	3.1	1.8
Total	93,100	111,800	105,100	107,100	20.1%	-6.0%	1.9%

**5. BADGERCARE PLUS AND RELATED INITIATIVES** [LFB  
Paper 383]

GPR	\$0
FED	4,968,100
PR	<u>26,622,400</u>
Total	\$31,590,500

**Governor:** Provide \$127,400 (-\$2,121,300 GPR, -\$2,512,100 FED, and \$4,760,800 PR) in 2007-08 and \$31,463,100 (\$2,121,300 GPR, \$7,480,200 FED, and \$21,861,600 PR) in 2008-09 to reflect the net effect of: (a) implementing a new program, BadgerCare Plus which would replace the current "family" MA program and the BadgerCare programs, and provide health care coverage for populations not currently covered under MA or BadgerCare; and (b) fund several related initiatives.

**Statutory Provisions**

*Federal Waiver.* The bill would require DHFS to request a waiver from, and submit amendments to the state MA plan, to the Secretary of the U.S. Department of Health and Human Services (DHHS) to implement BadgerCare Plus. If the state plan amendments are approved and a waiver that is consistent with the provisions in the bill relating to BadgerCare Plus is granted and in effect, DHFS would be required to implement BadgerCare Plus, beginning on January 1, 2008, the effective date of the state plan amendments, or the effective date of the waiver, whichever is latest.

If the state plan amendments are not approved or if a waiver that is consistent with all of the provisions in the bill relating to BadgerCare Plus is not granted, BadgerCare Plus could not be implemented. If the state plan amendments are approved but approval is not continued or if a waiver that is consistent with all the provisions of the bill is granted but not continued in effect, BadgerCare Plus would be discontinued.

**Eligibility**

BadgerCare Plus would replace the entire current BadgerCare program and part of the MA program. Individuals who satisfy eligibility criteria under both BadgerCare Plus and BadgerCare would receive benefits under BadgerCare Plus. Individuals who satisfy eligibility criteria under both BadgerCare Plus and MA would receive benefits under one of the two programs, depending on the basis of their eligibility for MA. Individuals enrolled in

BadgerCare Plus would receive benefits under two different plans -- full MA benefits or benefits provided under a benchmark plan -- depending on the basis of the recipient's eligibility.

*Eligibility for Full MA Benefits ("Standard Plan").* Individuals eligible for full MA benefits (the standard plan) would include: (a) a pregnant woman whose family income does not exceed 200% of the federal poverty level (FPL); (b) a child under one year of age whose mother, on the day on which the child was born, was eligible for and receiving benefits under MA or BadgerCare Plus under the standard MA plan; (c) a child whose family income does not exceed 200% of the FPL; (d) an individual whose family income does not exceed 200% of the FPL and who is the parent or caretaker relative of a child who is, generally, living in the home of the parent or caretaker relative; (e) certain migrant workers and their dependents; and (f) an individual between 19 and 21 years of age who was in foster care on his or her 18<sup>th</sup> birthday.

*Eligibility for the Benchmark Plan.* Individuals eligible for the benchmark plan would include: (a) a pregnant woman whose family income is between 200% and 300% of the FPL; (b) a child under one year of age whose mother, on the day on which the child was born, was eligible for and receiving BadgerCare Plus benefits under the benchmark plan; (c) any child whose family income is between 200% and 300% of the FPL; and (d) an individual whose family income is between 200% and 300% of the FPL, who is the parent or caretaker relative of a child who is, generally, living in the home of the parent or caretaker relative. Finally, any child whose family income exceeds 300% of the FPL could purchase coverage under the benchmark plan at the full per member per month cost of the coverage.

*Eligibility for Unborn Children.* For BadgerCare Plus eligibility purposes, a child would be defined to include an unborn child whose mother is not eligible for MA or BadgerCare Plus, but satisfies all other eligibility criteria, except that she is not a U.S. citizen or qualifying alien or is an inmate of a public institution. If the mother's family income does not exceed 200% of the FPL, the unborn child would be eligible for BadgerCare Plus, limited to prenatal care, under the standard MA plan. However, if the mother's family income is between 200% and 300% of the FPL, the unborn child would be eligible for BadgerCare Plus benefits, limited to prenatal care, under the benchmark plan.

Other eligibility provisions would apply. First, regardless of any increase in income, a pregnant woman who is eligible for regular MA benefits would remain eligible for those benefits until the last day of the month in which the 60th day after the last day of the pregnancy falls. Second, a child who is receiving inpatient services under the standard MA plan on the day before his or her 19th birthday would remain eligible for those services until the end of the stay for which the services were being provided. A pregnant woman, a child, or a parent or caretaker relative whose family income is less than 150% of the FPL would be eligible for benefits for any of the three months before he or she applied for coverage if he or she was otherwise eligible and his or her family income was less than 150% of the FPL. In addition, if an applicant shows that an individual is an essential person, the individual would be provided full MA benefits or the benchmark plan. The MA extensions under Chapter 49 relating to AFDC-related MA recipients who lose eligibility due to increased income would not apply to BadgerCare Plus. The MA eligibility provisions for migrant workers and their dependents under Chapter 49 would not apply to BadgerCare Plus.



*Nonapplicability of Other Statutes.* The bill would specify that, notwithstanding other statutory sections that specify MA eligibility requirements for MA and BadgerCare, if the amendments to the state plan for BadgerCare Plus are approved and a waiver that is substantially consistent with all the provisions of the BadgerCare Plus provisions is granted and in effect, an individual described as eligible for BadgerCare Plus would not be eligible for other MA or BadgerCare health program benefits.

*Ineligibility for BadgerCare Plus -- Essential Persons and SSI Recipients.* Individuals who are eligible for MA under categorically needy criteria as "essential persons," and individuals who qualify for MA because they receive supplemental security income (SSI) benefits would be ineligible for BadgerCare Plus. These individuals would continue to be eligible for full MA benefits.

*Continued Eligibility for Current MA and BadgerCare Recipients.* The bill would specify that if an individual over 18 years of age who is eligible for and receiving MA or BadgerCare benefits in the month before BadgerCare Plus is implemented loses that eligibility solely due to the implementation of BadgerCare Plus and, because of his or her income, is not eligible for BadgerCare Plus, the individual would continue to receive, for 18 consecutive months the MA benefits he or she was receiving before the implementation of BadgerCare Plus if all the following are satisfied: (a) the individual's eligibility for MA benefits in the month before the implementation of BadgerCare Plus was based on an application filed before the implementation of BadgerCare Plus; (b) the individual continues to pay any premium that he or she was required to pay for the MA coverage in the same amount as the amount that was due in the month before the implementation of BadgerCare Plus; (c) the individual continues to meet all nonfinancial eligibility requirements for the coverage that he or she had in the month before the implementation of BadgerCare Plus; and (d) the individual continues to be ineligible for BadgerCare Plus because of his or her income. If at any time during the individual's 18-month eligibility extension as described above, any of the criteria described are not satisfied, the extended coverage would be terminated and any time remaining in the eligibility period would be lost.

*Presumptive Eligibility.* The bill would define a "qualified entity" as an entity that satisfies requirements specified in federal law, as determined by DHFS, and a "qualified provider" as a provider that satisfies the requirements under federal law, as determined by DHFS.

The bill would provide that, except for a pregnant woman who is determined to be retroactively eligible for BadgerCare Plus (as described later), a pregnant woman would be eligible only for ambulatory and prenatal care benefits during the period beginning on the day on which a qualified provider determines, on the basis of preliminary information, that the woman's family income does not exceed 300% of the FPL and ending on the day on which DHFS or the county department determines whether the woman is eligible for the benefits.

The bill would provide that, except for a child who is not an unborn child who is determined to be retroactively eligible for BadgerCare Plus (as described later), a child who is not an unborn child is eligible for full MA benefits during the period beginning on the day on which a qualified entity determines, on the basis of preliminary information, that the child's

family income does not exceed 150 % of the FPL and ending of the applicable day.

In addition, if the woman or child applies for benefits under general BadgerCare Plus eligibility requirements within the time required, the benefits they receive under the presumptive eligibility provisions would end on the day on which DHFS or the county department determines whether the woman or child is eligible for benefits under general eligibility criteria. If the woman or child does not apply for benefits under general eligibility criteria within the time required, the presumptive eligibility benefits, as specified previously, would end on the last day of the month following the month in which the provider or entity makes the determination.

DHFS would be required to audit and pay allowable charges to a certified provider only for ambulatory prenatal care services under the benefits under the benchmark plan, on behalf of women who are determined to be presumptively eligible for these benefits.

A woman or child who is determined eligible for presumptive eligibility benefits would be required to apply for benefits under general eligibility criteria on or before the last day of the month following the month in which the qualified provider or entity makes the eligibility determination.

A qualified provider or entity that determines that a woman or child is eligible under presumptive eligibility would be required to: (a) notify DHFS within five working days after the day on which the determination is made; and (b) notify the woman or child of the requirement to apply at the time of determination. DHFS would be required to provide qualified providers and qualified entities with application forms for BadgerCare Plus and information on how to assist women and children in completing the forms.

*Income Verification and Calculation of Family Income.* The bill would require, as a condition of eligibility for coverage under BadgerCare Plus, an individual with income to provide verification, as determined by DHFS, of that income. This requirement would not apply to an individual who, regardless of family income, was born on or after January 1, 1990, and who, on his or her 18th birthday, was in a foster care or treatment foster care placement under the responsibility of the state, as determined by DHFS, or a child under the age of 18.

The bill would require a recipient, within 10 days after a change occurs, to report to DHFS any change that might affect the recipient's eligibility, or any change that might require premium payment by a recipient who was not required to pay premiums before the change. The bill would require, for purposes of determining eligibility and family income, DHFS to include a family member who is temporarily absent from the home for not more than six months, as determined by DHFS.

*Application of MA-Related Provisions.* The following provisions would apply to BadgerCare Plus in the same respect as they apply regarding categorically needy MA: (a) provisions relating to benefits for individuals who are eligible for Medicare Part A, Medicare Part B, and payment of premiums; (b) provisions relating to prohibiting payments for any part of any service payable through third-party liability or any governmental or private benefit system; (c) provisions relating to prohibiting payment for services to residents of institutions for

mental diseases; and (d) provisions that prohibit payment for gastric bypass or stapling surgery.

*Coverage of Medicare Part D Drugs.* For an individual who is eligible for BadgerCare Plus and who is eligible for coverage under Medicare Part D, benefits under the benchmark plan or the regular MA plan would not include payment for any Part D drug, as defined in federal law, regardless of whether the individual is enrolled in Part D of Medicare or whether, if the individual is enrolled, his or her Part D plan, as defined in federal law, covers the Part D drug.

*Special Income Provisions.* The bill would require DHFS, in calculating family income, if an adult member of the family has self-employment income, to count the net self-employment earnings. Net self-employment earnings would be determined by subtracting from gross self-employment income all self-employment expenses that are allowed under federal and state tax law, except for depreciation.

If a parent's or caretaker relative's family income includes self-employment income and, without deducting depreciation, does not exceed 200% of the FPL, the parent or caretaker relative would be eligible for the standard plan. If a parent's or caretaker relative's family income includes self-employment income and, without deducting depreciation, exceeds 200% of the FPL, the parent or caretaker relative would be eligible for the benchmark plan.

*Spend-Down.* The bill would provide that a pregnant woman, or an unborn child, whose family income exceeds 300% of the FPL, may become eligible for BadgerCare Plus coverage if the difference between the pregnant woman's or unborn child's family income and the applicable income limit under general eligibility is obligated or expended for any member of the pregnant woman's or unborn child's family for medical care or any other type of remedial care recognized under state law or for personal health insurance premiums or for both. Eligibility obtained under this provision would continue without regard to any change in family income for the balance of the pregnancy and, for a pregnant woman but not for an unborn child, to the last day of the month in which the 60<sup>th</sup> day after the last day of the woman's pregnancy falls. That eligibility would extend to all children in the pregnant woman's family.

In addition, the bill would specify that a child who is not an unborn child and whose family income exceeds 150% of the FPL could obtain BadgerCare Plus eligibility if the difference between the child's family income and 150% of the FPL is obligated or expended on behalf of the child or any member of the child's family for medical care or any other type of remedial care recognized under state law or for personal health insurance premiums or for both. The bill would specify that eligibility obtained under this provision during any six-month period, as determined by DHFS, continues for the remainder of the six-month period and extends to all children in the family.

For a pregnant woman or an unborn child to obtain eligibility through the spend-down provision, the amount that must be obligated or expended in any six-month period would be equal to the sum of the differences in each of those six months between the pregnant woman's or unborn child's monthly family income and the monthly family income that is 300% of the FPL. For a child to obtain eligibility through the spend-down provision, the amount that must be obligated or expended in any six-month period would be equal to the sum of the differences in each of those six months between the child's monthly family income and the monthly family

income that is 150% of the FPL.

*Calculation of Family Income.* The bill would require DHFS, when calculating an individual's family income, to do all of the following: (a) deduct from family income any payments made by the individual for court-ordered child or family support or maintenance; (b) disregard earnings of children under 18 years of age; (c) determine separately the family incomes of caretaker relatives and the children for whom they are caring and not legally responsible; and (d) not include in the calculation any income of an individual who receives SSI benefits.

### **Health Insurance Coverage and Eligibility**

*Required Enrollment in Group Health Plans.* The bill would require that any individual who is otherwise eligible for BadgerCare Plus and who is eligible for enrollment in a group health plan, as a condition of eligibility for BadgerCare Plus and if DHFS determines that it is cost-effective to do so, apply for enrollment in the group health plan, except that, for a minor, the parent of the minor must apply on the minor's behalf. If a parent of a minor fails to enroll the minor in a group health plan, the failure would not affect the minor's eligibility for BadgerCare Plus.

*Ineligible Individuals.* With specified exceptions, an individual whose family income exceeds 150% of the FPL would not be eligible for BadgerCare Plus if any of the following applies: (a) the individual has individual or family health insurance coverage that is either coverage provided by an employer and for which the employer pays at least 80% of the premium or coverage under the state employee health plan; (b) the individual, in the 12 months before applying, had access to the health insurance coverage as described under (a); or (c) the individual could be covered under the health insurance coverage under (a) if the coverage is applied for, and the coverage could become available to the individual in the month in which the individual applies for benefits or in any of the next three calendar months.

An unborn child, regardless of family income, would not be eligible for BadgerCare Plus if any of the following applies: (a) the unborn child or the unborn child's mother has individual or family health insurance coverage; (b) the unborn child or the unborn child's mother, in the 12 months before applying, had access to the health insurance coverage; (c) the unborn child or the unborn child's mother could be covered under individual or family health insurance coverage if the coverage is applied for, and the coverage could become available to the unborn child or the unborn child's mother in the month in which the unborn child applies for benefits or in any of the next three calendar months.

The bill would provide that none of the following are ineligible for BadgerCare Plus by reason of having health insurance coverage or access to health insurance coverage: (a) a pregnant woman; (b) a child under one year of age whose mother was enrolled in MA or the benchmark plan; (c), a child who has health insurance coverage, or access to health insurance coverage, as a dependent of an absent parent but who resides outside of the service area of the absent parent's plan; (d) an individual who, regardless of family income, was born on or after January 1, 1990, and who, on his or her 18<sup>th</sup> birthday, was in a foster care or treatment foster care placement under the responsibility of the state, as determined by DHFS; and (e) a child who is

not an unborn child whose family income exceeds 150% of the FPL who obtains eligibility under spend down provisions, but only for the remainder of the child's eligibility.

Further, a person would not be ineligible if the individual that had access to healthcare within 12 months of applying for BadgerCare Plus or an individual who is an unborn child or an unborn child's mother under certain circumstances if any of the following good cause reasons is the reason that the individual did not obtain the health insurance coverage under the rules of the provisions regarding insurance coverage: (1) the individual's employment ended; (2) the individual's employer discontinued health insurance coverage for all employees; (3) one or more members of the individual's family were eligible for other health insurance coverage or MA at the time the employee failed to enroll in the health insurance coverage described previously and no member of the family was eligible for coverage under this provision at that time; (4) the individual's access to health insurance coverage has ended due to the death or change in marital status of the subscriber; and (5) any other reason that DHFS determines is a good cause reason.

If a pregnant woman has health insurance coverage and her family income exceeds 200% of the FPL, the woman would be required, as a condition of eligibility, to maintain the health insurance coverage.

If an individual with a family income that exceeds 150% of the FPL had the health insurance coverage specified in the previous section but no longer has the coverage, if an individual who is an unborn child or an unborn child's mother, regardless of family income, had health insurance coverage but no longer has the coverage, or if a pregnant woman specified above has health insurance coverage and does not maintain the coverage, the individual or pregnant woman would not be eligible for BadgerCare Plus for the three calendar months following the month in which the insurance coverage ended without a good cause reason as specified below.

The bill would specify the following as a good cause reason: (a) the individual or pregnant woman was covered by a group health plan that was provided by a subscriber through his or her employer, and the subscriber's employment ended for a reason other than voluntary termination, unless the voluntary termination was a result of the incapacitation of the subscriber or because of an immediate family member's health condition; (b) the individual or pregnant woman was covered by a group health plan that was provided by a subscriber through his or her employer, the subscriber changed employers, and the new employer does not offer health insurance coverage; (c) the individual or pregnant woman was covered by a group health plan that was provided by a subscriber through his or her employer, and the subscriber's employer discontinued health plan coverage for all employees; (d) the pregnant woman's coverage was continuation coverage and the continuation coverage was exhausted; (e) the individual's or pregnant woman's coverage terminated due to the death or change in marital status of the subscriber; and (f) any other reason determined by DHFS to be a good cause reason.

*Employer Verification of Insurance Coverage.* The bill would provide that, with specified exceptions, for an applicant or recipient with a family income that exceeds 150% of the FPL,

DHFS is required to verify insurance coverage and access information directly with the employer through which the applicant or recipient may have health insurance coverage or access to coverage.

The following individuals would be exempt from the employer verification requirements: (a) a pregnant woman; (b) a child who is not an unborn child whose family income exceeds 150% of the FPL who obtains eligibility under special provisions of spend down or a child under one year of age, whose mother was determined to be eligible, and who lives with his or her mother in the state; and (c) an individual who, regardless of family income, was born on or after January 1, 1990, and who, on his or her 18<sup>th</sup> birthday, was in a foster care or treatment foster care placement under the responsibility of the state, as determined by DHFS.

An employer that receives a request from DHFS for insurance coverage and access to coverage information would be required to supply the information requested by DHFS in the format specified by DHFS within 30 calendar days after receiving the request. An employer that does not comply with the requirement would be required to pay, within 45 days after the requested information was due, a penalty equal to the full per member per month cost of coverage under BadgerCare Plus for the individual about whom the information is requested, and for each of the individual's family members with coverage under BadgerCare Plus, for each month in which the individual and the individual's family members are covered before the employer provides the information. An employer with fewer than 250 employees could not be required to pay more than \$1,000 in penalties that are attributable to any six-month period, and an employer with 250 or more employees could not be required to pay more than \$15,000 in penalties that are attributable to any six-month period. An employer would not be subject to any penalties if the employer, at least once per year, timely provides to DHFS, in the manner and format specified by DHFS, information from which DHFS can determine whether the employer provides its employees with access to health insurance coverage.

All penalty assessments would be credited to the appropriations to support BadgerCare Plus benefits (90% of the revenue) and administration (10% of the revenue).

An employer could contest a penalty assessment by sending a written request for hearing to the DOA Division of Hearings and Appeals. These proceedings would be governed by Chapter 227 of the statutes.

DHFS could recover any penalty assessment not paid from the employer against which the penalty was assessed, and bring action to enforce the liability or issue an order to compel payment of the liability if, after notice that payment of a penalty is overdue and the employer who is liable fails to pay the penalty amount. Any person aggrieved by an order could appeal the order as a contested case under Chapter 227 by filing with DHFS a request for a hearing within 30 days after the date of the order. The only issue at the hearing would be the determination by DHFS that the person has not paid the penalty or entered into, or complied with, an agreement for payment.

If an employer named in an order fails to pay DHFS any amount due under the terms of the order and no contested case to review the order is pending and the time for filing for a contested case review has expired, DHFS could present a certified copy of the order to the

circuit court for any county. The sworn statement of the DHFS Secretary would be evidence of the failure to pay the penalty. The circuit court, without notice, would be required to render judgment in accordance with the order. A judgment rendered would have the same effect and be entered in the judgment and lien docket and could be enforced in the same manner as if the judgment had been rendered in an action tried and determined by the circuit court. The recovery procedure would be in addition to any other recovery procedure authorized by law. DHFS could appear for the state, and could commence a suit to recover an unpaid penalty from the employer against which the penalty was assessed.

The bill would repeal current provisions that require BadgerCare applicants or their family members who are employed to provide verification from employers of their earnings.

### **Cost Sharing**

The bill provides that, except as provided in Chapter 49 of the statutes regarding prepayment contracts, all cost-sharing provisions under MA would apply to recipients with full MA coverage, to the same extent as they apply to a person eligible for full MA benefits and a person eligible for MA payment for their Medicare premiums and deductibles.

*Premiums.* The bill would require that, except for specific exceptions, a recipient who is an adult, who is not a pregnant woman, and whose family income is greater than 150% but not greater than 200% of the FPL to pay a premium for coverage under BadgerCare Plus that does not exceed 5% of his or her family income. If the recipient has self-employment income and is eligible under the appropriate BadgerCare Plus eligibility criteria, the premium could not exceed 5% of family income calculated before depreciation was deducted.

A child whose family income is greater than 200% of the FPL would not be required to pay a premium for coverage of the benefits under the benchmark plan that does not exceed the full per member per month cost of coverage for a child with a family income of 300% of the FPL. A recipient who is an unborn child, or a pregnant woman who is eligible as a pregnant woman whose family income exceeds 200% but does not exceed 300% of the FPL, would be required to pay a premium for coverage of the benefits under the benchmark plan that does not exceed the full per member per month cost of coverage for an adult with a family income of 300% of the FPL.

The bill exempts the following individuals from the premium requirements: (a) a child who is a Native American or an Alaskan Native with a family income that does not exceed 300% of the FPL; (b) a child who is not at unborn child whose family income exceeds 150% of the FPL who obtains eligibility under special provisions of spend down or a child under one year of age, whose mother was determined to be eligible, and who lives with his or her mother in the state; (c) a child whose family income does not exceed 200% of the FPL; (d) a pregnant woman whose family income does not exceed 200% of the FPL; and (e) a child that meets eligibility criteria as a result of specific spenddown provisions.

The bill would specify that if a recipient who is required to pay a premium under this provision or under the provision that allows a child with family income that exceeds 300% of the FPL to purchase coverage does not pay a premium when due, the recipient's coverage

terminates and the recipient is not eligible for BadgerCare Plus for six calendar months following the date on which the recipient's coverage terminated.

### **Benchmark Plan Benefits and Copayments**

Recipients who are not eligible for full MA benefits would have coverage of the following benefits and pay the following copayments:

(a) prescription drugs bearing only a generic name, as defined in Chapter 450 of the statutes, with a copayment of no more than \$5 per prescription, and subject to the Badger Rx Gold program discounts;

(b) physician services, including one annual routine physical examination, with a copayment of no more than \$15 per visit;

(c) inpatient hospital services as medically necessary, subject to coinsurance payment per inpatient stay of no more than 10% of the allowable MA rates and a copayment of no more than \$50 per admission for psychiatric services;

(d) outpatient hospital services, subject to coinsurance payment of no more than 10% of the allowable MA rates for the services provided, except that use of emergency room services for treatment of a condition that is not an emergency medical condition, as defined in Chapter 632 of the state statutes, would require a copayment of no more than \$75;

(e) laboratory and x-ray services, including mammography;

(f) home health services, limited to 60 visits per year;

(g) skilled nursing home services, limited to 30 days per year, and subject to coinsurance payment of no more than 10% of the allowable MA rates for the services provided;

(h) inpatient rehabilitation services, limited to 60 days per year, and subject to coinsurance payment of no more than 10% of the allowable MA rates for the services provided;

(i) physical, occupational, speech, and pulmonary therapy, limited to 20 visits per year for each type of therapy, and subject to coinsurance payment of no more than 10% of the MA rates for the services provided;

(j) cardiac rehabilitation, limited to 36 visits per year and subject to coinsurance payment of no more than 10% of MA rates for the services provided;

(k) inpatient, outpatient, and transitional treatment for nervous or mental disorders and alcoholism and other drug abuse problems, with a copayment of no more than \$15 per visit and coverage limits that are the same as those under the state employee health plan;

(l) durable medical equipment, limited to \$2,500 per year, and subject to coinsurance payment of no more than 10% of the MA rates for the articles provided;

(m) transportation to obtain emergency medical care only, as medically necessary, and



subject to coinsurance payment of no more than 10% of the MA rates for the services provided;

(n) one refractive eye examination every two years, with a copayment of no more than \$15 per visit.;

(o) 50% of allowable charges for preventive and basic dental services, including services for accidental injury and for the diagnosis and treatment of temporomandibular disorders. However, the coverage under this service would be limited to \$750 per year, would apply only to pregnant women and children under 19 years of age, and would require an annual deductible of \$200 and a copayment of no more than \$15 per visit;

(p) early childhood developmental services, for children under six years of age;

(q) smoking cessation treatment, for pregnant women only; and

(r) prenatal care coordination, for pregnant women at high risk only.

*Provider Payments and Requirements.* A provider would be required to collect the specified or allowable copayment or coinsurance, unless the provider determines that the cost of collecting the copayment or coinsurance exceeds the amount to be collected. DHFS would reduce payments for services or equipment by the amount of the specified or allowable copayment or coinsurance. A provider could deny care or services or equipment if the recipient does not pay the specified or allowable copayment or coinsurance. If a provider provides care or services or equipment to a recipient who is unable to share costs as specified, the recipient would not be relieved of liability for those costs.

*Rules; Notice of Effective Date.* DHFS could promulgate any rules necessary for, and consistent with, its administrative responsibilities under these provisions, including additional eligibility criteria. DHFS could promulgate emergency rules for the administration of these provisions for the period before the effective date of any permanent rules promulgated, except that these emergency rules would only be effective for 150 days after taking effect, or not to exceed the period that is determined by an extension of the emergency rules as allowed under Chapter 227. DHFS could promulgate these rules as emergency rules without providing a finding of an emergency.

If the amendments to the state plan are approved and a waiver that is substantially consistent with all of these provisions is granted and in effect, DHFS would be required to publish a notice in the Wisconsin Administrative Register that states the date on which BadgerCare Plus is implemented.

### **Funeral, Burial and Cemetery Program**

The bill would specify that, under the current funeral and burial and cemetery program, counties and tribes are responsible for paying funeral, burial, and cemetery expenses for the following groups: (a) a recipient of benefits of Wisconsin Works (W-2), MA recipients that are recipients of social security aids, recipients of state supplemental payments; and a recipient of benefits as eligible under federal criteria for aged, blind, or disabled on May 8, 1980; and (b) a BadgerCare Plus recipient who is any of the following: (1) a pregnant woman or a child under

six years of age with a family income not exceeding 185% of the FPL at the time of death; (2) a child at least six years of age but less than 19 years of age with a family income not exceeding 100% of the FPL at the time of death; and (3) a parent or caretaker relative with a family income not exceeding 50% of the FPL at the time of death.

Currently, counties and tribes are required to pay these expenses for: (a) W-2 enrollees; (b) categorically needy MA recipients (which includes the pregnant women and children groups defined above); (c) SSI recipients; and (d) certain caretaker relatives.

### **Definitions**

The bill would create the following definitions, as they relate to BadgerCare Plus.

"BadgerCare Plus" as the MA program described in new section in Chapter 49 of the statutes.

"Caretaker relative" as an individual who is maintaining a residence as a child's home, who exercises primary responsibility for the child's care and control, including making plans for the child, and who is any of the following with respect to the child: (a) a blood relative, including those of half-blood, and including first cousins, nephews, nieces, and individuals of preceding generations as denoted by prefixes of grand, great, or great-great; (b) a stepfather, stepmother, stepbrother, or stepsister; (c) an individual who is the adoptive parent of the child's parent, a natural or legally adopted child of such individual, or a relative of the adoptive parent; and (d) a spouse of any individual named in this paragraph even if the marriage is terminated by divorce or death.

"Child" as an individual who is under the age of 19 years and includes an unborn child.

"Essential person" as an individual who satisfies all of the following: (a) is related to an individual receiving benefits under BadgerCare Plus; (b) is otherwise nonfinancially eligible, except that the individual need not have a minor child under his or her care; and (c) provides at least one of the following to an individual receiving benefits under BadgerCare Plus: (1) child care that enables a caretaker to work outside the home for at least 30 hours per week for pay, to receive training for at least 30 hours per week, or to attend, on a full-time basis as defined by the school, high school or a course of study meeting the standards established by the state Superintendent of Public Instruction for the granting of a declaration of equivalency of high school graduation; and (2) care for anyone who is incapacitated.

"Family" as all children for whom assistance is requested, their minor siblings, including half brothers, half sisters, stepbrothers, and stepsisters, and any parents of these minors and their spouses.

"Family income" as the total gross earned and unearned income received by all members of a family.

"Group health plan" through a cross-reference to a definition in federal law [(42 USC 300gg-91 (a) (1)].

"Health insurance coverage" through a cross reference to definition in federal law [(42 USC 300gg-91(b) (1)], and specify that it also includes any arrangement under which a third party agrees to pay for the health care costs of the individual.

"Parent" through a cross reference to the current definition as it relates to W-2.

"Recipient" as an individual that receives benefits under the BadgerCare Plus program.

"Unborn child" as an individual from conception until he or she is born alive for whom all of the following requirements are met:

(a) the unborn child's mother is not eligible for MA, except that she may be eligible for benefits under MA as an emergency service;

(b) the family income of the unborn child's mother, mother and her spouse, or mother and her family, whichever is applicable, does not exceed 300% of the FPL;

(c) each of the following applicable persons who is employed provides verification from his or her employer, in the manner specified by DHFS, of his or her earnings: (1) the unborn child's mother; (2) the spouse of the unborn child's mother; and (3) members of the unborn child's mother's family;

(d) the unborn child's mother provides medical verification of her pregnancy, in the manner specified by DHFS, with the provision that an unborn child's eligibility for coverage under BadgerCare Plus does not begin before the first day of the month in which the unborn child's mother provides the medical verification; and

(e) the unborn child and the mother of the unborn child meet all other applicable eligibility requirements under Chapter 49 or established by DHFS by rule except for any of the following: (1) the mother is not a U.S. citizen or an alien qualifying for MA as an emergency service as permitted by federal law; (2) the mother is an inmate of a public institution; and (3) the mother does not provide a social security number, but only if the mother is not a U.S. citizen or an alien qualifying for MA as an emergency service as permitted by federal law.

### **Modify, Create and Repeal Appropriations and Add References to BadgerCare Plus**

The bill would modify current appropriations for MA benefits, contracted services for MA-related programs, and income maintenance contracts to reference BadgerCare Plus. The bill would create a biennial PR appropriation to support BadgerCare Plus administrative costs, to which 10% of moneys received from penalties assessed to employers for failure to comply with insurance verification requirements would be credited. The bill would modify the PR BadgerCare cost sharing and employer penalty assessment appropriation to: (a) include revenue from cost sharing from MA recipients; (b) include 90% of the revenue DHFS receives from employer penalty assessments; and (c) reference the BadgerCare Plus program. The bill would repeal the current BadgerCare GPR and FED benefits appropriation and transfer funding from these appropriations to the modified MA benefits appropriations. The bill would add references to BadgerCare Plus in numerous statutes that previously referenced MA and BadgerCare.

*Repeal Dental Services Pilot Project.* The bill would repeal a provision that requires DHFS, in consultation with the Wisconsin Dental Association, to develop a pilot project for the provision of dental services under a managed care system in Ashland, Douglas, Bayfield, and Iron Counties and to seek federal waivers to implement the program. Under the pilot, recipients would be required to select a dental provider from participating dentists, or be assigned a dentist by DHFS. DHFS would be required to contract with an entity to: (a) accept capitation payments for each enrollee; (b) enroll dentists; (c) coordinate with county departments to provide outreach and education to recipients and person who are eligible to be recipients; and (d) pay all allowable charges on a fee-for-service basis to participating dentists on behalf of recipients in pilot counties for dental services received by participating recipients

*Training for Nonprofit Organizations.* The bill would repeal a provision that requires DHFS to provide training to employees and volunteers of private nonprofit organizations concerning MA eligibility for individuals who would need to "spend down" to meet MA financial eligibility requirements.

#### **Effective Date**

These provisions would take effect on the date stated in the Wisconsin Administrative Register by DHFS as the implementation date for BadgerCare Plus.

#### **Related Initiatives**

Based on the administration's estimates of the net benefits savings that would result by enrolling additional current MA and BadgerCare recipients into HMOs, imposing new cost-sharing requirements on current enrollees, and reducing funding for contracted administrative costs, DHFS expects fund several items to fully expend the administration's estimate of the net projected savings of the item in the 2007-09 biennium. These items are described below.

*Dental Access.* DHFS intends to issue a request for information (RFI) to solicit interest among health care providers for designing and managing a dental service delivery system for BadgerCare Plus recipients. The goal of the RFI process is to bring forward new and innovative service delivery models. DHFS would encourage models that expand upon current local partnerships that are providing dental care to MA recipients.

If DHFS does not find that the responses to the RFI meet the stated goal, DHFS proposes to develop two pilot initiatives to determine a reasonable, long-term solution to increasing access to dental services. One pilot initiative would be a pay-for-performance effort targeting fee-for-service providers in a selected geographical region of the state. The second pilot initiative would explore the feasibility of a public health model for dental services, building on the work of the federally qualified health centers and existing community partnerships.

From the funding provided to increase access to dental services, DHFS is required to allocate \$200,000 in 2007-08 to the Peter Christensen Health Center and \$200,000 in 2007-08 to the Lake Superior Community Health Center to increase access to dental services.

*Healthy Living Incentives.* Currently, 14 HMOs participate in the pay-for-performance (P4P) initiative. In P4P, HMOs and DHFS develop strategies to address public health issues,

such as smoking and utilization of dental services and establish goals. DHFS provides incentive payments to HMOs, based on their progress in meeting these goals. DHFS proposes to add five system-level and individual incentives for: (a) increases in well-child visits and childhood immunization rates; (b) reductions in smoking among enrollees; (c) reductions in childhood obesity; (d) reductions in infant mortality, especially among populations of color; and (e) reductions in inappropriate use of emergency room care.

*HMO Expansion Incentive.* This incentive is intended to encourage health plans to enter geographical service areas that have one or fewer health plans available. The act would provide \$660,000 (\$270,500 GPR and \$389,500 FED) in 2007-08 and \$1,340,000 (\$541,900 GPR and \$798,100 FED) in 2008-09 for this purpose. DHFS has not yet determined how it would distribute the incentive funds.

*Innovative Partnerships.* DHFS intends to expand the MPS student health initiative by hiring an additional 24 nurses or other health care professionals to serve the 37 schools currently without health care services or with individual education plan services only. Two components of the expansion are increased coordination among school nursing staff and current health care providers to ensure that eligible students are enrolled in BadgerCare Plus. Priority would be given to elementary schools with high student poverty levels and poor attendance rates.

*Marketing and Outreach.* DHFS intends to increase marketing of BadgerCare Plus to target populations, including efforts to educate and inform those currently enrolled in MA and BadgerCare about program changes that would result from BadgerCare Plus. The campaign would include brochures, posters, radio spots, and other strategies to reach the target population. DHFS would issue a request for proposal for a portion of these activities.

*Mini-Grants for Outreach.* Mini-grants for outreach would be used to help support non-traditional entry points such as Boys and Girls Clubs, Head Start, YMCA/YWCAs, and faith-based organizations in identifying and enrolling low-income children in BadgerCare Plus. DHFS intends to issue a request for proposal for these activities.

*Benefit Counselors.* Funding is provided to help current MA and BadgerCare recipients transition to BadgerCare Plus. These counselors might also assist DHFS in disseminating health literacy information and help individuals learn how to better manage their health.

*Healthy Living Curriculum.* DHFS intends to work with community-based organizations, HMOs, hospitals, and other providers to develop health information that could be used in a variety of settings. The information would include topics such as: (a) use of care in hospital emergency rooms and other health care settings; and (b) the importance of punctuality for health care appointments, well-child visits, smoking cessation, and exercise.

*Evaluation.* An evaluation would be conducted, in partnership with an outside entity, to determine if BadgerCare Plus met its intended goals and if outcome measures were achieved.

The following table provides a summary of the funding changes would be under the Governor's proposal.

### BadgerCare Plus and Related Initiatives

	2007-08				2008-09			
	<u>GPR</u>	<u>FED</u>	<u>PR</u>	<u>Total</u>	<u>GPR</u>	<u>FED</u>	<u>PR</u>	<u>Total</u>
<b>BadgerCare Plus</b>								
Projected Savings								
MA and BadgerCare Benefits	-\$6,877,600	-\$10,479,900	\$0	-\$17,357,500	-\$14,627,000	-\$22,866,900	\$0	-\$37,493,900
State Administration	<u>-588,100</u>	<u>-661,900</u>	<u>0</u>	<u>-1,250,000</u>	<u>-1,174,200</u>	<u>-1,325,800</u>	<u>0</u>	<u>-2,500,000</u>
Total	-\$7,465,700	-\$11,141,800	\$0	-\$18,607,500	-\$15,801,200	-\$24,187,900	\$0	-\$39,989,100
Projected Costs								
MA and BadgerCare Benefits	\$2,632,200	\$4,832,800	\$4,760,800	\$12,225,800	\$13,206,300	\$24,699,200	\$21,861,600	\$59,767,100
State Administration	<u>282,100</u>	<u>517,900</u>	<u>0</u>	<u>800,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total	\$2,914,300	\$5,350,700	\$4,760,800	\$13,025,800	\$13,206,300	\$24,699,200	\$21,861,600	\$59,767,100
<b>Net Costs (Savings) of BC Plus</b>	-\$4,551,400	-\$5,791,100	\$4,760,800	-\$5,581,700	-\$2,594,900	\$511,300	\$21,861,600	\$19,778,000
<b>Related Initiatives</b>								
Benefits								
Dental Access	\$1,186,200	\$1,707,900	\$0	\$2,894,100	\$2,408,400	\$3,547,000	\$0	\$5,955,400
Healthy Living P4P Initiatives	473,400	681,600	0	1,155,000	948,300	1,396,700	0	2,345,000
HMO Expansion Incentives	270,500	389,500	0	660,000	541,900	798,100	0	1,340,000
Innovative Partnerships					747,900	1,101,600	0	1,849,500
Administration								
Marketing and Outreach	250,000	250,000	0	500,000	0	0	0	0
Mini-grants for Outreach	100,000	100,000	0	200,000	0	0	0	0
Benefit Counselors	100,000	100,000	0	200,000	0	0	0	0
Healthy Living Curriculum	50,000	50,000	0	100,000	0	0	0	0
Evaluation	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>69,700</u>	<u>130,300</u>	<u>0</u>	<u>200,000</u>
<b>Cost of Related Initiatives</b>	\$2,430,100	\$3,279,000	\$0	\$5,709,100	\$4,716,200	\$6,973,700	\$0	\$11,689,900
<b>Net Cost (Change to Base)</b>	-\$2,121,300	-\$2,512,100	\$4,760,800	\$127,400	\$2,121,300	\$7,480,200	\$21,861,600	\$31,463,100

**Joint Finance:** Include provision. However, from the funding the Governor recommended to increase access to dental services, require DHFS to allocate \$200,000 in 2007-08 to the Peter Christensen Health Center and \$200,000 in 2007-08 to the Lake Superior Community Health Center to increase access to dental services.

**Assembly:** Delete all funding and statutory changes relating to BadgerCare Plus, except the provision that would combine the MA and BadgerCare benefits appropriations. Reduce funding by \$127,400 (\$2,121,300 GPR, \$2,512,100 FED and -\$4,760,800 PR) in 2007-08 and by \$31,463,100 (-\$2,121,300 GPR, -\$7,480,200 FED and -\$21,861,600 PR) in 2008-09 to reflect this change.

Instead, reduce MA and BadgerCare benefits and administration funding by \$17,807,500 (-\$7,183,600 GPR, and -\$10,623,900 FED) in 2007-08 and by \$39,993,900 (-\$15,801,200 GPR and -\$24,192,700 FED) in 2008-09 to reflect the administration's estimates of savings that would be realized by: (a) serving 80% of current fee-for-service enrollees in a managed care setting by the end of 2008-09; (b) applying the same nominal copayments that are currently required of recipients who are not enrolled in health maintenance organizations (HMOs) to recipients who are enrolled in HMOs; and (c) simplifying eligibility criteria for Family MA recipients.

**Conference Committee/Legislature:** Delete Assembly modification. In addition, specify that DHFS may implement BadgerCare Plus if the state plan amendments are approved and a waiver that is "substantially consistent" with all of the provisions in the bill relating to BadgerCare Plus is granted and in effect, rather than "consistent" with all of the provisions in the bill.

[Act 20 Sections: 383 thru 386, 388, 392 thru 394, 788 thru 790, 844, 858, 912 thru 915, 922, 926, 930, 983, 1123, 1296, 1298, 1467 thru 1471, 1513 thru 1517, 1519 thru 1527, 1539 thru 1543, 1547, 1549m, 1550, 1552, 1554 thru 1558, 1587, 1592 thru 1595, 1605, 1608, 1630, 1631, 1633, 1634, 1635 thru 1641, 1644, 1651, 1660, 1661, 1671, 1675, 1676, 1679, 1680, 1752, 1812, 1813, 1849, 1874, 2996, 3056, 3179, 3180, 3526, 3679, 3763, 3772, 9121(8k), and 9421(4)]

**6. NON-INSTITUTIONAL PROVIDER RATE INCREASE [LFB Paper 384]**

	<b>Governor (Chg. to Base)</b>	<b>Legislature (Chg. to Gov)</b>	<b>Net Change</b>
GPR	\$23,054,900	-\$15,945,700	\$7,109,200
FED	<u>35,139,500</u>	<u>-24,637,300</u>	<u>10,502,200</u>
Total	\$58,194,400	-\$40,583,000	\$17,611,400

**Governor:** Provide \$14,130,700 (\$5,814,200 GPR and \$8,316,500 FED) in 2007-08 and \$44,063,700 (\$17,240,700 GPR and \$26,823,000 FED) in 2008-09 to increase rates for certain MA and BadgerCare non-institutional services. DHFS would increase rates for all non-institutional provider services by 1% in 2007-08 and an additional 2% (for a total of 3%, compared to current rates) in 2008-09, except that: (a) federally-qualified health care centers and rural health care centers would receive no rate increase, since MA currently pays their costs of serving MA recipients; (b) the rate increase would not be applied to common carrier transportation

allocations to counties; (c) the Governor's bill would increase reimbursement to pharmacies that dispense drugs to MA and BadgerCare recipients by eliminating DHFS' current practice of subtracting \$0.50 per drug claim from the total reimbursement a pharmacy receives; and (d) rates for psychiatric services would be increase by 20%, beginning in 2007-08. As part of this item, the bill includes funding to increase capitation rates for managed care organizations so that these providers could increase rates to noninstitutional providers with which they contract.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision, except reduce funding by \$14,130,700 (-\$5,814,200 GPR and -\$8,316,500 FED) in 2007-08 and by \$26,452,300 (-\$10,131,500 GPR and -\$16,320,800 FED) in 2008-09 to: (a) delete the rate increase recommended by the Governor in 2007-08; (b) increase rates for most non-institutional services by 1% in 2008-09; and (c) increase rates for home health services by 1.5% in 2008-09.

**7. REPLACE GPR BASE MA FUNDING WITH SEG FUNDING BY CREATING AN IGT PROGRAM FOR UW PHYSICIAN SERVICES**

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
SEG-REV	\$30,000,000	\$0	\$30,000,000
GPR	-\$30,000,000	\$0	-\$30,000,000
SEG	30,000,000	0	30,000,000
FED	<u>0</u>	<u>40,000,000</u>	<u>40,000,000</u>
Total	\$0	\$40,000,000	\$40,000,000

**Governor:** Reduce GPR funding for MA benefits by \$15,000,000 and increase SEG funding from the MA trust fund by a corresponding amount annually to reflect the net fiscal effect of creating an intergovernmental transfer (IGT) program for services UW physicians provide to MA recipients. There are no statutory provisions in the bill relating to this item.

**Joint Finance/Legislature:** Direct the University of Wisconsin System to transfer \$15,000,000 annually from its PR appropriation for general operations receipts to the MA trust fund. Increase MA benefits funding by \$20,000,000 FED annually to reflect the intergovernmental transfer funding for services provided by UW physicians to MA recipients. This funding would be used to support supplemental rate increases to UW physicians for rendering services to MA recipients. Specify that this provision would no longer apply after June 30, 2011.

[Act 20 Sections: 254, 697d, and 697m]

**8. PHARMACY BENEFITS MANAGER**

**Governor/Legislature:** Reduce funding for MA, BadgerCare, and

GPR	-\$15,000,000
FED	- 26,730,400
PR	<u>1,858,400</u>
Total	-\$39,872,000



SeniorCare benefits by \$13,140,400 (-\$5,000,000 GPR, -\$8,719,200 FED, and \$578,800 PR) in 2007-08 and by \$26,731,600 (-\$10,000,000 GPR, -\$18,011,200 FED, and \$1,279,600 PR) in 2008-09 to reflect the administration's estimates of savings that would result by contracting with a pharmacy benefits manager (PBM) to manage some aspects of pharmacy benefits for MA, BadgerCare, and SeniorCare fee-for-service recipients. DHFS issued a request for proposal (RFP) for this purpose on June 26, 2006. The PBM would be paid on a contingency fee basis and could not begin to provide benefits until the state receives approval by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services. This item assumes that the PBM will begin providing managed pharmacy benefits in January, 2008.

*Pharmacy Benefits Management Functions.* The RFP indicates that the PBM would likely deliver some or all of the following functions: (a) prospective drug utilization review; (b) preferred drug list and supplemental rebate solicitation and negotiation; (c) prior authorization; (d) point-of-sale claims adjudication and payment; (e) rebate billing and collections; (f) retrospective drug utilization review; and (g) cost containment consultation and implementation.

*Projected Savings Targets.* Reduce funding for MA and BadgerCare benefits by \$6,453,300 (-\$2,684,800 GPR and -\$3,768,500 FED) in 2007-08 and by \$11,912,300 (-\$4,881,500 GPR and -\$7,030,800 FED) in 2008-09 and reduce funding for SeniorCare benefits by \$6,687,100 (-\$2,315,200 GPR, -\$4,950,700 FED, and \$578,800 PR) in 2007-08 and \$14,819,300 (-\$5,118,500 GPR, -\$10,980,400 FED, and \$1,279,600 PR) in 2008-09 to reflect the administration's estimates of projected savings targets associated with implementing a PBM for fee-for-service pharmacy benefits.

**9. MEDICARE PART B SERVICES [LFB Paper 385]**

	<b>Governor (Chg. to Base)</b>	<b>Legislature (Chg. to Gov)</b>	<b>Net Change</b>
GPR	\$5,273,400	-\$2,240,300	\$3,033,100
FED	<u>7,041,400</u>	<u>- 9,574,500</u>	<u>- 2,533,100</u>
Total	\$12,314,800	-\$11,814,800	\$500,000

**Governor:** Provide \$4,438,300 (\$1,924,500 GPR and \$2,513,800 FED) in 2007-08 and \$7,876,500 (\$3,348,900 GPR and \$4,527,600 FED) in 2008-09 to fund benefits and implementation costs of requiring all MA recipients (including recipients that participate in MA home-and community-based waiver programs, Family Care, the MA purchase plan, the program for all-inclusive care for elderly (PACE) and MA demonstration programs) and BadgerCare recipients to enroll in Medicare Part B as a condition of receiving MA services, if they are eligible for Medicare Part B. Specify that, if DHFS requires an individual to enroll in Medicare Part B, DHFS must pay the monthly Medicare Part B premiums for the individual.

*Benefits.* Provide \$3,938,300 (\$1,674,500 GPR and \$2,263,800 FED) in 2007-08 and \$7,876,500 (\$3,348,900 GPR and \$4,527,600 FED) in 2008-09 to reflect the net projected change in benefit costs, assuming a January 1, 2008, effective date for the new requirement. This item includes: (a) additional funding to pay premiums for approximately 3,200 individuals who are

currently not enrolled in Medicare but for whom the state is required to pay premiums, and 5,800 individuals who are enrolled in Part B but are currently paying the Part B premiums themselves (\$2,354,100 GPR and \$3,195,400 FED in 2007-08 and \$4,708,100 GPR and \$6,390,700 FED in 2008-09); and (b) reduced funding to reflect that some services currently funded from MA for these individuals would instead be funded under Medicare Part B (-\$679,600 GPR and -\$931,600 FED in 2007-08 and -\$1,359,200 GPR and -\$1,863,100 FED in 2008-09).

*Implementation.* Provide \$500,000 (\$250,000 GPR and \$250,000 FED) in 2007-08 to fund programming costs of modifying the MA eligibility system (CARES).

This provision responds to a change in federal policy that no longer permits states to claim federal MA matching funds for state costs that could have been paid by Medicare Part B if the recipient was enrolled in Medicare Part B.

**Assembly/Legislature:** Delete provision. Instead, increase funding by \$500,000 (\$1,177,700 GPR and -\$677,700 FED) in 2007-08 and by \$0 (\$1,855,400 GPR and -\$1,855,400 FED) in 2008-09 to: (a) fund MA payments for services for MA recipients that are eligible for Medicare Part B, but who are not enrolled in the program with GPR funds only, effective January 1, 2008 (\$927,700 GPR and -\$927,700 FED in 2007-08 and \$1,855,400 GPR and -\$1,855,400 FED in 2008-09); and (b) provide funding to modify DHFS computer systems to implement this proposal (\$250,000 GPR and \$250,000 FED in 2007-08).

**10. AUTOMATED HOME HEALTH PROVIDER MONITORING SYSTEM**

GPR	- \$4,578,400
FED	- 6,742,100
Total	- \$11,320,500

**Governor/Legislature:** Reduce funding by \$3,360,200 (-\$1,337,000 GPR and -\$2,023,200 FED) in 2007-08 and by \$7,960,300 (-\$3,241,400 GPR and -\$4,718,900 FED) in 2008-09 to reflect the net effect of implementing an automated provider monitoring system that would document all hours worked by home health, private duty nursing, and personal care workers. The system would use real-time data to allow for monitoring and verification of the providers who deliver services. All personal care and home health workers would be required to check in and out when they deliver services in a recipient's home. The automated system would have a database that would interface with the claims submission system to minimize fraudulent billing.

*Benefits Reduction.* Reduce MA benefits funding by \$4,526,800 (-\$1,920,300 GPR and -\$2,606,500 FED) in 2007-08 and by \$9,053,500 (-\$3,788,000 GPR and -\$5,265,500 FED) in 2008-09 by \$13,580,300 (-\$5,708,300 GPR and -\$7,872,000 FED) to reflect the administration's estimate of savings that would result by implementing the system.

*Administration.* Provide \$1,166,600 (\$583,300 GPR and \$583,300 FED) in 2007-08 and \$1,093,200 (\$546,600 GPR and \$546,300 FED) to fund: (a) 1.0 contracted information specialist position to perform system administration tasks, such as loading enrollment, provider, and prior authorization information, correcting information in the system when a nurse fails to check out so the system can create and submit the claim (\$16,500 GPR and \$16,500 FED in 2007-

08 and \$33,000 GPR and \$33,000 FED in 2008-09); and (b) operational costs, based on an estimated cost of \$0.35 per visit (\$256,800 GPR and \$256,800 FED in 2007-08 and \$513,600 GPR and \$513,600 FED in 2008-09); (c) start-up costs (\$300,000 GPR and \$300,000 FED in 2007-08); and (d) training costs (\$10,000 GPR and \$10,000 FED in 2007-08).

**11. CLAIM COMMON CARRIER TRANSPORTATION AS AN MA SERVICE [LFB Paper 386]**

GPR	- \$4,373,400
FED	<u>4,373,400</u>
Total	\$0

**Governor:** Reduce GPR funding for MA benefits by \$2,002,900 in 2007-08 and by \$2,370,500 in 2008-09 and increase FED funding for MA benefits by corresponding amounts to reflect the fiscal effect of the administration's proposal to claim most common carrier transportation costs as MA service costs, rather than as MA administration costs. The federal matching percentage for MA administration is 50%, while the MA benefits matching percentage is approximately 58%. Currently, DHFS allocates MA funding to counties, which contract with common carrier providers (typically buses, taxis and human services vehicles) to transport ambulatory MA recipients to medical appointments. Under this item, counties would submit additional information to DHFS to document the common carrier services MA recipients receive, enabling DHFS to claim these services as service costs, rather than as administration costs.

There are no statutory changes relating to this item in the budget. DHFS intends to implement this change as a matter of policy.

**Assembly:** Include provision. In addition, require DHFS to contract with a transportation manager (broker) that would provide a single point of contact for MA and BadgerCare recipients who require non-emergency transportation services (specialized medical vehicle and common carrier transportation services) to receive medical services. Provide \$52,400 (\$26,200 GPR and \$26,200 FED) in both years for DHFS to contract for a program manager who would meet with stakeholders, issue a request-for-proposal, and negotiate the contract.

Reduce MA and BadgerCare benefits funding by \$9,809,600 (-\$4,340,400 GPR and -\$5,469,200 FED) in 2008-09 to reflect projected savings of using a transportation broker to coordinate non-emergency transportation services. These projected savings are in addition to the savings that the administration projects would be realized by claiming common carrier transportation services as a MA benefit, rather than as an administrative cost, beginning in 2007-08.

**Conference Committee/Legislature:** Delete Assembly modification.

**12. FAMILY PLANNING DEMONSTRATION PROJECT [LFB Paper 387]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Legislature (Chg. to JFC)</b>	<b>Net Change</b>
GPR	- \$63,900	- \$311,500	\$375,400	\$0
FED	- 24,300	- 311,500	335,800	0
Total	- \$88,200	- \$623,000	\$711,200	\$0

**Governor:** Provide \$241,000 (\$120,500 GPR and \$120,500 FED) in 2007-08 and reduce funding by \$329,200 (-\$184,400 GPR and -\$144,800 FED) in 2008-09 to reflect the projected net fiscal effect of amending the family planning demonstration project to: (a) provide family planning services to men between the ages of 15 and 44, in addition to women in that age range (as provided in current law); and (b) increase, from 185% to 200% of the federal poverty level, the maximum family income a man or woman may have as a condition of participating in the program. Direct DHFS to request an amended waiver, and to implement any amended waiver it receives no later than January 1, 2008, or on the date of the federally approved effective date of the amended waiver, whichever is later.

*Income Maintenance and DHFS Implementation Costs.* Provide \$191,000 (\$95,500 GPR and \$95,500 FED) in 2007-08 and \$382,000 (\$191,000 GPR and \$191,000 FED) in 2008-09 to increase funding for county income maintenance contracts to support additional costs counties would incur to conduct eligibility determinations and manage additional cases. Provide \$50,000 (\$25,000 GPR and \$25,000 FED) in 2007-08 to fund one-time implementation costs

*Benefits Savings.* Reduce MA benefits by \$711,200 (-\$375,400 GPR and -\$335,800 FED) in 2008-09 to reflect the administration's estimates of the net projected savings of this proposal.

**Joint Finance:** Modify the Governor's recommendation by deleting \$191,000 (-\$95,500 GPR and -\$95,500 FED) in 2007-08 and \$382,000 (-\$191,000 GPR and -\$191,000 FED) in 2008-09 that the Governor would have provided for county income maintenance contracts, and delete \$50,000 (-\$25,000 GPR and -\$25,000 FED) in 2007-08 that the Governor would have provided to support one-time implementation costs.

**Assembly:** Delete provision. In addition, increase from 15 years to 18 years, the minimum age a woman must be to enroll in the program.

**Conference Committee/Legislature:** Delete provision except the provision that would increase, from 185% to 200% of the federal poverty level, the maximum family income a woman may have as a condition of participating in the demonstration project.

[Act 20 Sections: 1549m and 9421(4)]

**13. MA RETROACTIVE ELIGIBILITY REPAYMENTS**

**Governor/Legislature:** Repeal a provision that permits a health care provider to retain the difference between an amount an MA applicant or other person paid to the provider for an

MA-eligible service (before the individual was determined to be retroactively eligible for MA) and the amount MA paid to the provider after the individual became retroactively eligible for MA. Instead, require the provider, upon receipt of the MA payment, to reimburse the recipient or other person for services provided to the recipient during the retroactive eligibility period, by the amount of the prior payment.

In addition, extend this repayment requirement to MA-eligible services received by individuals who qualify for MA based on medically needy standards (individuals who "spend down" to meet the program's income criteria). Current law only references categorically needy MA recipients with respect to these repayments.

Under current law, if an MA applicant is found to be eligible as a "categorically needy" recipient, he or she can be determined to be retroactively eligible for up to three months prior to application. If a provider billed that MA applicant for services provided during the retroactive period, the provider must submit claims for MA payment to DHFS. Upon receiving payment from DHFS, the provider must reimburse the MA recipient for the payment the recipient or another person made to the provider for the services. However, the statute prohibits DHFS from requiring the provider to reimburse the recipient for more than the MA payment received by the provider from DHFS for the services.

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services has concluded that Wisconsin's current statute conflicts with a federal law that requires that MA providers accept MA payments as "payments in full."

[Act 20 Section: 1632]

#### **14. DRUG COVERAGE FOR MA RECIPIENTS ELIGIBLE FOR MEDICARE PART D**

**Governor/Legislature:** Provide that, for individuals who are eligible for MA and Medicare Part D ("dual eligibles"), MA will not provide payment for any Medicare Part D drug, as defined under federal law, regardless of whether the individual is enrolled in Medicare Part D or whether, if the individual is enrolled, his or her Part D plan, as defined in federal law, covers the Part D drug. Under federal law, a "Part D drug" means any drug that is included in a Part D plan's formulary.

As of the January 1, 2006, states may no longer receive federal MA matching funds for outpatient prescription drugs for dual eligibles if those outpatient prescription drugs are defined as Part D drugs. Current state law requires that MA be the payer of last resort, so that any outpatient prescription drug charges for dual eligibles are first billed to Medicare Part D, but current state law also requires the MA program to cover dual eligibles outpatient prescription drugs. Therefore, the state is currently obligated to pay for a dual eligible recipient's outpatient prescription drugs if those drugs are either not on the recipient's Medicare Part D plan's formulary or if the recipient is not signed up for a Medicare Part D drug plan. Under the bill, all dual eligible individuals would receive outpatient prescription drug coverage through a Medicare Part D drug plan for all drugs covered under Medicare Part D. The bill

would eliminate MA coverage of any Part D drug, whether or not the dual eligible recipient is enrolled in a Medicare Part D plan.

Under current federal law, states have the option to cover two classes of drugs -- barbiturates and benzodiazepines, both of which act as central nervous center depressants, that are currently excluded from Medicare Part D coverage. Wisconsin elected to cover these two classes of drugs and is permitted, under federal law, to receive federal MA matching funds for these drug classes. Under the bill, Wisconsin would continue to cover these classes of drugs for dual eligibles.

[Act 20 Sections: 1589, 1591, and 1603]

#### **15. MA DISPROPORTIONATE SHARE HOSPITAL PAYMENTS -- MILWAUKEE GENERAL ASSISTANCE MEDICAL PROGRAM**

**Governor/Legislature:** Permit DHFS to distribute supplemental payments to a hospital that enters into an indigent care agreement, in accordance with an approved state MA plan, with relief agencies that administer the medical relief block grant, if DHFS determines that the hospital serves a disproportionate number of low-income patients with special needs. Currently, DHFS is required to distribute supplemental funding to hospitals that enter into a contract to provide health care services that are supported by the relief block grant program.

Repeal the current requirement that, if an agency that administers the relief block grant program contracts with a private health care provider to provide health services under the relief block grant program, the contract provide that any supplemental hospital payments the provider receives be used to offset the liability of the administering agency for the costs of the health care provided under the contract.

Specify that this change would first apply to indigent care agreements entered into on the bill's general effective date.

These changes would conform the state's statutes to provisions relating to supplemental disproportionate hospital payments that are in the current MA hospital state plan. The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services has required DHFS to make changes to the MA hospital state plan regarding supplemental disproportionate share payments to Milwaukee County providers under the county's general assistance medical program (GAMP) to conform to federal policy regarding these payments.

[Act 20 Sections: 1391, 1538, and 9321(7)]

#### **16. MA DENTAL RATE INCREASE**

**Assembly:** Provide \$7,152,200 (\$3,000,000 GPR and \$4,152,200 FED) in 2008-09 to increase MA reimbursement to dentists for services they provide to MA and BadgerCare recipients.

**Conference Committee/Legislature:** Delete provision.

## 17. MA INPATIENT AND OUTPATIENT HOSPITAL RATE INCREASE

**Assembly:** Provide \$26,224,800 (\$11,000,000 GPR and \$15,224,800 FED) in 2008-09 to provide a rate increase to hospitals for services they provide to MA and BadgerCare recipients.

Of the amount provided, \$19,072,600 (\$8,000,000 GPR and \$11,072,600 FED) would be provided to fund rate increases for inpatient services, specific to a new supplemental category described below, and \$7,152,200 (\$3,000,000 GPR and \$4,152,200 FED) would be provided to fund rate increases for outpatient services.

With respect to inpatient services, the intent is to direct DHFS to amend the MA state plan to include an additional category of disproportionate share hospital (DSH) payments. The DSH qualifying threshold of inpatient MA utilizations would be 18%, meaning that the percent of MA inpatient days that a hospital has in proportion to its total inpatient days would need to be at least 18% to qualify. In addition, there would be a cap of \$7,500,000 all funds to any qualifying acute care hospital and the funds would need to be distributed based upon MA utilization. Any current supplemental payments would be maintained, but subtracted from the additional funds paid out to affected hospitals from this new DSH program. Finally, in determining all payments, DHFS would use a more current data source, which would be the most recent unaudited cost report hospitals submit. The current DSH program would continue to utilize audited cost reports, as is current practice.

There are no statutory provisions relating to this item, other than to increase the GPR MA and BadgerCare benefits appropriation by \$11,000,000 in 2008-09.

**Conference Committee/Legislature:** Delete provision.

## 18. DENTAL RATE INCREASE PILOT PROJECT

	<b>Jt. Finance (Chg. to Base)</b>	<b>Legislature (Chg. to JFC)</b>	<b>Net Change</b>
GPR	\$3,500,000	-\$3,500,000	\$0
FED	<u>4,785,400</u>	<u>- 4,785,400</u>	<u>0</u>
Total	\$8,285,400	-\$8,285,400	\$0

**Joint Finance:** Increase MA benefits funding by \$4,112,800 (\$1,750,000 GPR and \$2,362,800 FED) in 2007-08 and \$4,172,600 (\$1,750,000 GPR and \$2,422,600 FED) in 2008-09 to support a one-time funding increase for a dental access pilot project, under which DHFS would increase MA pediatric dental rates in Brown, Racine, and La Crosse Counties, beginning in 2007-08. Require DHFS to seek any necessary approval from the U.S. Secretary of Health and Human Services to implement the project, and, if the Secretary provides the approval, or if no such approval is required, require DHFS to implement the rate increase for the remainder of the 2007-09 biennium. In addition, require DHFS to report on the effect of this pilot project to the Joint Committee on Finance and the appropriate standing committees of the Legislature by no later than January 1, 2009, on the effect the rate increase had on dental access to MA and

BadgerCare recipients. Permit DHFS to use total funding under this item (\$8,285,400 all funds) in either or both years of the biennium.

**Assembly/Legislature:** Delete provision.

**19. EXTEND MA OR BADGERCARE ELIGIBILITY FOR PARENTS FOLLOWING THE DEATH OF A CHILD**

GPR	\$71,400
FED	131,400
PR	<u>7,400</u>
Total	\$210,200

**Joint Finance/Legislature:** Increase MA benefits funding by \$101,600 (\$34,500 GPR, \$63,000 FED and \$4,100 PR) in 2007-08 and \$108,600 (\$36,900 GPR, \$68,400 FED and \$3,300 PR) in 2008-09 to fund the estimated cost of permitting parents whose children die while they are enrolled in MA or BadgerCare to remain eligible for MA or BadgerCare for up to 90 days following the death of their child, in cases where the child's death would, under current law, lead to the loss of program eligibility for the parents.

Direct DHFS to request a waiver from the U.S. Department of Health and Human Services to extend MA or BadgerCare coverage to these parents for 90 days after the death of their child, and authorize DHFS to implement any waiver that is granted.

[Act 20 Section: 1554m]

**20. TIME LIMITS FOR PAYING MA, BADGERCARE, SENIORCARE AND FAMILY CARE CLAIMS**

**Assembly:** Require DHFS to issue payment for at least 95% of proper provider claims for reimbursement under the MA, BadgerCare, and SeniorCare program within 30 days of receipt of the claims and issue payment for 100% of such claims within 45 days of receipt of the claims. However, provide that DHFS could exceed these claims payment deadlines under any of the following circumstances: (a) if a claim is filed under Medicare, DHFS would have up to six months after DHFS or the provider receives notice of the disposition of the Medicare claim to issue payment for the service; (b) DHFS could issue payments at any time in accordance with a court order or to comply with a hearing decision or a corrective action taken by DHFS; and (c) if DHFS is granted a waiver that exempts DHFS from federal deadlines for payment of claims, DHFS could exceed the deadlines to the extent permitted in the waiver.

In addition, require care management organizations (CMOs) that pay health care providers for services they provide to Family Care enrollees to issue payment for 95% of proper claims for reimbursement for Family Care benefit services within 30 days of receipt of the claims and pay 100% of such claims within 45 days of receipt of the claims. Specify that this provision would first apply to CMOs that enter into or renew a contract with DHFS to serve as a care management organization on the bill's general effective date.

**Conference Committee/Legislature:** Delete provision.



## 21. PHYSICAL HEALTH RISK ASSESSMENT AND DISEASE MANAGEMENT

**Joint Finance/Legislature:** Direct DHFS to encourage all individuals who are enrolled in MA on or after the bill's general effective date to receive a physical health risk assessment as part of the first physical examination they receive while they are enrolled in the program.

In addition, require DHFS to develop and implement disease management programs for recipients that are similar to the programs developed and used by the Marshfield Clinic under the Physician Group Practice Demonstration Program authorized under federal law. Specify that these programs would have at least the following characteristics: (a) the use of information science to improve health care delivery by summarizing a patient's health status and providing reminders for preventive measures; (b) educating health care providers on health care process improvement by developing best practice models; (c) improvement and expansion of care management programs to assist in standardization of best practices, patient education, support systems, and information gathering; (d) establishment of a system of provider compensation that is aligned with clinical quality, practice management, and cost of care; and (e) focus on patient care interventions for chronic conditions, to reduce hospital admissions.

**Veto by Governor [D-2]:** Delete the provision that would have required that the disease management program be similar to the disease management program that was developed and is followed by the Marshfield Clinic under the Physician Group Practice Demonstration program.

[Act 20 Sections: 1559g, 1559h, 1641d, and 1641e]

[Act 20 Vetoed Sections: 1559g, 1641d, and 9121(7j)]

## 22. SMOKING CESSATION PROGRAM

**Joint Finance/Legislature:** Require DHFS to create an incentive-based smoking cessation program for MA recipients. Specify that the program would incorporate elements of existing smoking cessation programs administered by the state. The emphasis of the program would be to have MA recipients stop smoking as soon as possible. Specify that the program would be operational six months after the effective date of the bill. Authorize DHFS to enter into an agreement with a another person to create or administer the program.

[Act 20 Section: 9121(7L)]

## 23. DISPENSING FEE INCREASE FOR CERTAIN GENERIC PRESCRIPTIONS

**Joint Finance/Legislature:** Require DHFS to provide pharmacies participating in the MA, BadgerCare, and SeniorCare programs an adjustment to the pharmacy dispensing fee to compensate for any reduction in the drug product cost reimbursement resulting from the implementation of the average manufacturing price (AMP) reimbursement standards for multi-

source generic drug products imposed pursuant to the federal Deficit Reduction Act (DRA) of 2005.

Direct DHFS to apply for an amendment to the MA state plan to implement this change and specify that the increased dispensing fee, as determined by DHFS once the impact of the new limitation is assessed, would not be implemented unless the amendment is approved.

**Veto by Governor [D-3]:** Delete provision.

[Act 20 Vetoed Section: 9121(7j)]

#### **24. DEMONSTRATION WAIVER FOR HEALTH OPPORTUNITY ACCOUNTS UNDER BADGERCARE**

**Joint Finance/Legislature:** Require DHFS to request a waiver from the Centers for Medicare and Medicaid Services (CMS) to participate in a demonstration project (as provided for under the federal Deficit Reduction Act of 2005) for health opportunity accounts under BadgerCare. Require DHFS to provide the Joint Committee on Finance with an implementation plan upon receiving CMS approval for the demonstration project, and require that the Committee approve the plan prior to implementation.

**Veto by Governor [D-1]:** Delete provision.

[Act 20 Vetoed Section: 1559e]

#### **25. HMO RATE INCREASE -- PASS-THROUGH TO HEALTH PROVIDERS**

**Senate:** Modify current law requirements relating to the delivery of MA services through health maintenance organizations (HMOs) as follows.

First, require DHFS to calculate that portion of any increase in the capitation rate paid to each HMO if the increase is made to reflect increases in fee-for-service MA payment rates to one or more classes of providers. Second, require each HMO to increase its payments to any class of providers for services to MA recipients in amounts that DHFS determines are consistent with both the purpose and intent of the fee-for-service rate increase and the objective of reducing unnecessary utilization through managed care, and to amend its contracts with service providers correspondingly. Third, require DHFS to conduct audits to ensure that HMOs comply with these provisions. Provide that the changes would first apply to contracts in existence on the effective date of the bill.

**Conference Committee/Legislature:** Delete provision.

**26. MA BENEFITS FUNDING REDUCTION**

GPR	- \$25,000,000
FED	- 35,886,500
Total	- \$60,886,500

**Conference Committee/Legislature:** Reduce MA and BadgerCare benefits funding by \$60,886,500 (-\$25,000,000 GPR and -\$35,886,500 FED) in 2008-09 to reflect savings DHFS would be expected to achieve in 2008-09. These savings could potentially be realized by modifying the provision of pharmacy services that are currently provided through managed care contracts.

**Medical Assistance -- Long-Term Care**

**1. FAMILY CARE EXPANSION [LFB Paper 395]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
GPR	\$20,085,200	- \$9,500	\$20,075,700
FED	23,234,500	- 2,602,000	20,632,500
PR	<u>39,895,300</u>	<u>0</u>	<u>39,895,300</u>
Total	\$83,215,000	- \$2,611,500	\$80,603,500

**Governor:** Provide \$22,406,900 (\$2,670,800 GPR, \$9,320,900 FED, and \$10,415,200 PR) in 2007-08 and \$60,808,100 (\$17,414,400 GPR, \$13,913,600 FED, and \$29,480,100 PR) in 2008-09 to reflect the net costs of expanding the Family Care program in the 2007-09 biennium.

**Summary of Expansion**

*Aging and Disability Resource Centers (ADRCs).* ADRCs, which provide information, counseling, and assessment services, serve as the primary point of entry for accessing long-term care services. There are currently 18 ADRCs operating in Wisconsin. The bill would fund additional ADRCs so that the percentage of Wisconsin residents who have access to these services would increase from approximately 40% to 75% by the end of the biennium.

*Care Management Organizations (CMOs).* Currently, five CMOs receive monthly capitation payments from the state to fund long-term care services to Family Care enrollees. The bill would fund additional CMOs so that by the end of the biennium, approximately 27,200 individuals would be enrolled in Family Care, compared to 10,300 as of February 1, 2007. It is not known which counties or multi-county regions would be served by CMOs, nor is it known when additional CMOs would begin operating. The administration's proposal is based on a model that makes a number of assumptions regarding these and other factors that affect program costs.

*External Quality Review.* DHFS contracts with a vendor to conduct external quality review functions. The bill would increase funding for these contracted services.

*Offsetting Funding Reductions, Reallocations, and County Contributions.* This item would be funded with: (a) additional state and federal MA funding that would be provided under this recommendation; (b) reallocations of base funds that support MA fee-for-service payments and MA waiver services; (c) funding available in 2006-07 that would be used to support costs in the 2007-09 biennium; and (d) county funds, including community aids and revenue from the county tax levy. The bill assumes that counties will contribute an amount equal to the funds that counties expended in calendar year 2005 to provide services to long-term support clients. A program revenue appropriation would be created for DHFS to collect these funds from counties.

The following table summarizes the funding components of this item.

**Family Care Expansion  
Governor's Recommendations**

<u>Cost Category</u>	<u>2007-08</u>				<u>2008-09</u>			
	<u>GPR*</u>	<u>FED</u>	<u>PR</u>	<u>Total</u>	<u>GPR*</u>	<u>FED</u>	<u>PR</u>	<u>Total</u>
<b>Funding For Services to New Family Care Enrollees</b>								
<u>New Costs</u>								
CMO Capitation Payments	\$42,953,300	\$72,441,400	\$10,415,200	\$125,809,900	\$109,675,600	\$193,434,200	\$29,480,100	\$332,589,900
MA Services Provided on a Fee-For-Service Basis	13,342,100	18,110,400	0	31,452,500	34,788,900	48,358,500	0	83,147,400
<u>Reductions from Other Programs</u>								
MA Fee-for-Service Payments	-32,021,900	-43,465,800	0	-75,487,700	-87,056,800	-121,013,900	0	-208,070,700
Allocations to Counties for Waiver Services	<u>-21,813,900</u>	<u>-43,747,000</u>	<u>0</u>	<u>-65,560,900</u>	<u>-51,599,300</u>	<u>-112,704,900</u>	<u>0</u>	<u>-164,304,200</u>
Net Funding for Services to New Family Care Enrollees	\$2,459,600	\$3,339,000	\$10,415,200	\$16,213,800	\$5,808,300	\$8,073,900	\$29,480,100	\$43,362,300
<b>Aging and Disability Resource Centers (ADRCs)</b>								
<u>New Costs</u>								
Fund ADRCs that Began in 2005-07 Biennium	\$7,339,800	\$2,269,700	\$0	\$9,609,500	\$7,527,700	\$2,327,800	\$0	\$9,855,500
Fund ADRCs that Begin in 2007-09 Biennium	2,562,100	3,240,300	0	5,802,400	9,765,600	3,086,000	0	12,851,600
<u>Available Funds to Support ADRCs</u>								
Income Augmentation Funds from 2006 Plan	-1,257,800	0	0	-1,257,800	0	0	0	0
Reallocations of Base Funds and One-Time Carryover Funds	<u>-8,500,500</u>	<u>0</u>	<u>0</u>	<u>-8,500,500</u>	<u>-5,762,800</u>	<u>0</u>	<u>0</u>	<u>-5,762,800</u>
Net Funding to Support ADRCs	\$43,600	\$5,510,000	\$0	\$5,553,600	\$11,530,500	\$5,413,800	\$0	\$16,944,300
External Quality Review	\$167,600	\$471,900	\$0	\$639,500	\$75,500	\$425,900	\$0	\$501,400
<b>GRAND TOTAL</b>	<b>\$2,670,800</b>	<b>\$9,320,900</b>	<b>\$10,415,200</b>	<b>\$22,406,900</b>	<b>\$17,414,400</b>	<b>\$13,913,600</b>	<b>\$29,480,100</b>	<b>\$60,808,100</b>

\*Includes both one-time and ongoing funds that DHFS would reallocate to support ADRCs.

The preceding table describes the changes in base funding provided to expand the Family Care program. In 2005-06, DHFS paid CMOs capitation payments totaling approximately \$233.8 million (all funds). DHFS provides funding to support aging and disability resource centers (ADRCs) on a calendar year basis. In calendar year 2006, DHFS estimated that state support for aging and disability resource centers totaled approximately \$9.7 million.

### **Statutory Changes**

*Authority to Expand Program.* Repeal the provision that requires DHFS, prior to expanding the availability of Family Care to areas of the state where more than 29% but less than 50% of the population eligible for the benefit reside, to apply for the approval of the Joint Committee on Finance under a 14-day passive review process and provide the Committee with certain information regarding the proposed expansion (including a copy of the proposed contract and information demonstrating that the expansion is cost-neutral). Under current law, DHFS may make the Family Care benefit available in areas of the state in which, in the aggregate, not more than 29% of the population that is eligible for the benefit resides. DHFS may contract with additional CMOs in areas where, in the aggregate, more than 29% but less than 50% of the population that is eligible for the benefit resides, provided that the Joint Committee on Finance approves each expansion (up to the 50% cap) under a 14-day passive review process.

Under current law, in order to expand Family Care contracted services to areas of the state where, in aggregate, more than 50% of the population that is eligible for the benefit reside, the approval of the full Legislature. Under the bill, DHFS would be authorized to make the Family Care benefit available anywhere in the state, without prior approval from the Legislature or the administration.

Eliminate the current law requirement that DHFS obtain approval from the Joint Committee on Finance before expanding the use of capitated rate payment programs to provide long-term care services.

*Contracts.* Eliminate the current provision that requires DHFS to obtain legislative approval to enter into a contract to establish a CMO with an entity other than a county, Family Care district, Indian tribe or band, or the Great Lakes Inter-Tribal Council, Inc.

Clarify current statutory provisions allowing DHFS to contract with counties, Family Care districts, the governing body of a tribe or band or the Great Lakes Inter-Tribal Council, Inc., or under a joint application of any of these, or with a private organization that has no significant connection to an entity that operates a resource center. Require that proposals for contracts be solicited under a competitive sealed proposal process. Direct DHFS to evaluate the proposals primarily as to the quality of care that is proposed to be provided, and to certify those applicants that meet the necessary requirements. Repeal the requirement that DHFS consult with local long-term care councils or with the county before selecting applicants with which to contract. Repeal the provision that prohibits DHFS from contracting for a CMO to serve an area unless the local long-term care council for the area has developed an initial plan to implement Family Care.

Repeal the provision that prohibits DHFS from entering into contracts for resource centers without the approval of the Joint Committee on Finance. Under the bill, DHFS would no longer require legislative consent to enter into contracts for resource centers.

*Eligibility and Entitlement.* Repeal provisions that identify one of the qualifying conditions for being eligible for the Family Care benefit as suffering from a "degenerative brain disorder." Instead, provide that an individual may be eligible for the Family Care benefit if they are a "frail elder." Define a frail elder as someone who is 65 years of age or older and who has a physical disability or irreversible dementia that restricts the individual's ability to perform normal daily tasks, or that threatens their capacity to live independently.

Replace the current titles of definitions of functional eligibility for the Family Care benefit with "nursing home level of care," rather than "comprehensive," and "non-nursing home level of care," rather than "intermediate." The definitions clarifying when an individual has met each level of functional eligibility would remain unchanged.

Eliminate the requirement that DHFS extend entitlement for the Family Care benefit to people who are not eligible for MA by January 1, 2008. Allow individuals who are not eligible for MA, but who are currently receiving services under the Family Care benefit upon the passage of the bill to continue to be eligible for, but not entitled to, the Family Care benefit. Require that an individual be eligible for MA in order to be entitled to the Family Care benefit.

Under current law, DHFS must extend entitlement to the Family Care benefit by January 1, 2008, to individuals who are not MA eligible but who are functionally eligible at the comprehensive level or who are in need of protective services or protective placement and are functionally eligible at the intermediate level, as well as to certain individuals who are not MA eligible but who are functionally eligible because they were receiving other long-term care benefits (such as community waiver services) when the Family Care program was implemented in their county.

*Long-Term Care Councils.* Define which family members of individuals who meet certain Family Care eligibility requirements are eligible to serve on local long-term care councils to include spouses, or individuals related by blood, marriage, or adoption within the third degree of kinship.

*Notification Requirements.* Repeal the requirement that a resource center notify residents of certain long-term care residential facilities who are potentially eligible for the Family Care benefit of the services that the center provides within six months after the benefit is made available in the area. Resource centers would still be required to provide notification of services to these individuals; however, under the bill, there would be no time requirement for doing so.

*CMO Contracts for Home Health Services.* Clarify that if a CMO contracts with an entity to provide home health services under Family Care, the entity need not be licensed as a home health agency for the purpose of providing the contracted services. Under current law, CMOs do not need to be licensed as home health agencies.

*Functional and Financial Screens.* Clarify that the functional screen and the financial screen performed by resource centers are separate screens. Require that an assessment of a person's ability to pay for part of the Family Care benefit be conducted as part of the financial screen conducted by the resource center.

*Use of Community Aids and COP Funds and County Contributions.* Specify that, for counties with CMOs, DHFS may allocate a portion of that county's basic community aids allocation to fund the operation of the county's resource center and CMO. Limit the amount of the allocation to an amount agreed to by both DHFS and the county. Currently, DHFS may allocate up to 21.3% of a county's community aids allocation for this purpose.

Create an appropriation for financial contributions by counties to support Family Care, the program for all-inclusive care for the elderly (PACE), and the Wisconsin Partnership Program (WPP) for program operation, services, or to contribute to a risk reserve.

Permit any county in which Family Care, WPP, or PACE is available to use its community options (COP) allocation to provide mental health or substance abuse services, or to provide services under the family support program. Currently, state law requires counties to allocate COP funds to serve a minimum percentage of clients in four eligible groups: elderly, developmentally disabled, physically disabled, and chronically mentally ill. Counties offering Family Care, WPP, or PACE benefits would not be subject to this requirement.

*Information and Referral Requirements.* Repeal the requirement that adult family homes provide information to prospective residents regarding resource centers and the Family Care Benefit, and refer prospective residents to the resource centers. Further, repeal the requirement that hospitals refer certain patients to resource centers prior to discharging them.

Instead, in counties where the services of a resource center are available, require community-based residential facilities (CBRFs) and residential care apartment complexes (RCACs) to provide information regarding resource centers and the Family Care benefit to prospective residents, and if a referral is required, refer prospective residents to resource centers when the facilities first provide prospective residents with written materials regarding their facilities. Permit DHFS to specify by rule the method by which the CBRFs and RCACs make referrals to the resource centers, as well as acceptable time period allowed for nursing homes to provide information to prospective residents about resource centers and the Family Care benefit, and to make referrals to the resource center.

In counties that do not have resource centers, require CBRFs (but not RCACs) to refer certain prospective residents that are aged or who have a physical or developmental disability to the county department responsible for administering long-term care programs. Require the county, within the time period specified by DHFS, to offer the prospective resident counseling concerning public and private long-term care benefit programs.

Repeal the requirement that CBRFs assess the financial condition of privately paying clients prior to admission. Further, delete the current law restriction prohibiting counties from



using certain community long-term care waiver funds to pay for care in a CBRF for a program recipient who did not undergo an assessment of their abilities, disabilities, service needs, and a review of alternatives to institutional care before entering a CBRF.

*Create Long-Term Care Districts* Rename Family Care districts "long-term care districts," and authorize these districts to operate the WPP or PACE programs, as long as the district does not also operate a resource center. Clarify that a county, a tribe or band, or any combination of counties or tribes or bands may create a long-term care district. Specify that a county or tribe or band may create more than one long-term care district, and that a district may change its primary purpose (from operating either a CMO or a resource center to operating the other) if all of the counties or tribes or bands that created the district have not withdrawn or been removed from the district adopt a resolution approving the change, and if the change does not violate any provision of a contract between DHFS and the district, and as long as the change does not result in the same district simultaneously operating a CMO and a resource center.

Provide that a long-term care district may establish conditions for a county or tribe or band that participated with one or more counties or tribes or bands in creating a district to withdraw from the district, or for the district to remove the county or tribe or band from the district, subject to the approval of DHFS.

Specify that the jurisdiction of a long-term care district includes the geographical area of the county or counties that created it, as well as the geographic area of the reservation of, or lands held in trust for, any tribe or band that created the long-term care district.

Require that when a county, tribe, or band opts to create a long-term care district board, they must also specify the number of individuals who will be appointed as members of the long-term care district board, the length of their terms, and if the district is created by more than one county or tribe or band, how many members shall be appointed by each.

Clarify that any member of a long-term care district governing board may be removed by the appointing authority for cause. Delete current requirements specifying the total number of board members who must be appointed, their length of term, and the requirement that one-fourth of the board's membership consist of older persons or persons with physical or developmental disabilities or their family members, guardians, or other advocates who are representative of the CMO's enrollees. Instead, require that at least one-fourth of the board's membership be representative of the client group or groups whom the CMO is contracted to serve, or those clients' family members, guardians, or other advocates. Provide that only individuals who reside within the jurisdiction of the long-term care district may serve as members of the board.

Provide that the board may act based on the affirmative vote of a majority of a quorum, unless specified otherwise in a bylaw adopted by the board.

Clarify that the provisions regulating the compensation that the district must offer an individual who formerly worked for a county participating in the district in a substantially

similar function, and whose wages, hours and conditions of employment were established in a collective bargaining agreement with the county, must apply specifically to the employee's wages, vacation allowance, sick leave accumulation, sick leave bank, holiday allowance, funeral leave allowance, personal day allowance, and paid time off allowance, rather than the previously provided "compensation and benefits."

Delete the requirement that the district initially provide the same compensation and benefits to individuals who formerly worked for a county participating in the district in a substantially similar function, but whose wages, hours and conditions of employment were not established in a collective bargaining agreement.

Delete the current provision providing that subject to the terms of any applicable collective bargaining agreement, long-term care district employees are eligible to receive health care coverage under any county health insurance plan that is offered to county employees. Instead, provide that if the district employs any individual who was previously employed by the county, the district is directed to provide health care coverage that is similar to the health care coverage that the county provided the individual with while employed by the county.

Delete the current requirement that long-term care district employees remain eligible to participate in any deferred compensation or other benefit plan offered by the county to county employees, including disability and long-term care insurance coverage and income continuation insurance coverage. Specify that the long-term care district and the county may enter into an agreement allocating the costs of providing employee benefits between the district and the county.

Current law specifies that the obligations and debts of a long-term care district are not those of any county. Further clarify that if a long-term care district is obligated by statute or contract to provide or pay for services or benefits, no county is responsible for providing or paying for those costs.

*Resource Center Governing Boards, Local and Regional Committees.* Provide that if the governing board of a resource center (rather than the local long-term care council, as provided under current law) assumes the duties of the county long-term support planning committee, that planning committee is dissolved. Similarly, if the governing board of the resource center assumes these duties, the board must also recommend a community options plan for participation in the program and monitor its implementation. Eliminate local long-term care committees.

Delete current provisions requiring that one-fourth of the membership of any resource center's governing board be older persons, or individuals with a physical or developmental disability, individuals who belong to a client group served by the resource center, or their family members, guardians, or other advocates. Instead, provide that at least one-fourth of the membership of the governing board must consist of individuals who belong to a client group served by the resource center or their family members, guardians, or other advocates. Specify

that the proportion of these board members who belong to each client group, or their family members, guardians, or advocates be the same as the proportion of individuals in the state who receive services under the Family Care benefit and belong to each client group.

Prohibit any individual who has a financial interest in, or serves on the governing board of a CMO, PACE, or WPP program, an SSI managed care plan, or who has a family member with any of these same conflicts, from serving on the governing board of a resource center.

Direct that the governing board of a resource center be responsible for:

(1) determining the structure, policies, and procedures of the resource center and overseeing its operations, and specify that the operations of a resource center that is operated by a county is subject to a county's ordinances and budget;

(2) annually gathering information from consumers and providers of long-term care services and others concerning the adequacy of services offered in the area;

(3) identifying any gaps in services, living arrangements, and community resources needed by individuals belonging to client groups served by the resource center, especially those with long-term care needs;

(4) providing well-advertised opportunities for persons to participate in the board's information gathering activities;

(5) reporting findings to the regional long-term care advisory committee;

(6) recommending strategies for building local capacity to serve older persons and individuals with physical and developmental disabilities to local elected officials, the regional long term care advisory committee, and to DHFS;

(7) annually reviewing interagency agreements between the resource center and CMOs that provide services in the area, and make recommendations on the interaction between the two to assure coordination between them, and to assure access to and timeliness of the provision of services;

(8) reviewing the number and type of grievances and appeals concerning the long term care system in the area served by the resource center, to determine if a need exists for system changes, and recommend changes as appropriate;

(9) identifying potential new sources of community resources and funding for needed services for individuals belonging to the client groups served by the resource center;

(10) if directed to do so by the county board, assuming the duties of the county long-term community support planning committee; and

(11) appointing members to the regional long term care advisory committee.

Direct the governing board of each resource center operating in a given region established by DHFS to appoint members to a regional long-term care advisory committee. Specify that at least 50% of the appointees must be older persons, individuals with a physical or developmental disability, or their family members, guardians, or other advocates. In establishing each region, the Department is directed to periodically review the boundaries of the regions, and revise them as appropriate. Further, direct DHFS to specify the number of members that each governing board of a resource center must appoint to the regional advisory committee. Specify that the total number of committee members may not exceed 25. Require DHFS to allot committee membership equally among the governing boards of resource centers operating within the boundaries of the regional long-term care advisory committee. Further, direct DHFS to provide information and staff assistance to aid the regional committees in performing their duties.

Define the duties of the regional long-term care advisory committees to include all of the following: (1) to evaluate the performance of CMOs, PACE, and WPP programs in the region with respect to their responsiveness towards recipients of their services, fostering choices for recipients, and other issues affecting recipients, and to make recommendations based on these evaluations to DHFS and the evaluated entities; (2) to evaluate the performance of the resource centers operating in the region and make recommendations concerning their performance to DHFS and the centers; (3) to monitor grievances and appeals made to CMOS, PACE, and WPP programs within the region; (4) to review the utilization of long-term care services in the region; (5) to monitor enrollments and disenrollments in CMOs that provide services in the committee's region; (6) using information gathered by the governing boards of resource centers operating in the region and other available information, to identify any gaps in the availability of services, living arrangements, and community resources needed by older persons and individuals with physical or developmental disabilities, and to develop strategies to build capacity to address those gaps; (7) to perform long-range planning on long-term care policy for individuals belonging to the client groups served by the resource center; and (8) to annually report to DHFS regarding significant achievements and problems relating to the provision of long-term care services in the committee's region.

Require resource centers to target any outreach, education, and prevention services that it provides and any service development efforts that it conducts on the basis of findings made by the governing board of the resource center.

**Joint Finance:** Approve the Governor's funding recommendations, as reestimated, to expand the Family Care program. Subsequent to the release of the Governor's budget, DHFS revised several budgetary assumptions based on updated data. As a result, a portion of the funding originally provided under the bill for capitation payments to CMOs would decrease by \$2,535,800 GPR; funding provided for the operation of ADRCs would increase by \$2,326,300 GPR; and \$200,000 GPR would be provided on a one-time basis to support IT systems modifications to support ADRCs. As the federal match for expenditures related to ADRCs is lower, a decrease in federal matching funds is anticipated as well. Reduce funding in the bill by

\$1,740,800 GPR and \$2,382,000 FED in 2007-08 and increase funding in the bill by \$1,511,300 (\$1,731,300 GPR and by -\$220,000 FED) in 2008-09 to reflect this reestimate.

Maintain current law provisions that would require DHFS to seek the approval of the Joint Committee on Finance under a 14-day passive review process prior to expanding the availability of Family Care to areas of the state where more than 29% of the population eligible for the benefit reside. Adopt the Governor's recommendation that would repeal the current law provision that requires that any expansion of the program to areas where more than 50% of the population eligible for the benefit resides must be approved by the full Legislature. However, modify the Governor's provision to provide that any expansion to areas of the state where more than 29% of the population eligible for the benefit reside (up to 100%) would be subject to the approval of the Joint Committee on Finance under a 14-day passive review process. Specify that the proposed expansion would be deemed approved if, subsequent to filing an objection under the 14-day passive review process the Committee fails to act on the Department's request within 45 working days after the 14-day passive review period expires.

Maintain current law provisions specifying the sort of information that the Department is required to provide to the Committee regarding the proposed expansion. However, in addition, direct DHFS to submit documentation of the county's consent to participate in the Family Care program, as well as the amount and terms of any agreed-upon local contribution. Require DHFS to submit this information for each county that would be served under each expansion. In addition, require DHFS to submit information from counties that indicate intended uses of the savings counties would realize under the reduction in county contributions for long-term care.

Effective January 1, 2008, require all counties participating in the Family Care program by offering the services of a CMO to either provide a payment to DHFS, or to authorize DHFS to allocate a portion of the county's basic community aids allocation to fund the operation of the county's resource center and CMO. Specify that the amount of the annual allocation would be determined as follows:

(a) For counties offering the Family Care benefit prior to January 1, 2006, the annual contribution remains at the established level. (For the purpose of describing the amount in statute, the bill specifies that the amount of the county contribution required for these counties is the amounts contributed in calendar year 2006.)

(b) For the first year that a county is served by a CMO, require the county to contribute an amount equal to the funds that DHFS determines that the county expended in calendar year 2006 to provide services to long-term support clients who would otherwise have been eligible to be served under the Family Care benefit, had the benefit been available. If this amount is less than 22% of the county's 2006 basic community aids allocation, then the county would continue to make an annual payment of this amount to DHFS (or authorize the Department to allocate this amount of the county's annual BCA to fund the operation of the county's ADRC and CMO) for as long as the county voluntarily participates in the Family Care program.

(c) If the amount of the county's contribution in the first year exceeds 22% of the county's 2006 BCA, then the payment required of the county in the second year would be the amount required in the first year less 25% of the difference between the amount required in the first year and 22% of the county's 2006 BCA. The amount of the county's required contribution would be decreased by 25% of the difference between the amount required in the first year and 22% of the county's 2006 BCA each year until the fifth year, when the county's required contribution would equal 22% of the county's 2006 BCA. In subsequent years, the county's required contribution would remain equal to 22% of the county's 2006 BCA.

(d) For counties offering the Family Care benefit after January 1, 2006, but prior to the effective date of the bill, the amount required as a county contribution would be determined by the number of years that the county had offered the benefit. (For example, if a county was first served by a CMO in January, 2007, the county would be considered as being in the second year of the funding formula when the provision takes effect in January, 2008, and be responsible for either an amount equal to the funds that DHFS determines that the county expended in calendar year 2006 to provide services to long-term support clients who would otherwise have been eligible to be served under the Family Care benefit (if this amount is less than 22% of the county's 2006 BCA), or if the amount determined by the Department exceeded 22% of the county's BCA, the county's contribution would be the amount required in the first year less 25% of the difference between the amount required in the first year and 22% of the county's 2006 BCA.)

The bill reflects anticipated revenues of \$10.4 million in 2007-08 and \$29.5 million in 2008-09 from county contributions to support anticipated Family Care program costs, based on the assumption that counties would contribute the equivalent of what DHFS calculates the county spent in calendar year 2005 to provide services to the population of individuals who would otherwise have been eligible for the Family Care benefit. At full statewide implementation, this would require an annual contribution of \$95.7 million from the counties.

However, the modified provision approved by the Joint Committee on Finance assumes instead that counties would initially contribute the equivalent of what DHFS calculates the county spent in calendar year 2006 (rather than 2005, under the bill) to provide services to the population of individuals who would otherwise have been eligible for the Family Care benefit. If the amount that the county was required to contribute in the first year exceeds 22% of the county's BCA, the county would be allowed to decrease the amount of their contribution by 25% of the difference between the higher payment amount and 22% of the county's BCA, until the county was contributing 22% of the BCA. This formula would decrease the amount of the county contribution to the Family Care expansion plan. However, as DHFS has not yet finalized its calculations of county expenditures for calendar year 2006, the magnitude of the impact of this change cannot be estimated at this time.

**Assembly:** Delete statutory and funding changes relating to the expansion of Family Care. Reduce funding by \$18,284,100 (-\$930,000 GPR, -\$6,938,900 FED and -\$10,415,200 PR) in 2007-08 and by \$62,319,400 (-\$19,145,700 GPR, -\$13,693,600 FED and -\$29,480,100 PR) in 2008-09.

Instead, provide \$9,609,500 (\$7,339,800 GPR and \$2,269,700 FED) in 2007-08 and \$9,855,500 (\$7,527,700 GPR and \$2,327,800 FED) in 2008-09 to fully fund aging and disability resource centers (ADRCs) established during the 2005-07 biennium without sufficient ongoing base funding. No additional funding for the expansion of the Family Care program would be provided.

Retain the provisions that would eliminate the current law requirement that DHFS extend entitlement for the Family Care benefit to people who are not eligible for MA by January 1, 2008. However, permit individuals who are not eligible for MA, but who are currently receiving services under the Family Care benefit upon the passage of the bill, to continue to be eligible for, but not entitled to, the Family Care benefit. Provide that an individual must be eligible for MA in order to be entitled to the Family Care benefit.

**Conference Committee/Legislature:** Restore Joint Finance provision.

[Act 20 Sections: 18, 19, 131 thru 134, 156, 163, 413, 415, 631, 632, 692, 756 thru 759, 846, 850, 868, 880, 904 thru 911, 916 thru 921, 927, 928, 934 thru 954, 955 thru 982, 984 thru 997, 998 thru 1016, 1018 thru 1073, 1104a thru 1104g, 1518, 1588, 1597, 1598, 1760 thru 1792, 1806 thru 1809, 1821, 1822, 1876 thru 1878, 1930 thru 1932, 2020, 2608, 2642, 2643, 2647, 2665, 3678, 3931, 3932, 9421(7), and 9421(8q)]

## **2. FAMILY CARE PROVIDER CONTRACTS**

**Joint Finance/Legislature:** Require DHFS to specify, as a provision of any contract DHFS enters into or renews after the effective date of the bill with a care management organization (CMO) to provide the Family Care benefit, that the CMO must allow any community-based residential facility (CBRF), residential care apartment complex (RCAC), community rehabilitation program, home health agency, day service provider, personal care provider, or nursing facility to serve as a contracted Family Care provider if: (a) the provider agrees to be reimbursed at the CMO's contract rate negotiated with similar providers for the same care, services, and supplies; and (b) the facility or organization meets all guidelines established by the CMO related to quality of care, utilization, and other criteria applicable to facilities or organizations under contract for the same care, services, and supplies. Specify that this change first applies to contracts entered into, renewed, or extended on the act's general effective date.

[Act 20 Sections: 997m and 9321(9c)]

## **3. DISABILITY OMBUDSMAN PROGRAM**

**Joint Finance/Legislature:** Direct DHFS to provide \$190,000 (\$95,000 GPR and \$95,000 FED) in 2007-08 and \$525,000 (\$262,500 GPR and \$262,500 FED) in 2008-09 and each subsequent year to contract with an organization to provide ombudsman advocacy services to individuals enrolled in Family Care who are under the age of 60, or to their families and guardians.

Funding for the provision would be provided by reallocating base funding budgeted for MA contracts.

Further, prohibit DHFS from contracting for these services with a county, or with any organization that contracts with the Department to provide services as a care management organization (CMO) or to manage an aging and disability resource center (ADRC). Require DHFS to include in the contract language identifying a goal of supporting a level of staffing through the contract equal to one ombudsman for every 2,500 Family Care enrollees under the age of 60.

[Act 20 Section: 954m]

**4. FAMILY CARE -- FUNCTIONAL ELIGIBILITY DEFINITIONS**

**Senate/Legislature:** Specify that the provisions that would replace the current titles of definitions of functional eligibility for the Family Care benefit with "nursing home level of care" rather than "comprehensive" and "non-nursing home level of care" rather than "intermediate" be made effective January 1, 2008, rather than on the effective date of the bill.

[Act 20 Section: 9421(8q)]

**5. FAMILY CARE -- LIAISON AND ADVOCACY SERVICES FOR GRANT COUNTY**

**Senate/Legislature:** Direct DHFS to provide \$75,000 GPR annually, from funding budgeted for Family Care aging and disability resource centers, to Grant County to provide, with respect to issues concerning Family Care benefits, liaison services between the county and a managed care organization and advocacy services on behalf of the county.

[Act 20 Section: 954mb]

**6. NURSING HOME RATES AND BED ASSESSMENT INCREASE [LFB Paper 396]**

	<b>Governor (Chg. to Base)</b>	<b>Legislature (Chg. to Gov)</b>	<b>Net Change</b>
GPR-REV	\$0	-\$27,600,000	-\$27,600,000
SEG-REV	\$33,637,400	-\$6,037,400	\$27,600,000
GPR	\$0	-\$11,331,200	-\$11,331,200
FED	30,122,100	-7,604,900	22,517,200
SEG	<u>21,846,900</u>	<u>5,753,100</u>	<u>27,600,000</u>
Total	\$51,969,000	-\$13,183,000	\$38,786,000

**Governor:** Provide \$17,746,500 (\$10,218,400 FED and \$7,528,100 SEG) in 2007-08 and \$34,222,500 (\$19,903,700 FED and \$14,318,800 SEG) in 2008-09 to reflect the net effect of increasing the monthly nursing home bed assessment \$52, from \$75 to \$127 per licensed bed,



and budgeting these additional revenues, together with federal MA matching funds, to: (a) increase MA rates paid to nursing homes; and (b) reimburse facilities, through higher MA payments, for their costs in paying the increased assessments.

(The Department of Administration has indicated that the funding that would be provided in the budget to accomplish these two goals was calculated incorrectly, and submitted a correction for this item to the Joint Committee on Finance in a March 19, 2007, letter to the Committee. The following provisions summarize the Governor's intended funding plan.)

### **Funding Changes**

*Revenue Effect.* Increase estimates of revenue that would be deposited to the MA trust fund by \$11,716,100 in 2007-08 and by \$21,921,300 in 2008-09.

*Nursing Home Rate Increase.* Provide \$15,899,100 (\$6,744,400 SEG and \$9,154,700 FED) in 2007-08 and \$30,469,200 (\$12,925,000 SEG and \$17,544,200 FED) in 2008-09 to increase nursing home rates by approximately 2% in 2007-08 and by an additional 2% in 2008-09.

*Pay Back Facilities for Assessment Increase.* Provide \$11,716,100 (\$4,970,000 SEG and \$6,746,100 FED) in 2007-08 and \$21,921,300 (\$9,299,000 SEG and \$12,622,300 FED) in 2008-09 to increase reimbursement to facilities, to offset the additional costs they would incur to pay the assessments that would not be paid by private-pay residents.

The provision that would increase the nursing home bed assessment would take effect on the bill's general effective date.

**Senate:** Provide \$9,753,900 (-\$142,400 GPR, \$5,698,300 FED, and \$4,198,000 SEG) in 2007-08 and \$19,982,500 (-\$449,100 GPR, \$11,823,000 FED, and \$8,608,600 SEG) in 2008-09 to reflect reestimates of the fiscal effect of the provisions to fund nursing home rate increases by increasing the nursing home bed assessment, and to delay the effective date of the bed assessment increase until January 1, 2008. In addition, increase estimates of revenue to the MA trust fund by \$152,400 in 2007-08 and by \$1,455,200 in 2008-09.

These funding modifications reflect reestimates of: (a) the projected number of licensed nursing home beds; (b) the costs of paying back nursing homes to offset the additional costs they would incur to pay the increased assessments; (c) the annual rate increase percentage that could be supported given the reestimate of bed assessment revenues; (d) total funding that would be needed to support reimbursements to nursing homes under the MA base reestimate item; and (e) the federal financial participation rates.

**Assembly/Legislature:** Delete provisions that would increase the assessment on licensed nursing home beds from \$75 to up to \$127 per month. Decrease estimates of anticipated revenues to the segregated MA trust fund by \$11,716,100 in 2007-08 and by \$21,921,300 in 2008-09.

Delete \$17,746,500 (-\$10,218,400 FED and -\$7,528,100 SEG) in 2007-08 and \$34,222,500 (-\$19,903,700 FED and -\$14,318,800 SEG) in 2008-09 that would be provided to: (a) increase MA rates paid to nursing homes by 2% in 2007-08 and by another 2% in 2008-09; and (b) reimburse facilities, through higher MA payments, for their costs in paying the increased assessments.

Instead, provide \$38,786,000 (\$16,268,800 GPR and \$22,517,200 FED) in 2008-09 to increase MA nursing home rates by approximately 5% in 2008-09.

Further, modify current law to specify that all revenue from the nursing home bed assessment would be deposited to the MA trust fund, beginning in 2007-08. Under current law, all revenue that exceeds \$13.8 million in each year is deposited to the MA trust fund and \$13.8 million from assessment revenue is deposited to the general fund. Reduce MA benefits funding by \$13.8 million GPR annually and increase MA benefits funding by \$13.8 million SEG annually, and reduce estimates of general fund revenues by \$13.8 million GPR annually, and increase estimates of revenues deposited to the MA trust fund by \$13.8 million annually.

[Act 20 Sections: 1800 thru 1805, and 9121(1)]

**7. ICF-MR BED ASSESSMENT [LFB Paper 397]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Legislature (Chg. to JFC)</b>	<b>Net Change</b>
SEG-REV	\$4,695,400	-\$328,700	\$0	\$4,330,700
GPR	-\$2,672,600	\$2,315,200	\$0	-\$357,400
FED	2,672,600	2,785,000	0	5,457,600
PR	0	2,078,400	544,400	2,622,800
SEG	<u>4,659,400</u>	<u>- 328,700</u>	<u>0</u>	<u>4,330,700</u>
Total	\$4,659,400	\$6,849,900	\$544,400	\$12,053,700

**Governor:** Provide \$2,060,000 (-\$1,183,400 GPR, \$1,183,400 FED and \$2,060,000 SEG) in 2007-08 and \$2,599,400 (-\$1,489,200 GPR, \$1,489,200 FED, and \$2,599,400 SEG) in 2008-09 to reflect the net effect of increasing the monthly assessment on licensed beds of intermediate care facilities for the mentally retarded (ICFs-MR) for the purpose of reducing base GPR funding for MA benefits.

**Statutory Changes**

Delete the current law provision requiring ICFs-MR to pay an assessment of \$445 per month, per licensed bed to the state. Rather, authorize DHFS to set the amount of the bed assessment for each state fiscal year, subject to a statutorily specified formula.

Direct DHFS to establish the monthly rate for each year by multiplying the projected annual gross revenues of all ICFs-MR in the state by 0.055, dividing the product by the number of licensed beds in the facilities, and dividing the quotient by 12. Direct DHFS to calculate the amount of the assessment that will be applied prior to the start of each fiscal year. Permit DHFS

to reduce the amount of the assessment during a state fiscal year to avoid collecting an amount that exceeds 5.5% of the aggregate gross revenues for ICFs-MR for the fiscal year. Specify that DHFS would not be required to calculate the amount of the bed assessment for state fiscal year 2007-08 until October 1, 2007, or until the first day of the third month beginning after the effective date of the bill, whichever is later.

Federal law provides for a reduction in federal funding for MA if the state collects bed assessments from ICFs-MR that exceed a specified portion of the aggregate revenues of all ICFs-MR in the state. Currently, that limit is set at 5.5% of aggregate revenues.

### **Revenue and Funding Changes**

*Revenue.* It is estimated that these changes would increase the monthly assessment to approximately \$587 in 2007-08 and \$649 in 2008-09. Based on these estimates and DHFS projections of licensed beds at these facilities, the administration estimates that an additional \$2,060,000 in 2007-08 and \$2,599,400 in 2008-09 would be deposited to the MA trust fund.

*Rate Increase.* Provide \$2,060,000 (\$876,600 GPR and \$1,183,400 FED) in 2007-08 and \$2,599,400 (\$1,110,200 GPR and \$1,489,200 FED) in 2008-09 to increase MA rates for ICFs-MR. These amounts equal the estimated total increase in bed assessment revenue DHFS would collect from ICFs-MR.

*Substitute SEG Funding for GPR Base Funds.* Reduce MA base funding by \$2,060,000 GPR in 2007-08 and by \$2,599,400 GPR in 2008-09 and increase SEG funding from the MA trust fund by corresponding amounts.

**Joint Finance:** Approve the Governor's statutory changes. However, modify funding in the bill to: (a) correct the administration's funding changes resulting from the proposal; (b) increase the operations appropriation for the three state centers by \$535,900 PR in 2007-08 and by \$1,542,500 PR in 2008-09 to reflect anticipated increases in the centers' operations expenditures as a result of the bed assessment increase; and (c) to reflect reestimates of available revenues from the increase in the ICF-MR assessment by increasing MA benefits by \$1,570,800 (\$771,600 GPR, \$907,200 FED, and -\$108,000 SEG) in 2007-08 and by \$3,200,700 (\$1,543,600 GPR, \$1,877,800 FED, and -\$220,700 SEG) in 2008-09. Finally, reduce estimated revenue to the MA trust fund by \$108,000 in 2007-08 and by \$220,700 in 2008-09.

**Senate/Legislature:** In addition to the provisions approved by the Joint Committee on Finance, provide \$544,400 in 2007-08 to enable the three state centers for the developmentally disabled to fully fund the cost of the bed assessment increase that would take effect on July 1, 2007. The PR funding under Joint Finance was based on the assumption that the increase in the ICF-MR bed assessment would take effect on January 1, 2008, although the provision would take effect on July 1, 2007. This item would correct the amount of PR expenditure authority that would be required for the centers to pay the increased assessments.

**8. MEDICAID ASSET TRANSFERS [LFB Paper 398]**

GPR	- \$3,116,000
FED	- 4,309,100
Total	- \$7,425,100

**Governor/Legislature:** Reduce funding by \$2,025,000 (-\$816,900 GPR and -\$1,208,100 FED) in 2007-08 and by \$5,400,100 (-\$2,299,100 GPR and -\$3,101,000 FED) in 2008-09 to reflect the net effect of implementing new federal restrictions on asset transfers for MA eligible individuals enacted as part of the federal Deficit Reduction Act of 2005 (the DRA).

*MA Benefits Funding.* Reduce MA benefits funding by \$2,625,000 (-\$1,116,900 GPR and -\$1,508,100 FED) in 2007-08 and \$5,500,100 (-\$2,349,100 GPR and -\$3,151,000 FED) in 2008-09 to reflect projected savings to the MA program because some individuals' eligibility for MA will be delayed due to changes in federal divestment restrictions.

*CARES System Changes.* Provide \$500,000 (\$250,000 GPR and \$250,000 FED) in 2007-08 to fund changes to the client assistance for reemployment and economic support (CARES) system that county income maintenance staff use to make MA eligibility determinations.

*Income Maintenance (IM) Funding to Counties.* Provide \$100,000 (\$50,000 GPR and \$50,000 FED) annually to increase IM allocations to counties to fund additional staff time to review MA applications from individuals who may require long-term care services to ensure those applications comply with the new federal requirements.

**Statutory Changes**

Make the following changes to bring state law into compliance with federal law changes to MA made in the DRA: (a) extend the look-back period for reviewing the assets of MA applicants from three years to five years; and (b) modify the starting date of any applicable penalty period from the first day of the month in which the asset was transferred to either the first day of the month during or after which the assets had been transferred, or the date on which the individual is eligible for MA and would otherwise be receiving institutional-level care, whichever is later, and that does not occur during any other period of ineligibility related to other divestments. In accordance with federal law, specify that these provisions apply to transfers of assets that occurred on or after February 8, 2006. Assets transferred prior to February 8, 2006, would be subject to previous regulations, including a look-back period of three years (rather than five), and the penalty period commencing from the date of the divestment, rather than the later penalty period specified in the bill.

Prohibit the rounding down of partial months when determining penalty periods for divestments that occurred on or after February 8, 2006. Prohibit DHFS from rounding down the quotient, or otherwise disregard a fraction of a month when determining the length of a penalty period.

Disqualify individuals from eligibility for MA-funded long-term care services if the equity in their home and the land used and operated in connection with the home exceeds \$750,000, unless their spouse, child under the age of 21, or disabled child is living in the home. Under

current law, a person's home is not counted when an individual's income and resources for MA eligibility are determined, regardless of value.

If an individual resides in a continuing care or life care community at the time that they apply for MA eligibility, specify that any entrance fee paid upon admission to the community is considered to be a resource available to the individual to the extent that all of the following apply: (a) the person has the ability to use the entrance fee to pay for care if the person's other resources or income are insufficient; (b) the person is eligible for a refund of any remaining entrance fee when the person dies or terminates their contract and leaves the community; and (c) the entrance fee does not confer an ownership interest in the community. Provide that a continuing care contract may require that, before a resident applies for MA they must spend the resources declared for purposes of admission to the facility on their care.

Provide that the purchase of a loan, promissory note, or mortgage by an individual or their spouse after February 8, 2006, is a transfer of assets for less than fair market value unless all of the following apply: (a) the repayment term is actuarially sound; (b) the payments are to be made in equal amounts during the term of the loan, with no deferral and no balloon payment; and (c) cancellation of the balance upon the death of the lender is prohibited. Specify that the value of the loan, promissory note, or mortgage that does not meet these requirements is the outstanding balance due on the date that the individual applies for MA for nursing facility or other long-term care services.

Provide that the purchase of a life estate in another individual's home by an individual or their spouse after February 8, 2006, is a transfer of assets for less than fair market value unless the purchaser resides in the home for at least one year after the date of the purchase.

Further, provide that as a condition of receiving MA for long-term care services, an applicant (when applying) or a recipient (when recertifying) must disclose any interest they or their spouse have in an annuity that was purchased on or after February 8, 2006, or an annuity purchased before February 8, 2006, for which a transaction occurred on or after February 8, 2006, regardless of whether the annuity is irrevocable or is treated as an asset. Provide that the application or recertification form include a statement that the state becomes a remainder beneficiary under any such annuity in which the individual or their spouse has an interest by virtue of the provision of MA. Require the individual to take action within 30 days from the time DHFS receives their application or recertification to make the state a remainder beneficiary. Direct DHFS to notify the issuer of an annuity disclosed by applicants and recipients of the state's right as a remainder beneficiary, and request that the insurer notify DHFS of any changes to or payments made under the annuity contract. Require that an insurer who receives such a request must comply, and notify DHFS of any changes to or payments made under the annuity contract.

Specify that the purchase of an annuity by an institutionalized individual or their community spouse (or anyone acting on their behalf) on or after February 8, 2006, will not be treated as a divestment if any of the following apply: (a) the state is named as the remainder

beneficiary in the first position for at least the total amount of MA benefits paid on behalf of the institutionalized individual; or (b) the state is named as a beneficiary in the second position behind a community spouse, a minor, or a disabled child and the state is named in the first position if the spouse or the child's representative disposes of any remainder for less than fair market value.

An annuity purchased on or before February 8, 2006, by or on behalf of an individual who has applied for MA for nursing facility or other long term care services may be considered a transfer of assets for less than market value unless either of the following apply: (1) the annuity is either an annuity described in section 408 (b) or (q) of the Internal Revenue Code (generally individual and qualified employer retirement annuities), or was purchased with the proceeds of an account or trust described in section 408 (a), (c), or (p) of the Internal Revenue Code (generally personal, employer-sponsored, or simple retirement accounts), or the proceeds of a simplified employee pension (described in section 408 (k) of the Internal Revenue Code), or the proceeds from a Roth IRA; or (2) the annuity is irrevocable and non-assignable, actuarially sound, and provides for payments in equal amounts during the term of the annuity, with no deferral and no balloon payments made.

Provide that provisions regarding the treatment of annuities apply both to annuities purchased on or after February 8, 2006, and to annuities purchased before February 8, 2006, for which a transaction has occurred on or after February 8, 2006. Define a "transaction" as it relates to divestment as any action that changes the course of payments to be made or the treatment of income or principal of an annuity, including all of the following: (a) an addition of principal; (b) an elective withdrawal; (c) a request to change the distribution of the annuity; (d) an election to annuitize the contract; and (e) a change in ownership. Define a "community spouse" as the spouse of either the institutionalized person or the non-institutionalized person.

Require DHFS to establish a hardship waiver process under which the divestment rules would not apply to a person because it would result in undue hardship for the person, and allows DHFS to pay the full nursing facility payment rate for up to 30 days to hold a bed in the facility for a person involved in a pending undue hardship determination. Specify that "undue hardship" exists if the finding of ineligibility as a result of divestment or the imposition of a penalty period would deprive the individual of medical care to the extent that the individual's health or life would be endangered, or would deprive the individual of food, clothing, shelter, or other necessities of life. Specify that a facility in which the individual resides is permitted to file an application for undue hardship on behalf of the individual with their consent, or the consent of their authorized representative.

Provide that changes related to determining eligibility (including home equity limits, the inclusion of certain entry fees paid to continuing care communities as available resources, and the disclosure of annuities) would first apply to individuals who apply for or are recertified for MA upon the effective date of the bill.

Provide that divestment changes (including extending the look back period from three to

five years, eliminating the rounding down of partial months when determining penalty periods, the effective date of the penalty period, the requirement to name the state as a beneficiary to certain annuities, standards for annuities to not be considered transfers of assets for less than fair market value, standards for the purchase of notes, loans, or mortgages to not be considered divestments, and changes to regulations regarding the purchase of life estates) would first apply to individuals who apply for or are receiving MA for nursing facility or other long-term care services on the effective date of the bill.

Provide that the remaining provisions would take effect on October 1, 2007, or on the first day of the fourth month beginning after the publication of the bill, whichever is later.

[Act 20 Sections: 1533, 1560 thru 1586, 1596, 1599 thru 1602, 3666, 3698 thru 3701, 9321(4), and 9421(2)]

**9. MANAGED CARE PILOT PROGRAMS FOR CHILDREN'S LONG-TERM CARE**

	Governor (Chg. to Base)	Legislature (Chg. to Gov)	Net Change
GPR	\$500,000	-\$500,000	\$0

**Governor:** Direct DHFS to seek waivers of federal MA statutes and regulations from the U.S. Department of Health and Family Services to implement, in at least three pilot sites, a managed care program for the long-term care of children with disabilities. Provide \$250,000 GPR annually, and direct DHFS to award not more than \$250,000 in fiscal year 2007-08 and not more than \$250,000 in fiscal year 2008-09 as a grant to an organization or to a group of organizations for technical assistance and planning services in support of family-centered managed care for children with long-term support needs.

**Assembly/Legislature:** Delete provision.

**10. NURSING HOME PAYMENT METHODOLOGY --  
DESIGNATE ROCK COUNTY'S LABOR REGION [LFB Paper  
399]**

GPR	\$660,000
FED	904,600
Total	\$1,564,600

**Governor:** Require DHFS to include Rock County in a labor region that currently includes Dane, Iowa, Columbia, and Sauk County for the purpose of determining standards for payment of allowable direct care costs to nursing homes under the MA program.

Under current law, DHFS is required to establish standards for payment of allowable direct care costs that are based on direct care costs for all nursing homes, as adjusted to reflect regional labor cost variations. The statutes currently require DHFS to treat Dane, Iowa, Columbia, and Sauk County as a single labor region.

**Joint Finance:** Delete provision.

**Senate/Legislature:** Require DHFS to include Rock County in a labor region that currently includes Dane, Iowa, Columbia, and Sauk County for the purpose of determining standards for payment of allowable direct care costs to nursing homes under the MA program. Provide \$777,900 (\$330,000 GPR and \$447,900 FED) in 2007-08 and \$786,700 (\$330,000 GPR and \$456,700 FED) in 2008-09 to hold nursing homes in Dane, Iowa, Columbia, and Sauk County harmless in the determination of reimbursement related to labor region adjustments.

[Act 20 Section: 1530h]

**11. LICENSE FEES FOR CBRFS AND ADULT FAMILY HOMES [LFB Paper 437]**

**Governor:** Authorize DHFS to establish biennial license fees for adult family homes and biennial license fees for community-based residential facilities (CBRFs), including CBRF per resident fees, by rule. Direct DHFS to submit rules to implement the fees to the Legislative Council staff no later than November 1, 2007. Under current law, the following fees are established by statute: (a) for an adult family home, a biennial fee of \$135; (b) for a CBRF, a biennial fee of \$306, plus a biennial fee of \$39.60 per resident.

**Joint Finance/Legislature:** Delete provision.

**12. REPEAL GROUP HOME REVOLVING LOAN FUND**

**Governor/Legislature:** Repeal provisions that require DHFS to establish and continue a revolving fund to make two-year loans of up to \$4,000 each to applying nonprofit organizations for the costs of establishing programs to provide housing for groups of individuals who are recovering from alcohol or other drug abuse. Repeal a program revenue appropriation that receives repayments from loans, and interest on the loans, and from which loans are made. Base funding for the program (\$100,000 PR annually) would be deleted as part a program revenue funding adjustments item.

[Act 20 Sections: 410 and 1201]

**13. PARENTAL FEES FOR DISABLED CHILDREN'S LONG-TERM CARE WAIVER SERVICES**

**Governor/Legislature:** Specify that a county may retain fees it collects for services it provides under the disabled children's long-term support (CLTS) program, when the county provides these services without the benefit of state funding. In addition, define the disabled children's long-term-term support program in statute as being the programs authorized in nonstatutory provisions contained in 2001 Wisconsin Act 16 and 2003 Wisconsin Act 33, and



delete current statutory references to the nonstatutory provisions in these acts.

While the income of the parents of a child receiving services under the long-term care waiver is not considered when determining the child's eligibility for MA, families may be required to contribute to the cost of services. Fees are assessed for families at or above 330% of the federal poverty level (FPL), beginning at one percent of the service costs and increasing up to a maximum of 41% of service costs for families with incomes over 2000% of the FPL. While some state funding is provided to support waiver services to individuals participating in the program, counties may also create waiver slots by supplying the local match to obtain federal MA matching funds. As of July 1, 2006, there were 95 state-matched slots and 515 locally-matched slots. However, under current statutes, all revenue counties collect from parental fees, regardless of whether the child is in a state-matched slot or a locally-matched slot, is credited to a DHFS program revenue appropriation that supports DHFS operations costs relating to the program.

[Act 20 Sections: 409, 416, 795, 814, 835, 1590, and 2882]

#### 14. STATE LONG-TERM CARE PARTNERSHIPS (LONG-TERM CARE INSURANCE AND MEDICAL ASSISTANCE ELIGIBILITY) [LFB Paper 400]

**Governor:** Repeal a provision that requires DHFS to seek approval of, and federal financial participation in, a pilot project under which a person who is the beneficiary of a long-term care insurance policy that satisfies criteria established by DHFS may become eligible for medical assistance (MA) while exceeding the usual MA resource limits.

Repeal provisions that apply, if Wisconsin receives a waiver as described above, that provide MA eligibility for individuals who purchase long-term care insurance policies. Under these provisions, a person who meets MA eligibility requirements except that their assets exceed statutory limits may become eligible for MA if:

- a. the person is 65 years of age or older;
- b. the person is the beneficiary of a long-term care insurance policy that is certified to meet the standards set by DHFS rule;
- c. the long-term care insurance policy paid for institutional or community-based long-term care services, or both, up to limits specified in the long-term care insurance policy;
- d. the person required the services paid for under the long-term care insurance policy because of a severe limitation in activities of daily living, or because of medical necessity, as defined by DHFS rule; and
- e. the amount of liquid assets retained by the person does not exceed the amount paid under the policy or the actual charges, whichever is lower, for the following services provided

to the beneficiary under the MA program: (1) skilled nursing home services; (2) home health services; (3) intermediate care facility services; (4) nursing services; (5) home or community based MA waiver services; (6) case management services.

These provisions require DHFS to administer the program within three months after the state receives a federal waiver to implement the program.

Finally, repeal references to the program with respect to agency responsibilities to design the program and for DHFS to consult with the U.S. Department of Health and Human Services to determine the feasibility of procuring a waiver to implement the program.

*Background.* The long-term care partnership program, established in federal law, is intended to encourage individuals to purchase long-term care to reduce state and federal costs that would otherwise be incurred under the MA program. However, prior to the enactment of the federal Deficit Reduction Act (DRA, or P.L. 109-171), states had little incentive to participate in the program because MA estate recovery provisions still applied to participating individuals -- their assets would only be protected until they died. The DRA made several changes to the program. Most importantly, for state partnership programs approved after May 14, 1993, program participants may be exempt from estate recovery procedures if the state program provides for the disregard of any assets in an amount equal to the private long-term care insurance benefits paid on behalf of the individual.

Current Wisconsin law requires DHFS to seek participation in the program. The bill would delete this requirement and all related provisions relating to the program.

**Joint Finance:** Approve the Governor's recommendations to repeal current statutory provisions that would direct DHFS to participate in the partnership program. Further, incorporate the provisions of 2007 AB 213 into the bill (which directs DHFS to pursue an amendment to the state MA plan in order to participate in the partnership program), except for references pertaining to an individual's income for purposes of determining eligibility for MA, since, in accordance with federal regulations, only the portion of assets protected under the partnership program would be exempt from MA eligibility review, not income. Specify that an individual may not sell, solicit, or negotiate long-term care insurance unless the individual is a licensed intermediary and has completed a one-time training course by January 1, 2009, and ongoing training every 24 months thereafter.

Require insurers providing long-term care insurance to obtain verification that the individual receives such training, maintain records of the intermediary's compliance, and make these records available to the Commissioner of Insurance upon request. Specify that the one-time training be no less than eight hours and the ongoing training no less than four hours. Require the training to cover the following topics: long-term care insurance, long-term care services, qualified partnerships, and the relationship between qualified partnerships and other public and private coverage of long-term care costs. Allow these training requirements to be approved as continuing education courses.

**Senate/Legislature:** Modify the Joint Finance provision that would direct the Office of the Commissioner of Insurance (OCI) to develop training requirements for individuals who sell long-term care insurance policies to instead require OCI to approve training requirements.

[Act 20 Sections: 1551c, 1598r, 1604, 1634r, 2873, 2874, 3652m, and 3664c]

**15. COMMUNITY RELOCATION INITIATIVE -- AUTHORITY TO PROVIDE SERVICES TO ADDITIONAL CLIENTS**

**Governor:** Delete the current provision that requires DHFS to submit a request to the Joint Committee on Finance under a 14-day passive review process to provide services to more than 150 individuals under the nursing home diversion initiative. Instead, require DHFS to seek approval from the Secretary of the Department of Administration to expand the number of individuals served under the program.

2005 Wisconsin Act 355 authorized DHFS to pay an enhanced reimbursement rate to counties for services provided under the community integration program (CIP II) to up to 150 individuals who meet the medical assistance (MA) level of care requirements for nursing home care, but who are diverted from imminent entry into nursing homes on or after July 27, 2005. The act also authorized DHFS to submit a request to the Joint Committee on Finance under a passive review process to increase the number of persons served by the diversion initiative above the 150 person limit, should it become likely that the number of individuals eligible to benefit from this provision may exceed the statutory limit of 150.

**Joint Finance:** Delete provision as a non-fiscal policy item.

**Senate:** Restore provision.

**Assembly/Legislature.** Delete provision.

**16. STATEWIDE LICENSED NURSING HOME BED CAP AND BED TRANSFERS**

**Governor:** Decrease the statewide licensed nursing home bed cap from 51,795 to 42,000 beds. As of December 31, 2006, there were 38,518 licensed nursing home beds in the state.

In addition, modify one of the restrictions relating to the transfer of nursing home beds from one nursing home to another to specify that a nursing home may only transfer a licensed bed to another nursing home if the transferring and receiving homes are within the same or adjoining bed allocation areas, as determined by DHFS. Currently, a nursing home can transfer a bed to another nursing home if the receiving nursing home is within the same area, or is in a county adjoining that area.

**Joint Finance/Legislature:** Delete provision as a non-fiscal policy item.

## 17. NURSING HOME AND CBRFS -- CONTESTING ACTIONS AND RECEIVERSHIPS

**Governor:** Increase the period of time during which a nursing home may contest certain actions by the Department (including a notice of violation of licensure laws, the imposition or rejection of a plan of correction, or the assessment of a forfeiture) by submitting a written request for a hearing to the Division of Hearings and Appeals, from within 10 days after the receipt of notice from DHFS, to within 60 days of receiving notice. This provision would first apply to violations that are committed after the bill's general effective date.

Further, specify that DHFS may place a monitor in, and the Secretary of DHFS may petition for appointment of a receiver for, a nursing home or CBRF when: (1) either the Department, the nursing home, or the CBRF determines that estimated operating expenses of the nursing home or CBRF significantly exceed anticipated revenues; or (2) the nursing home or CBRF or its operator has been charged with or convicted of MA fraud, fraud under the Medicare program, or the abuse or neglect of patients or residents of the facility. Specify that the monitor may assist in the financial management of the facility.

**Joint Finance/Legislature:** Delete provision as a non-fiscal policy item.

## 18. REPEAL NURSING HOME BED BANK

**Governor:** Delete current law provisions allowing a nursing home to request a temporary reduction in the number of its licensed beds if the facility is below the minimum patient day occupancy standards established by DHFS. This provision is obsolete, as the MA program no longer imposes occupancy standards for reimbursement purposes.

**Joint Finance/Legislature:** Delete provision as a non-fiscal policy item.

## 19. CHILDREN'S LONG-TERM CARE SERVICES (CLTS) FUNDING

**Joint Finance/Legislature:** Transfer funding budgeted from MA benefits to the budget for MA waiver programs -- \$4,714,800 (\$2,000,000 GPR and \$2,714,800 FED) in 2007-08 and \$4,767,600 (\$2,000,000 GPR and \$2,767,600 FED) in 2008-09 -- from funds budgeted for MA benefits to increase funding available to serve individuals under the children's long-term support program.

The CLTS program operates under three waivers MA home- and community-based waivers. These waivers include: (a) the children's developmental disability waiver for children who meet the ICF-MR level of care; (b) the children's mental health waiver for children who meet the psychiatric hospital or severe emotional disturbance level of care; and (c) the children with physical disabilities waiver for children with hospital, intensive skilled nursing, skilled nursing, and intermediate care facility levels of care. Base funding of approximately \$2.5 million (all funds) annually for the program (which is estimated to support approximately 143

slots budgeted at \$48.42 per day) is included in the bill.

**20. VETERANS AFFAIRS NURSE STIPEND PROGRAM [LFB  
Paper 835]**

SEG	- \$87,400
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**Joint Finance/Legislature:** Delete \$43,700 SEG annually to transfer the source of funding for the nurse stipend program from veterans trust fund SEG to a new program revenue appropriation supported by medical assistance payments for institutional operations at the veterans homes. The expenditure increase is budgeted under the Department of Veterans Affairs (DVA). Repeal the DHFS appropriation that supports DVA's nurse stipend program.

Under the nurse stipend program, the DVA provides stipends to individuals to attend school and receive the necessary credentials to become employed at the Veterans Home at King or the Southern Wisconsin Veterans Retirement Center at Union Grove. Recipients are required to work for DVA for one year for each year that they received a stipend.

[Act 20 Sections: 395m and 509m]

### **Medical Assistance -- Administration and FoodShare**

**1. INCOME MAINTENANCE -- ELIGIBILITY DETERMINATIONS**

GPR	- \$4,132,200
FED	- 5,855,500
Total	- \$9,987,700

**Governor/Legislature:** Reduce funding by \$1,366,000 (-\$529,400 GPR and -\$836,600 FED) in 2007-08 and by \$8,621,700 (-\$3,602,800 GPR and -\$5,018,900 FED) in 2008-09 to reflect the administration's estimate of the net effect of implementing several changes that would improve accuracy of MA income eligibility determinations.

*Verify Income for Elderly, Blind and Disabled MA Recipients.* Provide: (a) \$50,000 (\$25,000 GPR and \$25,000 FED) in 2007-08 to make one-time programming changes in CARES; and (b) \$250,000 (\$125,000 GPR and \$125,000 FED) in 2007-08 and \$500,000 (\$250,000 GPR and \$250,000 FED) in 2008-09 to increase county income maintenance contracts to support additional work county staff would incur to implement a new income verification policy for these recipients. The new policy would use automated third party data exchanges when current information is available or it would require an applicant to supply documentation when a data exchange is not available.

Reduce funding for MA benefits by \$546,400 (-\$232,500 GPR and -\$313,900 FED in 2007-08 and \$6,712,300 (-\$2,866,800 GPR and -\$3,845,500 FED) in 2008-09 to reflect the projected savings

that would result from implementing the new income verification procedures. This item assumes an implementation date of January, 2008.

*MA Deductible Policy Modifications.* Provide: (a) \$100,000 (\$50,000 GPR and \$50,000 FED) in 2007-08 to make one-time programming changes in CARES; and (b) \$50,000 (\$25,000 GPR and \$25,000 FED) in 2007-08 and \$100,000 (\$50,000 GPR and \$50,000 FED) in 2008-09 to increase county income maintenance contracts to support additional work county staff would incur to reflect changes to the MA deductible policy. DHFS would establish reasonable limits on allowable individual medical and remedial expenses and only allow insurance premiums to be counted toward the deductible once the premiums is paid, instead of on a prospective basis, as under current policy.

Reduce funding for MA benefits by \$765,000 (-\$325,500 GPR and -\$439,500 FED in 2007-08 and \$1,500,000 (-\$640,700 GPR and -\$859,400 FED) in 2008-09. This item assumes an implementation date of January, 2008.

*Income Maintenance Payment Accuracy Consultants.* Provide \$245,400 (\$122,700 GPR and \$122,700 FED) in 2007-08 and \$490,800 (\$245,400 GPR and \$245,400 FED) in 2008-09 to maintain funding for consultants that currently conduct activities to improve payment accuracy for Wisconsin's FoodShare program, and to expand their responsibilities to include improving payment accuracy for the MA program. Funding for these consultants, which was initially provided with GPR funds under an agreement with the U.S. Department of Agriculture as part of a food stamp reinvestment plan, will no longer be available after September, 2007.

Reduce funding for MA benefits by \$750,000 (-\$319,100 GPR and -\$430,900 FED) in 2007-08 and \$1,500,000 (-\$640,700 GPR and -\$859,400 FED) in 2008-09 to reflect projected savings that would result by using these consultants to improve accuracy in MA eligibility determinations.

**2. INCOME MAINTENANCE -- CITIZENSHIP AND IDENTITY VERIFICATION [LFB Paper 405]**

GPR	\$754,600
FED	754,600
Total	\$1,509,200

**Governor/Legislature:** Provide \$754,600 (\$377,300 GPR and \$377,300 FED) annually to fund costs DHFS expects county and tribal income maintenance agencies to incur to implement new federal citizenship and identity documentation requirements included in the Deficit Reduction Act of 2005 [P.L. 109-171 (DRA)].

Modify state MA eligibility provisions to require each MA, BadgerCare, and SeniorCare applicant or recipient who declares himself or herself to be a citizen or national of the United States to provide, as a further condition of eligibility, satisfactory documentary evidence, as specified in federal regulations, that he or she is a citizen or national of the United States. Require each applicant to provide the documentation at the time of application. Specify that if a recipient was not required to provide documentation at the time he or she applied, the recipient is required to provide the documentation the first time his or her eligibility is reviewed or

redetermined after the bill's general effective date. Provide that an applicant or recipient must be granted a reasonable time, as determined by DHFS, to submit the documentation before his or her eligibility is denied or terminated.

Specify that these requirements would apply to MA applicants and recipients except: (a) an applicant or recipient who is entitled to benefits under, or enrolled in, any part of Medicare; (b) an applicant or recipient who receives supplemental security income (SSI); (c) certain aliens that receive limited MA-funded emergency services; (d) a child under the age of one who is eligible for MA because the child's mother was eligible as a pregnant woman with family income that did not exceed 185% of the federal poverty level, and the child continues to live with the mother; and (e) a pregnant women is eligible for MA due to a presumptive eligibility determination.

The DRA imposed a new requirement for MA clients and applicants to provide documentation of both their U.S. citizenship and identity to receive MA, BadgerCare, SeniorCare benefits. Prior to the enactment of the DRA, counties and tribes did not verify the citizenship and identity of applicants except in cases where information provided by an applicant appeared questionable. Interim federal regulations specify the procedure that IM staff must follow to verify each application. For proof of citizenship, applicants and recipients must provide a passport, certificate of naturalization, or proof of birth overseas to a U.S. diplomat. If they cannot produce any of those items, they must provide a birth certificate. For proof of identity, they must provide a driver's license, state-issued identification card, or school-issued identification card.

Current clients, including children, must produce the documentation at their next annual eligibility review, and new applicants must do so with their applications. If an applicant or current recipient cannot provide the required documents due to inability to pay for the documents, the local agencies are required to pay for the documents.

This item would provide funding to support county and tribal income maintenance staff workload to document citizenship and identity for an estimated 120,000 MA applicants per year and to pay for birth certificates or identity cards for approximately 4,500 applicants who may not be able to purchase those documents. This item would also provide counties \$76,500 (\$38,300 GPR and \$38,200 FED) to pay for birth certificates or identity documentation for the new applicants who may not be able to pay for the documents.

[Act 20 Section: 1678]

**3. INCOME MAINTENANCE FUNDING -- PUBLIC UTILITY BENEFITS**

SEG	- \$1,909,000
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**Governor/Legislature:** Reduce funding by \$954,500 annually to delete funding that was provided in 2005 Act 25 on a one-time basis from the segregated public utility public benefits

fund to support income maintenance contracts in calendar year 2006. Act 25 repealed the appropriation, effective June 30, 2007.

**4. ELIGIBILITY DETERMINATIONS -- EXEMPTION FROM SSN REQUIREMENT**

**Governor/Legislature:** Exempt an individual who applies for MA, BadgerCare, and SeniorCare who refuses to obtain a social security number (SSN) because of well-established religious objections, as defined in federal law, from the requirement that he or she provide proof of their social security numbers or that an application for a social security number has been made. Specify that this provision would first apply to applications received on the bill's general effective date.

Under current law, there are two exceptions to the SSN requirement: (a) a child who is under one year of age and who is born to a pregnant woman eligible for MA; and (b) an unborn child who receives prenatal care benefits under BadgerCare.

[Act 20 Sections: 1673, 1674, and 9321(8)]

**5. FOODSHARE EMPLOYMENT AND TRAINING PROGRAM [LFB Paper 406]**

	Funding	Positions
GPR	-\$709,200	0.00
FED	<u>-709,200</u>	<u>1.00</u>
Total	-\$1,418,400	1.00

**Governor:** Modify the FoodShare employment and training program (FSET) as follows.

*Make the Program Voluntary.* Reduce funding by \$709,200 (-\$354,600 GPR and -\$354,600 FED) annually to reflect projected reductions in state and county costs of administering the FoodShare employment and training (FSET) program by making the program voluntary. This item includes: (a) reducing funding for county income maintenance contracts to reflect the administration's estimates of reduced workload for county staff (-\$250,000 GPR and -\$250,000 FED annually); and (b) reducing funding for state costs of administering the program (-\$104,600 GPR and -\$104,600 FED annually).

The FSET program provides services for underemployed and unemployed FoodShare recipients to assist them in obtaining employment. While some FSET participants are required to complete employment plans as a condition of receiving FoodShare benefits, others may volunteer to participate in the program, but are not subject to FoodShare benefits sanctions if they fail to participate in the program. By making the program voluntary, enrollees would not be sanctioned for noncompliance with the program's work requirements. FoodShare benefits are funded entirely with federal funds the state receives from the U.S. Department of Agriculture. Wisconsin currently has a waiver that exempts FoodShare recipients in this state from work requirements specified under federal law.

*Position Transfer.* Provide 1.0 FED position, beginning in 2007-08, to reflect the transfer of



the FSET program from DWD to DHFS, effective January 1, 2008. Transfer funding from supplies and services (\$39,300 annually), which DHFS currently uses to support the position in DWD, to instead fund salary and fringe benefits costs for the position in DHFS.

The provisions in the act that transfer the program are summarized under "Workforce Development -- Economic Support and Child Care."

*Caretaker Exemption.* Prohibit DHFS from requiring a FoodShare recipient who is a caretaker of a child under the age of 26 weeks to participate in the FSET program. Under current law, a FoodShare recipient who is a caretaker of a child under the age of 12 weeks may not be required to participate in the FSET program.

**Joint Finance:** Require DHFS to submit a report to the Joint Finance Committee by January 1, 2009, that compares participation in the FSET program after participation becomes voluntary with participation in the program before participation became voluntary.

**Assembly:** Delete provisions that would: (a) make the FSET program voluntary; (b) transfer the FSET program from the Department of Workforce Development to DHFS; and (c) expand the caretaker exemption that exempts a FoodShare recipient who is the caretaker of a child under the age of 26 weeks from participating in the FSET program.

Instead, modify current law to require able individuals who are 18 to 60 years of age who are not participants in a Wisconsin Works employment position to participate in the FSET program if they are required to participate under federal law as a condition of receiving FoodShare benefits. Increase funding in the bill by \$709,200 (\$354,600 GPR and \$354,600 FED) annually and reduce 1.0 FED position, beginning in 2007-08, to reflect these changes.

**Conference Committee/Legislature:** Delete Assembly modification.

**Veto by Governor [D-4]:** Delete the provision that would have required DHFS to submit a report to the Joint Committee on Finance by January 1, 2009, that compares participation in the FSET program after participation becomes voluntary with participation in the program before participation became voluntary.

[Act 20 Vetoed Section: 9121(7k)]

## 6. FOODSHARE ELIGIBILITY -- NONCOMPLIANCE WITH CHILD SUPPORT REQUIREMENTS [LFB Paper 408]

**Governor:** Repeal provisions that make certain individuals ineligible for FoodShare benefits due to their noncompliance with child support enforcement requirements.

The following individuals are currently ineligible for FoodShare benefits, but would not lose their eligibility for these benefits under the bill: (a) a custodial parent of a child under the age of 18 with an absent parent who does not fully cooperate in good faith with efforts to

establish the paternity of a child or to establish or enforce a child support order; (b) a man alleged to be a father who refuses to cooperate in efforts to establish the paternity of a child; (c) a noncustodial mother of a child under the age of 18 who refuses to cooperate in efforts directed at establishing the paternity of a child; (d) a noncustodial parent of a child under the age of 18 who refuses to participate in providing or obtaining child support; and (e) an individual obligated by court order to pay child support and is delinquent in making those court-ordered payments.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

[Act 20 Sections: 1662 thru 1666]

**7. AUTOMATED INSURANCE PAYMENT INTERCEPT PROGRAM [LFB Paper 409]**

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	-\$3,382,800	\$3,382,800	\$0
FED	- 4,697,300	4,697,300	0
PR	<u>1,455,900</u>	<u>- 1,455,900</u>	<u>0</u>
Total	-\$6,624,200	\$6,624,200	\$0

**Governor:** Reduce funding for MA benefits by \$2,164,800 (-\$1,116,600 GPR, -\$1,533,500 FED, and \$485,300 PR) in 2007-08 and by \$4,459,400 (-\$2,266,200 GPR, -\$3,163,800 FED, and \$970,600 PR) in 2008-09 to reflect the administration's estimate of additional MA recoveries that would be realized by implementing an automated insurance claim payment intercept program.

**Funding**

Under this item, DHFS would pay a contractor to implement a system under which insurers would submit claims information to a data exchange.

*Benefits Savings.* Reduce funding for MA benefits by \$2,264,800 (-\$1,166,600 GPR, -\$1,533,500 FED and \$485,300 PR) in 2007-08 and \$4,529,400 (-\$2,301,200 GPR, -\$3,198,800 FED and \$970,600 PR) in 2008-09 to reflect the administration's estimates of savings to the MA program resulting from implementing the program.

*Administrative Cost.* Provide \$100,000 (\$50,000 GPR and \$50,000 FED) in 2007-08 and \$70,000 (\$35,000 GPR and \$35,000 FED) in 2008-09 to fund implementation costs.

**Statutory Changes**

Establish an insurance payment intercept program for individuals who have been placed on the child support lien docket and for whom an insurance claim of \$500 or more is to be paid.

Require insurers that are authorized to do business in the state, before paying an insurance claim of \$500 or more to any individual, to: (a) verify with DHFS, in a manner required by DHFS, whether the individual to whom the claim is to be paid has a MA liability; and (b) check the statewide support lien docket to determine whether the individual to who the claim is to be paid has a support liability.

Provide that, if the individual to whom a claim of \$500 or more is to be paid has a support liability or a MA liability, or both, require the insurer to distribute the claim proceeds as follows:

- First, if there is no support liability, to DWD to pay the support liability, up to the amount of the support liability or the amount of the claim, whichever is less;
- Next, if there is an MA liability, to DHFS to pay the MA liability, up to the amount of the MA liability or the amount of the claim proceeds remaining, whichever is less.
- Last, to the individual, the remainder of the claim proceeds, if any.

Require DHFS to promulgate rules relating to the program, including procedures for insurers to follow and any notice and hearing requirements. Permit DHFS to promulgate the rules as emergency rules without a finding of emergency.

Define "medical assistance liability" as the amount that DHFS may recover for incorrect overpayments, recovery of incorrect payments by public assistance programs, and third party liability for services provided to MA recipients. Define "support liability" as an amount that is entered in the statewide support lien docket.

Specify that, if any insurance policy that is in effect on the bill's general effective date contains a provision that is inconsistent with these provisions, the provisions would first apply to that policy on the date on which it is renewed.

The child support lien docket contains the name, social security number, the amount of the lien, and the date the entry was made for obligors whose child support arrearages exceed a certain amount, currently \$500. Examples of incorrect payments under MA are payments made: (a) as a result of a misstatement or omission of fact by a person supplying information in an application for benefits; (b) due to the failure of a person to report the receipt of income or assets in a amount that would have affected a recipient's eligibility for benefits; or (c) due to the failure of a person to report changes in a recipient's financial or non-financial situation or eligibility characteristic's that would have affected the recipient's eligibility for benefits or his or her cost-sharing requirements.

**Joint Finance/Legislature:** Delete provision.

**8. MA FALSE CLAIM RECOVERIES -- RETAIN GREATER PERCENTAGE FOR CERTAIN COLLECTIONS**

GPR	- \$1,926,900
FED	<u>1,483,600</u>
Total	- \$443,300

**Governor/Legislature:** Reduce GPR funding for MA benefits by \$580,900 and increase FED funding for MA benefits by a corresponding amount in 2007-08 and reduce funding for MA benefits by \$443,300 (-\$1,346,000 GPR and \$902,700 FED) in 2008-09 to reflect the administration's estimate of the net effect of provisions enacted as part of the federal Deficit Reduction Act of 2005 (DRA) relating to MA false claims recoveries.

Under the DRA, if a state has a qualifying false claims statute, the federal MA matching rate with respect to any amounts recovered under a state action brought under the law is decreased by 10%. This change permits states to retain a greater share these recoveries. The administration assumes that the state will retain a greater share of approximately 2.5% of recoveries in 2007-08 and 5.0% of recoveries in 2008-09.

**9. MA FALSE CLAIMS RECOVERIES -- STATUTORY CHANGES**

**Governor:** Create penalties for individuals that make claims against the state for products or services not provided and allow individuals to file claims against those making false claims as described below.

*Penalties for False Claims.* Create a forfeiture (civil penalty) for anyone who knowingly presents or causes to be presented to a state agency (including the Legislature and the Courts) or to a local unit of government a false claim for payment of the following: (a) construction work or limited trades work under contract; (b) engineering or architectural services under contract; or (c) materials, supplies, equipment, or contractual services under the contract or order. Establish the amount of the forfeiture at not less than \$5,000 nor more than \$10,000, plus three times the amount of the damages that were sustained by the state or local unit of government (or would have been sustained), whichever amount is greater, as a result of the false claim. Authorize the Attorney General to bring an action on behalf of a state agency to recover any forfeiture as a result of a false claim regarding a contract for construction, execution, repair, remodeling, or improvement of a public work or building or for the furnishing of supplies, equipment, material, or professional or contractual services of any kind.

Include specific reference to these penalties in current law provisions that exempt certain state agency purchases from various aspects of the state procurement code (Subchapter IV of Chapter 16 of the statutes). As a result, the new penalty provisions would specifically apply to contracts, services, and commodity purchases for the following: (a) Department of Natural Resources contracts for construction work sought by bid or a competitive sealed process; (b) legal or investment counsel retained by the State of Wisconsin Investment Board (SWIB); (c) maintenance and repair of land or buildings owned by SWIB; (d) employment of professionals, contractors, or other agents necessary to evaluate or operate any property managed by SWIB; (e) Department of Transportation (DOT) highway improvement project contracts with private firms or counties; (f) DOT railroad and utility relocation contracts; (g) DOT engineering

services; (h) DOT contracts with counties and municipalities for highway improvements; (i) DOT transportation assistance contracts for railroads, urban mass transit, specialized transportation, and harbors; (j) Department of Workforce Development contracts with attorneys hired to represent the interests of the Uninsured Employers Fund; (k) Department of Financial Institutions contracts with bank supervisory agencies for providing examiners of in-state branches of out-of-state banks; and (l) services provided for the management of the Injured Patients and Families Compensation Fund, as contracted through the Board of Governors.

Specify that these new penalty provisions would first apply to all claims presented or caused on and after the general effective date of the biennial budget act.

*Civil Suits on Behalf of the State.* Specify that an individual that does any of the following would be liable to the state for at least \$5,000 but not more than \$10,000, plus three times the amount of damages sustained by the state: (a) knowingly presenting or causing the presentation of a false claim for payment or approval; (b) knowingly making, using or causing a false record or statement to obtain approval or payment of a false claim; (c) conspiring to defraud the state by obtaining allowance or payment of a false claim, or by knowingly making or using, or causing to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the state; (d) having possession, custody, or control of property used or to be used by the state and knowingly delivering or causing to be delivered less property than the amount for which the person receives a certificate or receipt; (e) being authorized to make or deliver a document certifying receipt of property that is used or to be used by the state, knowingly makes or delivers a receipt that falsely represents the property that is used or to be used; (f) knowingly buying or receiving as a pledge for payment of an obligation or debt for the state property from any person who lawfully may not sell or pledge the property; (g) knowingly making, using, or causing to be made or used a false record or statement to conceal, avoid, or decrease any obligation to pay or transmit money or property to the state; and (h) benefiting from the submission of a false claim to any officer, employee, or agent of the state, or to any contractor, grantee, or other recipient of state resources, knowing that the claim is false, and failing to disclose the false claim to the state within a reasonable time after becoming aware of the false claim.

Allow a court to assess between two and three times the amount of the damages sustained by the state to a person found responsible for such a violation, but specify that the a forfeiture would not be assessed if all the following apply: (a) the person who commits the act, within 30 days, furnishes the Attorney General with all information known to the person about the false claim acts; (b) the person fully cooperates with any investigation of the acts; and (c) when the person supplies information to the Attorney General, no criminal prosecution or civil or administrative enforcement action had begun regarding the false claim, and the person had no knowledge about an existing investigation into such an act. These provisions would not apply to Chapters 70 through 79 of the Statutes. These chapters address property taxes, income and franchise taxes, estate taxes, land sold for taxes, public utility taxes, motor fuel and aviation fuel taxes and revenue sharing.

Allow individuals to bring suit on behalf of the state (a *qui tam* plaintiff). Require the plaintiff to provide a copy of the complaint to the Attorney General, disclosing substantially all material evidence and information known to the plaintiff. Specify that the complaint would also be provided to the court *in camera* (outside of a court session). Require that files be sealed for 60 days from the date of filing, and not be provided to the defendant until ordered by a court.

Specify that the Department of Justice would be required to investigate possible false claims against the state. Within 60 days from the date served, the Attorney General would be allowed to intervene in the action. The Attorney General would be allowed, for good cause, to ask a court to seal the complaint for a longer period. Require the Attorney General to do one of the following while the file is sealed: (a) proceed with an alternate remedy under an administrative proceeding, which would be prosecuted by the state; or (b) notify the court that action will not be taken by the Attorney General, allowing the original plaintiff to precede with the action. Under an alternative remedy of an alleged false claim, the Attorney General could conduct an administrative proceeding to assess a civil forfeiture. Under such a case, the plaintiff would have the same rights as under a court proceeding. Specify that this provision would be exempted from the current statutes regarding the commencement of a civil procedure. Under current law, a civil action commences when a summons of the complaint naming the defendant is filed with the court.

Specify that, if the action is valid, only the plaintiff or the state could intervene or bring legal action while the original action is pending. If the Attorney General seeks an alternative remedy, the plaintiff would be required to prove all essential elements of the cause of the action or complaint, including damages by a preponderance of the evidence. If the state acts on the case, as brought forward by the plaintiff, then the plaintiff would remain as a party in the complaint. However, the state would not be limited to actions brought by the plaintiff. If an alternative remedy is sought, the state would have the primary responsibility in the prosecution. Specify that the state be allowed to move for dismissal of the action for good cause, notwithstanding an objection from the plaintiff, if all the following apply: (a) the state is a party to the suit; (b) the plaintiff was served a copy of the state's motion; and (c) the plaintiff is provided an opportunity to oppose the motion before a court or the administrative agency before the proceeding is conducted.

Allow the Attorney General to compromise and settle an action before a court or an administrative proceeding to which the state is a party, notwithstanding an objection of the plaintiff, if the following apply: (a) the Governor approves; (b) the plaintiff is granted a hearing in which he or she can present evidence in opposition to the settlement; and (c) the settlement is fair, reasonable and adequate considering the relevant circumstances pertaining to the violation.

*Participation in the Proceeding.* Specify that a court could restrict participation by the plaintiff, if the state shows that the plaintiff would interfere or unduly delay the prosecution of the action or proceeding, or would result in consideration of repetitious or irrelevant evidence or evidence presented for the purposes of harassment. Allow a court to limit the following if such restrictions are found to be warranted: (a) the number of witnesses the plaintiff may call;

(b) the length of the testimony of the witnesses; (c) the cross-examination of the witnesses; and (d) the participation of the plaintiff in the prosecution of the action or the proceeding. In cases where the state is a party, allow the defendant to petition the court to restrict the role of the plaintiff in the case or proceeding if the actions of the plaintiff would result in harassment or would cause the defendant undue burden or unnecessary expense. Specify that the court would review the false claim provisions in determining who could participate in the case, rather than current law civil procedures that dictate mandatory and discretionary intervention [under Chapter 803 of the statutes].

If the state does not participate in an action, allow the Attorney General to request copies of all pleadings and deposition transcripts, at the cost of the state. If the plaintiff initiates prosecution of the action, a court, without limiting the status and rights of that person, would be allowed to permit the state to intervene at a later date if the state shows good cause for the proposed intervention.

Specify that if the Attorney General, in an out-of-court proceeding, shows that the proceeding would interfere with the state's ongoing investigation or prosecution of a criminal or civil matter arising out of the same facts, a court could stay such discovery in whole or in part for a period of not more than 60 days. Specify that a court would be allowed to extend the period of any such stay upon further showing by the Attorney General that the state has pursued the criminal or civil investigation of the matter with reasonable diligence and the proposed discovery in the action brought under the false claim proceeding would interfere with the ongoing criminal or civil investigation or prosecution.

Exempt the discovery provision from the normal scope of discovery in civil cases. Under current law, parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter.

Provide that a judgment of guilty entered in a criminal action, in which the defendant is charged with fraud or making false statements, would prevent the defendant from denying the essential elements as the offense in a false claim proceeding, if the cases involve the same elements of criminal action.

*Payments to the Plaintiff.* Specify that if the state goes forward in either a court proceeding or an administrative proceeding, then the plaintiff is entitled to at least 15% but no more than 25% of the proceeds of the action or settlement of the claim depending on the plaintiffs contribution. If the state does not proceed in the case then the plaintiff is eligible for 25% to 30% of the proceeds of an action against the defendant.

Provide that the plaintiff is also eligible for reasonable expenses necessary in bringing

action together with the person's costs and reasonable actual attorney fees. The fees would be determined by the court or other adjudicator. The state would not be responsible for any of the expenses incurred by a plaintiff.

Specify that an individual, other than the plaintiff, that discloses specific information that is the primary evidence against the defendant, then that individual would be entitled to as much as 10% of the proceeds of the action or the settlement, depending on the significance of the information provided.

Specify that if it is determined that the plaintiff is also the individual that planned or initiated the violation being reviewed by the proceeding, then the court may reduce the share of the awards to the plaintiff. If that person is also convicted for criminal conduct, a court or other adjudicator may also dismiss the person as a party and deny any payments to the individual.

*Miscellaneous Provisions.* Specify that no court would have jurisdiction over an action brought by a private person in a false claim case against a state public official if the action is based on information known to the Attorney General at the time of the action. Further provide that no person could bring action in a false claim case based on allegations or transactions that are the subject to civil action or an administrative proceeding to assess a civil forfeiture in which the state is a party if the action or proceeding was commenced prior to the date that the action is filed.

Provide that a false claim could be dismissed only by order of a court. A court would be allowed to take into account the best interest of the parties and the requirements of the false claim provisions. Under current law, a plaintiff may dismiss an action without an order of the court.

Specify that a false claim action could be commenced within 10 years of the cause of the action or claim. Further specify that this provision applies to all false claims that are within the 10-year statute of limitation, even if the action occurred before the provision is approved.

Specify that the remedies created in the bill are in addition to any other remedy provided under law or common law. Further specify that the provisions be liberally construed and applied to promote the public interest and the interests of the federal government relating to claims of the U.S. government, claims against the U.S. government, procurement protests, accounting and collections and audits and settlements.

*Protections for State Employees.* Provide that any state employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against by his or her employer at a state agency or authority due to lawful actions taken by the employee, on behalf of the employee, or by others in furtherance of an action or claim filed under this provision, including investigation for, initiation of, testimony for, or assistance in an action or claim filed under the false claim provisions would be entitled to all necessary relief to make the employee whole. Such relief would in each case include the following: (a) reinstatement with the same seniority status that the employee would have had but for the discrimination; (b) two



times the amount of back pay; (c) interest on the back pay at the legal rate; and (d) compensation for any special damages sustained as a result of the discrimination, including costs and reasonable actual attorney fees. Allow an employee to bring an action to obtain the relief to which the employee is entitled under this subsection.

**Joint Finance/Legislature:** Modify the bill so that penalties for submitting false claims and civil cases against those who make false claims only apply to contracts, services, and commodity purchases related to the medical assistance program.

[Act 20 Sections: 635, 1629m, 2902, 2904, 3751, 3753 thru 3756, 3775, and 9329(2)]

**10. PROVIDER AUDITS**

	Funding	Positions
GPR	-\$793,400	1.25
FED	<u>-\$821,000</u>	<u>3.75</u>
Total	-\$1,614,400	5.00

**Governor/Legislature:** Reduce funding by \$673,200 (-\$334,100 GPR and -\$339,100 FED) in 2007-08 and \$941,200 (-\$459,300 GPR and -\$481,900 FED) in 2008-09 to reflect the net effect of: (a) funding 5.0 additional nurse auditor positions (1.25 GPR positions and 3.75 FED positions), beginning in 2007-08, to increase the number of specialized audits and to conduct additional MA provider audits within the Bureau of Health Care Program Integrity; and (b) estimated benefits savings to the MA program of conducting these additional audits.

*Positions.* Provide \$340,300 (\$95,800 GPR and \$244,500 FED) in 2007-08 and \$410,200 (\$106,100 GPR and \$304,100 FED) in 2008-09 to reflect the cost of providing 5.0 additional nurse auditor positions to conduct MA provider audits. As skilled medical professional personnel, 75% of the costs of these positions would be supported with federal MA matching funds. The Bureau currently employs 10.5 financial auditors and 8.0 nurse auditors.

*Benefits Savings.* Reduce MA benefits funding by \$1,013,500 (-\$429,900 GPR and -\$583,600 FED) in 2007-08 and by \$1,351,400 (-\$565,400 GPR and -\$786,000 FED) in 2008-09 to reflect the administration's estimates of savings that would be realized through reductions in improper MA payments and increases in recoveries in improper payments, based on current estimates of the average amount of detection and recoveries for which each current auditor position is responsible (approximately \$270,300 per year per position).

**11. MEDICAID THIRD PARTY LIABILITY**

GPR	-\$192,500
FED	<u>-\$280,800</u>
Total	-\$473,300

**Governor/Legislature:** Reduce funding for MA and BadgerCare benefits by \$473,300 (-\$192,500 GPR and -\$280,800 FED) in 2008-09 to reflect projected net savings of implementing new third party liability (TPL) requirements included in the federal Deficit Reduction Act of 2005 [P.L. 109-171 (DRA)]. The DRA requires self-insured plans (health benefits plans previously exempt under the Department of Labor's Employee Retirement Income Security Act of 1974), managed care organizations, pharmacy benefits managers, and "other parties that are, by statute, contract, or agreement, legally

responsible for payment of a claim for a health care item or service" to submit policy and coverage information to state MA programs. State statutes require DHFS to reimburse insurance companies for the reasonable cost of providing the required information. DHFS expects that the additional information will enable the MA program to identify more cases in which private insurers or other entities are liable for the cost of care for MA and BadgerCare recipients.

*Benefits.* Reduce funding for MA and BadgerCare benefits by \$533,300 (-\$222,500 GPR and -\$310,800) in 2008-09 to reflect projected savings in benefits costs.

*Reimbursements.* Provide \$60,000 (\$30,000 GPR and \$30,000 FED) in 2008-09 for DHFS to reimburse companies for the additional costs they will incur in providing coverage information.

### **Statutory Provisions**

*Definitions.* Define a "covered entity" as any of the following that is not an insurer: (a) a nonprofit hospital, as defined by statute; (b) an employer, as defined in statute, labor union, or other group of persons organized in this state if the employer, labor union, or other group provides prescription drug coverage to covered individuals who reside or are employed in this state; and (c) a comprehensive or limited health care benefits program administered by the state that provides prescription drug coverage.

Define a "covered individual" as an individual who is a member, participant, enrollee, policyholder, certificate holder, contract holder, or beneficiary of a covered entity, or a dependent of the individual, and who receives prescription drug coverage from or through the covered entity.

Define "pharmacy benefits management" as the procurement of prescription drugs at a negotiated rate for dispensation in this state to covered individuals; the administration or management of prescription drug benefits provided by a covered entity for the benefit of covered individuals; or any of the following services provided in the administration of pharmacy benefits: (a) dispensation of prescription drugs by mail; (b) claims processing, retail network management, and payment of claims to pharmacies for prescription drugs dispensed to covered individuals; (c) clinical formulary development and management services; (d) rebate contracting and administration; and (e) conduct of patient compliance, therapeutic intervention, generic substitution, and disease management programs.

Define a "pharmacy benefits manager" as a person that performs pharmacy benefits management functions.

Define a "recipient" as an individual or his or her spouse or dependent who has been or is one of the following: (a) an MA recipient or a recipient of a program administered under a waiver of federal MA laws; (b) a Family Care enrollee; (c) a BadgerCare enrollee; (d) an individual who receives benefits for the treatment of kidney disease, cystic fibrosis aids, or hemophilia services under the state's disease aids program; (e) a SeniorCare recipient; and (f) a

woman who receives services that are reimbursed under the Wisconsin well-woman program.

Define a "third party" as an entity that by statute, rule, or contract is responsible for payment of a claim for a health care item or service, including all of the following: (a) an insurer; (b) an employee benefit plan as defined by federal law that is not exempt under federal law and is not a multiple employer welfare arrangement; (c) a service benefit plan, as specified in federal law; and (d) a pharmacy benefits manager.

Change current statutory references from "insurers" to "a third party" with regard to providing DHFS with requested information, and provide that if a third party other than an insurer fails to comply with disclosure and accepting assignment, as defined above, DHFS could notify the Attorney General.

*Third Party Requirements.* Require, as a condition of doing business in Wisconsin, a third party to do all of the following:

a. Upon DHFS' request and in the manner prescribed by DHFS, provide information to DHFS necessary for DHFS to ascertain all of the following with respect to a recipient: (1) whether the recipient is being, or has been provided coverage or a benefit or service by a third party; and (2) if so, the nature and period of time of any coverage, benefit, or service provided, including the name, address, and identifying number of any applicable coverage plan;

b. Accept assignment to DHFS of a right of a recipient to receive third-party payment for an item or service for which payment under MA has been made and accept DHFS' right to recover any third-party payment made for which assignment has not been accepted;

c. Respond to an inquiry by DHFS concerning a claim for payment of a health care item or service if DHFS submits the inquiry less than 36 months after the date on which the health care item or service was provided;

d. If all of the following apply, agree not to deny a claim submitted by DHFS under (b) solely because of the claim's submission date, the type or format of the claim form, or failure by a recipient to present proper documentation at the time of delivery of the service, benefit, or item that is the basis of the claim: (1) DHFS submits the claim less than 36 months after the date on which the health care item or service was provided; and (2) action by the DHFS to enforce DHFS' rights with respect to the claim is commenced less than 72 months after DHFS submits the claim.

*Sharing Information.* Require DHFS to provide to the Department of Workforce Development (DWD), for purposes of the medical support liability program, any information that DHFS receives under these provisions. Permit DWD to allow a county child support agency or a tribal child support agency access to the information, subject to the use and disclosure restrictions defined in statute, and require DWD to consult with DHFS regarding procedures and methods to adequately safeguard the confidentiality of the information provided under these provisions.

Require DHFS to obtain and share information about BadgerCare recipients, Family Care recipients, individuals who receive benefits under the disease aids program, SeniorCare recipients, and individuals who receive benefits under the Wisconsin Well-Woman program.

Finally, require DHFS to obtain and share information about Family Care recipients in the same manner as currently provided in the statutes for MA recipients.

[Act 20 Sections: 395, 1017, 1610 thru 1625, 1642, 1650, 1655, and 3067]

**12. MEDICARE-MEDICAL ASSISTANCE FRAUD DETECTION**

GPR	- \$119,700
FED	- 160,500
PR	19,800
Total	- \$260,400

**Governor/Legislature:** Reduce MA benefits funding \$260,400 (-\$119,700 GPR, -\$160,500 FED and \$19,800 PR) in 2008-09 to reflect projected savings in MA benefits costs that would result from better coordinating Medicare and MA program integrity activities. Under federal law, the MA program must have the capacity to detect and investigate suspected fraud, waste, and abuse within the program. This function is currently provided by the provider compliance audit program through the Bureau of Health Care Program Integrity and is limited to MA claims only. Currently, the MA program is unable to review claims submitted to and paid by the Medicare program. Under this item, DHFS would contract with an entity on a contingency fee basis (\$19,800 PR in 2008-09) to conduct Medicare-MA billing comparisons and identify and recover overpayments.

**13. FEDERAL MA ADMINISTRATION FUNDS FOR THE BOARD ON AGING AND LONG-TERM CARE**

FED	\$259,800
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**Governor:** Provide \$124,000 in 2007-08 and \$135,800 in 2008-09 in federal MA administration matching funds, which DHFS would transfer to the Board on Aging and Long-Term Care (BOALTC) to partially support items in the bill that would expand the Board's volunteer ombudsman program and increase ombudsman services as part of the proposed expansion of Family Care. The state's match for these federal funds (\$124,000 GPR and \$135,800) would be budgeted in the Board's budget. Support costs associated with the Board's expansion of its volunteer ombudsman program, and the provision of ombudsman services to elderly recipients of the Family Care benefit. Because the Board provides ombudsman services to MA recipients, in addition to private pay long-term care consumers, DHFS can claim a portion of the costs of the Board's ombudsman program as an eligible MA administration cost.

**Assembly:** Delete the provision to reflect that two items for the Board on Aging and Long-Term Care would be deleted: (a) an expansion of the Board's volunteer ombudsman program; and (b) increased ombudsman services in conjunction with the expansion of Family Care. Since the Assembly deleted these items, there would be no state funds expended to generate these federal matching funds.

**Conference Committee/Legislature:** Restore provision.

**14. PERFORMANCE-BASED CONTRACTS -- AUTHORITY TO EXPEND REVENUE TO SUPPORT COLLECTIONS AND RECOVERY COSTS**

**Governor/Legislature:** Modify a current program revenue appropriation, which receives moneys the state collects from the MA estate recovery program and supports costs relating to the estate recovery program, payments to the federal government for its share of MA benefits recovered, and to partially support the state's share of MA benefits, to: (a) also include, as a revenue source to the appropriation, all moneys DHFS receives as collections, and other recoveries from providers, drug manufacturers, and other third-parties under MA performance-based contracts; and (b) authorize DHFS to expend funding from the appropriation for costs related to collections and other recoveries.

[Act 20 Section: 391]

**15. CEMETERY, FUNERAL, AND BURIAL AIDS**

**Assembly:** Modify current law relating to county and tribal reimbursement for funeral and burial expenses of indigent individuals so that a county or tribe would provide no reimbursement in cases where the total funeral and burial expenses exceed \$4,500, rather than \$3,500, as provided under current law.

This provision would not modify the current law provisions that limit county and tribal reimbursement to: (a) the lesser of \$1,000 or the cemetery expenses that are not paid by the estate of the deceased and other persons; and (b) the lesser of \$1,500 or the funeral and burial expenses not paid by the estate of the deceased and other persons.

DHFS is required to reimburse counties and tribes for funeral and burial expenses for deceased individuals who, at the time they died, were receiving W-2, supplemental security income (SSI) benefits, or MA benefits, and whose estates are insufficient to pay these expenses.

**Conference Committee/Legislature:** Delete provision.

**Health**

**1. VITAL RECORDS FEES [LFB Paper 410]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Legislature (Chg. to JFC)</b>	<b>Net Change</b>
PR-REV	\$16,597,100	-\$16,597,100	\$6,927,800	\$6,927,800

**Governor:** Increase several vital records fees, thereby increasing program revenue to the

state by an estimated \$8,009,800 in 2007-08 and \$8,587,300 in 2008-09, and also increasing revenues retained by local registrars by an estimated \$2,026,500 in 2007-08 and \$3,524,300 in 2008-09.

*Fee Increases.* Increase certain vital records fees as follows:

a. From \$7 to \$20 for issuing one certified copy of a vital record, including a marriage, divorce, or death record, but not including a birth certificate, and from \$3 to \$20 for any additional certified copy of the same vital record issued at the same time;

b. From \$7 to \$20 for issuing an uncertified copy of certain other vital records other than a birth certificate, and from \$0 to \$20 for any additional copy of the same vital record issued at the same time, and from \$7 to \$10 for verifying information about the event submitted by a requester without issuance of a copy, and from \$3 to \$10 for any additional copy of the same information issued at the same time;

c. From \$12 to \$20 for issuing an uncertified copy or a certified copy of a birth certificate, and increase from \$7 to \$10 the portion of that \$20 fee which shall be forwarded to the Secretary of Administration and credited to appropriations to the Child Abuse and Neglect Prevention Board (CANPB), and increase from \$3 to \$20 the fee for issuing any additional certified or uncertified copy of the same birth certificate issued at the same time;

d. From \$10 to \$20 for issuing one certified copy of a certificate of birth resulting in stillbirth, and from \$3 to \$20 for any additional certified copy of the same certificate issued at the same time;

e. From \$10 to \$20 for expedited service in issuing a vital record in addition to any other fees that apply; and

f. From \$7 to \$10 for a search of vital records if the registrar finds no record, in addition to which the registrar can continue, as under current law, to charge a fee to cover the costs of a search of vital records if the requester provides no identifying information or identifying information that is imprecise or inadequate.

Require that a local registrar that collects a fee identified in (a), (b), (c), or (d), above, forward 60% of the increase in that fee to the Secretary of the Department of Administration (DOA) to be credited to a DHFS program revenue appropriation, except that a local registrar that collects a fee for issuing a certified or uncertified copy of a birth certificate under item (c), above, must forward to the DOA Secretary, to be credited to a DHFS program revenue appropriation, 60% of the increase in that fee that remains after \$10 is forwarded to the DOA Secretary for credit to the CANPB, over the current fee amount that remained after \$7 was forwarded to the DOA Secretary for credit to the CANPB as required under current law.

Provide that in addition to the fee increases described in (a) through (f), above, the state registrar shall increase fees it collects for other vital records services, including the following:

(1) from \$10 to \$40 to amend a vital record after 365 days have elapsed since the occurrence of the event that is the subject of the vital record, except as otherwise provided in statute; (2) from \$10 to \$40 to change certain information on a birth certificate, as directed by a court order; (3) from \$10 to \$40 to change the name of the registrant on a birth certificate, as directed by a court order; (4) from \$10 to \$20, and in some circumstances, from \$10 to \$40, to change paternity information on a birth certificate; (5) from \$20 to \$40 to amend, per court order, information on a death certificate regarding the cause of death or to change information on a marriage certificate regarding a parent of a party to the marriage, and to impound the original certificate; (6) from \$20 to \$50 to register a birth certificate if more than 365 days have elapsed since the birth; (7) from \$20 to \$40 to issue a new birth certificate to reflect an adoption, as directed by a court order; (8) from \$20 to \$40 to prepare a new birth certificate to reflect the rescission of a statement acknowledging paternity; (9) from \$20 to \$40 to amend information on a birth certificate due to a surgical sex-change procedure, as directed by a court order; (10) from \$20 to \$50 to register a marriage if at least 365 days have elapsed since the marriage; (11) from \$20 to \$50 to register a death certificate where no such certificate is on file one year after the death; (12) from \$20 to \$40 to correct, under certain circumstances, information about the parent or marital status of the mother on a birth certificate if the disputed information was misrepresented by the informant during the preparation of the birth certificate; (13) from \$0 to \$20 to change the name of the registrant on a birth certificate once without court order; (14) from \$10 to \$40 to enter true facts, under certain other circumstances, on a vital record as directed by a court order; and (15) from \$20 to \$40 to prepare and register a new birth certificate to reflect a court order determining parental rights over a child born to a surrogate mother.

The administration estimates that under the bill, vital records fees assessed by the state registrar and local registrars in 2007-08 would increase by \$10,036,300, to \$16,859,000. Of that increase, local registrars would retain \$2,026,500 (net of transfers to the CANPB and the state), and \$8,009,800 would be retained by the state (of which \$650,400 would be transferred to the CANPB under the bill). Further, the administration estimates that vital records fees assessed by the state registrar and local registrars in 2008-09 would increase by \$12,111,600, to \$18,987,700. Of that increase, local registrars would retain \$3,524,300 (net of transfers to the CANPB and the state under the bill), and \$8,587,300 would be retained by the state to support several items that are summarized under DHFS, CANPB, and the Department of Workforce Development.

**Joint Finance:** Delete provision.

**Assembly/Legislature:** Increase vital records fees as follows: (a) increase the fee for one certified copy or one uncertified copy of a birth certificate from \$12 to \$20; (b) increase the fee for one certified copy or one uncertified copy of a death, marriage, or divorce record from \$7 to \$20; and (c) increase the fee for expedited services from \$10 to \$20. Require the state registrar and any local registrar to forward to the DOA Secretary the full amount of the increase in these fees for deposit in the DHFS vital records program revenue appropriation. Increase estimated program revenue by \$2,958,500 in 2007-08 and \$3,969,300 in 2008-09. Specify that these fee increases would sunset on July 1, 2010. This item would not increase DHFS' PR appropriation to expend additional revenue from the proposed fee increase. However, DHFS could seek

authority under s. 16.515 of the statutes to expend these revenues for the vital records automation project.

[Act 20 Sections: 1918g thru 1918s, and 9421(9w)]

**2. VITAL RECORDS AUTOMATION AND OTHER EARMARKED PURPOSES [LFB Paper 411]**

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
PR	\$15,156,900	-\$15,156,900	\$0

**Governor:** Provide \$7,359,400 in 2007-08 and \$7,797,500 in 2008-09 to support: (a) the state's vital records program (\$4,859,400 in 2007-08 and \$5,297,500 in 2008-09); and (b) several other programs administered by DHFS and the Department of Workforce Development that would be funded from this source (\$2,500,000 annually).

**Vital Records Automation**

Provide \$4,859,400 in 2007-08 and \$5,297,500 in 2008-09 to fund a portion of the estimated cost to redesign, modernize, and automate the state's vital records system, and to facilitate the data entry of birth and death records pursuant to the Intelligence Reform and Terrorism Prevention Act of 2004 ("Intelligence Reform Act"), and the Real ID Act of 2005. The administration estimates that the total cost of bringing Wisconsin's vital records systems into compliance with those statutes will be approximately \$24.3 million, consisting of online costs and costs associated with the preservation and electronic data entry of vital records information. The Governor would fund these costs through state master lease agreements.

*Intelligence Reform Act.* One goal of the Intelligence Reform Act is to improve the procedures states use to maintain birth records and to issue birth certificates. The act requires the Secretary of the U.S. Department of Health and Human Services (DHHS) to promulgate regulations that relate to, among other things: (1) certification of the birth certificate by the state or local government custodian that issued the certificate, the use of safety paper or an alternative, equally secure medium, the seal of the issuing custodian of record, and other features designed to prevent tampering, counterfeiting, or otherwise duplicating the birth certificate for fraudulent purposes; (2) proof and verification of identity as a condition of issuance of a birth certificate, with additional security measures for the issuance of a birth certificate for a person who is not the applicant; and (3) standards for the processing of birth certificate applications to prevent fraud.

The act gives states two years from the date those final regulations are promulgated to certify compliance, although an extension of up to two years can be granted if the DHHS Secretary determines the state made reasonable efforts to comply within the statutory two-year period. If a state is not in compliance at the end of that two-year period, the act prohibits



federal agencies from accepting a birth certificate issued by that state for any official purpose, including boarding federally-regulated commercial aircraft. To date, the Secretary has not promulgated the regulations required under the act.

While final regulations have not yet been issued, DHFS had indicated that the act will require the electronic data entry and preservation of millions of birth and death records, most of which currently exist solely on paper for which limited, if any, summary data has been entered into the vital records office's mainframe computer. DHFS has also indicated that the act will require significant research to match birth and death records and to ensure that the electronically-stored data contains all the information required under the act.

*Real ID Act.* The Real ID Act seeks to improve and standardize the procedures states use to issue drivers' licenses and identification cards. It does this in part by requiring applicants to present certain documents in order to obtain a driver's license, including documentation showing the person's date of birth. The issuing state must then verify the authenticity of those documents. DHFS has indicated that this verification process will require states to access several national information systems, including the Electronic Verification of Vital Events (EVEE), an electronic hub that receives inquiries from state DMV offices and redirects them to the appropriate state electronic vital records database, thus requiring states to have in place an electronic vital records database other states can access through the EVEE hub. As currently codified, the Real ID Act prohibits federal agencies from accepting a driver's license for any official purpose after May 11, 2008, if that license is issued by a state that is not in compliance with the Real ID Act's requirements at that time. The Real ID Act authorizes the Secretary of the U.S. Department of Homeland Security to grant extensions of that period if a state provides adequate justification for its non-compliance.

On March 1, 2007, the federal Department of Homeland Security issued proposed rules to implement the Real ID Act. Among the provisions, the proposed rules specify that states may request an extension of the effective date to December 31, 2009. With such an extension, states would have to begin issuing driver's licenses and identification cards that are in compliance with the Act's provisions by the start of 2010, but all licenses and cards held by state residents would have to be in compliance by May 10, 2013.

Funding for the vital records automation project would be provided through base funding and through program revenue generated by an increase in vital records fees. The Governor's provisions regarding the increase in those fees are summarized under another item in this section.

#### **Funding for Other Programs**

The bill would provide \$2,500,000 annually from revenue DHFS receives from vital records fees to support:

a. Meta House in the City of Milwaukee, which provides gender-specific alcohol and other drug abuse treatment, case management, child and family services, and educational

services to drug dependent women with children (\$250,000);

b. The Allied Drive Initiative in the City of Madison, to provide home visiting and employment preparation and support for low-income families (\$500,000);

c. Increases in grant funding DHFS distributes to organizations that provide domestic abuse services (\$950,000);

d. The Foster Youth Independence Center in the City of Milwaukee to provide services to aid youth in making the transition from foster care to independent living (\$50,000);

e. The Boys and Girls Clubs of Greater Milwaukee (\$250,000); and

f. Organizations to provide summer youth employment in Milwaukee (\$500,000).

Items (a) through (d) are described under the "Health and Family Services -- Children and Families" section of this summary, and items (e) and (f) are described under "Workforce Development -- Employment, Training, and Vocational Rehabilitation Programs."

**Joint Finance:** Delete provision. Instead, provide \$3,452,600 GPR in 2007-08 and \$4,547,400 GPR in 2008-09 to partially fund the automation of the state's vital records system, but place funding for this item in the Joint Committee on Finance's supplemental appropriation. Permit DHFS to make a request to the Committee during the 2007-09 biennium to transfer some or all of that GPR funding for the costs associated with the Governor's recommended vital records automation project to DHFS for this purpose. [The GPR funding for the state's vital records system is shown under "Program Supplements."]

**Assembly/Legislature:** Delete the Joint Finance provision that would provide \$3,452,600 GPR in 2007-08 and \$4,547,400 GPR in 2008-09 in the Joint Committee on Finance program supplemental appropriation to fund the automation of the state's vital records system, and provide that additional program revenue, supported by vital records fee increases, would be available for this purpose if a request to use these revenues were approved under s. 16.515 of the statutes. See Item #1 under "Health and Family Services -- Health."

### 3. HIV/AIDS PROGRAMS AND HIRSP PILOT PROGRAM [LFB Paper 412]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$2,563,000	-\$1,341,400	\$1,221,600

**Governor:** Provide \$2,563,000 in 2008-09 to fund the cost of the HIV/AIDS drug assistance program (ADAP), the HIV/AIDS insurance premium subsidy program, and to provide grants to AIDS service organizations (ASOs).

*ADAP.* Provide \$413,700 in 2008-09 to fund the estimated costs of the program in the 2007-09 biennium, based on GPR base funding for the program (\$464,000) and estimates of federal funds the state receives under the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act, revenues from drug manufacturer rebates, and projected increases in caseload and drug costs.

The ADAP reimburses pharmacies for certain drugs they provide to program enrollees. In order to be eligible for the program, an individual must: (a) be a state resident; (b) live in a family with income that does not exceed 300% of the federal poverty level (FPL); (c) have a physician certify that the individual has an HIV infection; and (d) have no or insufficient insurance coverage.

*Insurance Premium Subsidy Program.* Provide \$1,149,300 in 2008-09 to fund the estimated costs of the program in the 2007-09 biennium, based on GPR base funding for the program (\$640,600), and estimates of available federal Ryan White Comprehensive AIDS Resources Emergency Act funds, and projected increases in caseload and premium costs.

The HIV/AIDS insurance premium subsidy program subsidizes the cost of insurance premiums under group and individual health insurance policies for Wisconsin residents in families with incomes that do not exceed 300% of the FPL who are unable to continue their employment or who must reduce their work hours because of an illness or medical condition related to their HIV infection, and for Wisconsin residents in families with incomes that do not exceed 300% of the FPL who are on unpaid medical leave from their employment because of an illness or medical condition related to their HIV infection and who are covered by a group health insurance plan through their employer for which they pay part or all of the premium.

The Governor's recommendation with respect to the insurance premium subsidy program also reflects an estimated \$1,000,000 in savings the administration projects will be achieved in 2008-09 by a three-year pilot program under which DHFS would subsidize health insurance premiums and drug co-payment requirements under the health insurance risk-sharing plan (HIRSP) for individuals currently receiving benefits under the HIV/AIDS program and who also satisfy the following additional eligibility requirements: (1) they are currently taking antiretroviral drugs; (2) they do not have health insurance coverage; and (3) they are not eligible for health insurance premium subsidies under the HIV/AIDS insurance premium subsidy program because they are not on unpaid medical leave, are not unable to continue employment, and have not had to reduce their employment hours because of an illness or medical condition from or related to HIV. Specify that the pilot program would be limited to no more than 100 individuals at a given time. Permit DHFS to promulgate rules for the administration of the pilot program, and authorize DHFS to promulgate these rules as emergency rules without a finding of emergency. Modify the current GPR appropriation for AIDS/HIV services to authorize DHFS to pay for premiums and drug copayments under the pilot program. Specify that persons for whom health insurance coverage and copayments for certain prescription drugs are paid under the pilot program are not ineligible for coverage under HIRSP by virtue of such payments.

*Grants to ASOs.* Provide \$1,000,000 in 2008-09 to increase funding DHFS distributes as grants to AIDS service organizations. Base GPR funding for these grants is \$3,604,200 annually.

**Joint Finance:** Provide \$400,000 in 2007-08 to increase funding for grants to AIDS service organizations under the Mike Johnson life care and early intervention services grant program. Delete \$1,741,400 in 2008-09 to reflect the net fiscal effect of revised cost estimates for the ADAP and the insurance premium subsidy program, and to increase funding for grants to AIDS service organizations under the Mike Johnson life care and early intervention services grant program by \$1,000,000. Further, modify the provision by specifying that the pilot program shall begin October 1, 2007, and by specifying that the program shall be open to a minimum of 100 participants, with more participants if DHFS determines it is cost effective to do so. Require DHFS to determine the feasibility of developing a modification to the Governor's recommendations under which the ADAP would continue to purchase HIV/AIDS medications for participants in the pilot program and HIRSP would reimburse the ADAP for those prescription drug costs, and to submit a report to the Joint Committee on Finance by October 1, 2007.

Modify statutes pertaining to the Mike Johnson life care and early intervention services grants as follows: (1) authorize DHFS to award not more than \$2,969,900 in grants in fiscal year 2007-08; and (2) authorize DHFS to award not more than \$3,569,900 in grants in fiscal year 2008-09 and each fiscal year thereafter. Further, specify that: (1) none of the funds appropriated for such grants may be used to fund AIDS programs, or to develop materials, designed to promote or encourage, directly, intravenous drug use or sexual activity, whether homosexual or heterosexual; (2) none of the funds appropriated for grants may be used for political purposes; and (3) funds appropriated for such grants must be used to provide medical care and support services for individuals with HIV.

**Assembly:** Reduce funding for the state's HIV/AIDS program by \$400,000 in 2007-08, and by \$876,600 in 2008-09 to reflect: (a) reducing funding for the Mike Johnson life care and early intervention grants, by \$400,000 in 2007-08 and by \$1,000,000 in 2008-09 to maintain base funding for these grants (\$3,604,200 annually); and (b) beginning the HIRSP pilot project on January 1, 2008, rather than October 1, 2007.

**Conference Committee/Legislature:** Restore Joint Finance provision, with the modification that the pilot program would begin on January 1, 2008, and that DHFS would submit its report regarding the purchase of HIV/AIDS medications to the Joint Committee on Finance by January 1, 2008.

[Act 20 Sections: 402, 1646, 2883, 2884, 3035r, 3035s, and 9121(7p)]

#### **4. PAYMENT OF MEDICARE PART D PREMIUMS UNDER THE HIV/AIDS INSURANCE PREMIUM SUBSIDY PROGRAM**

**Governor/Legislature:** Authorize DHFS to pay insurance premiums for coverage under

Medicare Part D for persons enrolled in the HIV/AIDS insurance premium subsidy program.

The HIV/AIDS insurance premium subsidy program subsidizes the cost of insurance premiums under group and individual health insurance policies for Wisconsin residents with HIV/AIDS in families with incomes that do not exceed 300% of the FPL who are: (a) unable to continue their employment or who must reduce their work hours because of an illness or medical condition related to their HIV infection; or (b) on unpaid medical leave from their employment because of an illness or medical condition related to their HIV infection and who are covered by a group health insurance plan through their employer for which they pay part or all of the premium.

Under current law, the HIV/AIDS insurance premium subsidy program is prohibited from paying health insurance premiums for coverage under the federal Medicare program. This provision would authorize the program to pay Medicare Part D insurance premiums on behalf of program enrollees.

[Act 20 Sections: 3037 and 3038]

5. DISEASE AIDS [LFB Paper 413]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$385,700	-\$576,500	-\$190,800
PR	31,100	- 67,900	- 36,800
Total	\$416,800	-\$644,400	-\$227,600

**Governor:** Provide \$1,600 PR in 2007-08 and \$415,200 (\$385,700 GPR and \$29,500 PR) in 2008-09 to fully fund the projected cost of services under the Wisconsin chronic diseases program (WCDP), also known as the disease aids program. The WCDP provides payments to health care providers for disease-related services for people with chronic renal disease, adult cystic fibrosis, and hemophilia. The program is partially supported by program revenue the state receives from drug manufacturer rebates. The bill would provide \$5,214,500 (\$4,956,200 GPR and \$258,300 PR) in 2007-08 and \$5,242,000 (\$4,956,200 GPR and \$286,200 PR) in 2008-09 to support services.

In addition, modify statutes relating to the Wisconsin chronic disease program (WCDP) as follows.

*Provider Reimbursement.* Repeal provisions that, with respect to the treatment of kidney disease: (a) require DHFS to pay providers rates equal to the allowable charges under the federal Medicare program; (b) prohibit DHFS from paying state rates for individual service elements that exceed the federally-defined allowable costs; and (c) specify that the rate of charges for services not covered by public and private insurance may not exceed the reasonable charges as established by Medicare fee determination procedures.

Require that a person who provides a patient with a service for the treatment of kidney disease, cystic fibrosis, or hemophilia under the WCDP accept the amount paid under the WCDP as payment in full, and prohibit that person from billing the patient for any amount that exceeds the amount paid under the WCDP for those services. Under current law, this requirement pertains only to services provided under the WCDP for the treatment of kidney disease.

*Investigation of Fraudulent Activities.* Authorize DHFS to investigate suspected fraudulent activity and other abuses on the part of persons receiving benefits under the WCDP.

**Joint Finance/Legislature:** Reduce funding by \$348,500 (-\$314,600 GPR and -\$33,900 PR) in 2007-08, and \$295,900 (-\$261,900 GPR and -\$34,000 PR) in 2008-09, to reflect revised program cost projections. Delete the Governor's recommended statutory changes.

**6. TUBERCULOSIS PROGRAM [LFB Paper 414]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
GPR	\$177,300	-\$85,300	\$92,000

**Governor:** Provide \$61,600 in 2007-08 and \$115,700 in 2008-09 to fund projected cost increases in the tuberculosis program. The bill would provide a total of \$453,500 in 2007-08 and \$507,600 in 2008-09 to support the program.

Under the program, local health departments may become certified by DHFS as public health dispensaries for the purpose of diagnosing and treating persons suffering from, or suspected of having, tuberculosis. In 2006-07, 24 local agencies will have dispensary status. Certified dispensaries are eligible for reimbursement from DHFS for the cost of tuberculosis-related services they provide, up to the amounts budgeted for the program by the Legislature. DHFS also pays for drugs for the treatment of tuberculosis, as well as for certain inpatient isolation services.

**Joint Finance/Legislature:** Reduce funding by \$28,000 in 2007-08 and \$57,300 in 2008-09 to reflect revised program cost projections.

**7. CONVERSION OF EMERGENCY MEDICAL SERVICES AIDS FROM THE GENERAL FUND TO THE TRANSPORTATION FUND [LFB Paper 765]**

	<b>Governor (Chg. to Base)</b>	<b>Legislature (Chg. to Gov)</b>	<b>Net Change</b>
GPR	-\$4,400,000	\$4,400,000	\$0
SEG	<u>4,400,000</u>	<u>-4,400,000</u>	<u>0</u>
Total	\$0	\$0	\$0

**Governor:** Provide \$2,200,000 SEG in 2007-08 and \$2,200,000 SEG in 2008-09 and delete an equal amount of GPR to reflect the conversion of funding from the general fund to the transportation fund for emergency medical services aids.

This item is part of an initiative to convert several appropriations from the general fund to the transportation fund. A summary of these appropriations is shown in an item titled "Use of Transportation Fund Revenues for General Fund Purposes," which can be found under the Transportation Finance section of the Department of Transportation.

**Senate:** Delete \$2,200,000 SEG in 2008-09 and provide \$2,200,000 GPR in 2008-09 to reflect the elimination, for the second year of the biennium, of the conversion of funding from the general fund to the transportation fund for emergency medical services aids.

**Assembly/Legislature:** Delete provision.

**8. HEALTH SANITARIAN POSITIONS**

	<b>Funding</b>	<b>Positions</b>
PR	-\$524,000	- 4.25

**Governor/Legislature:** Reduce funding by \$262,000 annually and delete 4.25 positions (4.0 public health sanitarian positions and 0.25 office associate position), beginning in 2007-08. The 4.0 health sanitarian positions, which are vacant, previously conducted inspections of food and lodging establishments, and were based in the Department's regional offices in Rhinelander (2.0 positions), Eau Claire (1.0 position) and Green Bay (1.0 position). The administration estimates that program revenues that support state inspections of these establishments will be insufficient to support base program costs in the 2007-09 biennium, as more counties are choosing to perform these functions as local agents of the state.

**9. AMERICAN INDIAN HEALTH PROJECTS**

**Governor/Legislature:** Modify provisions relating to the American Indian health projects program by: (a) repealing the requirement that to be eligible for a grant, a project must involve the cooperation of two or more tribes, tribal agencies, inter-tribal organizations or other agencies or organizations; (b) repealing the provision that limits any grant award to 50% of the cost of the project; and (c) authorizing DHFS to award grants for projects designed to provide innovative community-based health care services to American Indians. In addition, modify the

current definition of "tribal agency" from "an agency of the governing body of a tribe" to "an agency created by a tribe." The bill would make no change in base funding for program grants (\$120,000 PR annually supported by Indian gaming revenue).

[Act 20 Sections: 406 and 2851 thru 2861]

#### 10. TRIBAL RELIEF BLOCK GRANT -- MENTAL HEALTH SERVICES

**Governor/Legislature:** Authorize tribal governing bodies to use relief block grant funds for mental health services, in addition to health care services and treatment services for alcohol and other drug abuse. Current law permits tribes to expend relief block grant funds for health care services which are defined as reasonable and necessary emergency and nonemergency medical, surgical, dental, hospital, nursing, and optometric services and to provide alcohol and other drug abuse treatment services.

[Act 20 Section: 1393]

#### 11. INFANT MORTALITY PROJECT

GPR	\$500,000
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**Joint Finance:** Provide one-time funding of \$250,000 GPR in 2007-08 and 2008-09 for DHFS to distribute to the city health department (Racine) in a county with a population of at least 190,000 but less than 230,000 to provide a program of services to reduce fetal and infant mortality under which the city health department shall directly or indirectly do all of the following in or behalf of areas of the county that are encompassed by the zip codes 53402 to 53406 and that are at risk for high fetal and infant mortality and morbidity, as determined by DHFS:

a. Collaborate with faculty in the health disciplines of an academic institution and with a hospital that serves significant populations at high risk for poor birth outcomes, including low birth weights, prematurity, and gestational diabetes, to identify and implement best practices and evidenced-based practices to reduce fetal and infant mortality and morbidity;

b. Identify necessary pre-conception, prenatal, and postnatal services and assess the availability of these services for women in the areas who lack insurance coverage or who are Medicaid or BadgerCare recipients;

c. Develop and implement models of care for all women in the areas who meet risk criteria, as specified by the department, and provide comprehensive prenatal and postnatal care coordination and other services, including home visits by registered nurses who are public health nurses or who meet the qualifications of public health nurses, as specified in statute, or social workers, as defined in statute;

d. Conduct social marketing, including outreach assuring health care access, public awareness programs, community health education programs, and other best practices and



evidence-based practices, to reduce fetal and infant mortality and morbidity;

e. Evaluate the quality and effectiveness of the services provided under paragraphs c. and d., above, and

f. Annually prepare a report on fetal and infant mortality and morbidity in areas of the county that are encompassed by the zip codes 53402 to 53406, which shall be derived, in part, from a multi-disciplinary review of all fetal and infant deaths in the relevant year and shall specify causation found for the mortality or morbidity. Require the city health department to submit the report to all of the following: (1) the City of Racine; (2) DHFS; (3) the Legislature in the manner provided by statute; and (4) the Governor.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

**Veto by Governor [D-5]:** Delete references to fiscal years 2007-08 and 2008-09 in the section of the bill that requires DHFS to distribute funding for the program. Delete the provision that would have repealed the appropriation effective July 1, 2009. Delete the reference to 2008 and 2009 in the section of the bill that requires the City of Racine Health Department to prepare and submit a report on fetal and infant mortality and morbidity in the project's target area.

[Act 20 Sections: 405e and 9121(6d)]

[Act 20 Vetoed Sections: 405f, 9121(6d), and 9421(8c)]

**12. GRANTS FOR COMMUNITY HEALTH CENTERS**

GPR	\$3,000,000
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**Joint Finance:** Provide \$3,000,000 annually, beginning in 2008-09, to DHFS to increase funding for grants DHFS distributes to community health centers. Base funding for these grants is \$3,000,000 GPR annually.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

**13. GRANTS FOR COMMUNITY HEALTH CENTERS --  
HEALTHNET OF JANESVILLE, INC.**

GPR	\$50,000
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**Senate:** Provide \$25,000 annually to HealthNet of Janesville, Inc. to provide health care services to uninsured and low-income residents of Rock County. HealthNet of Janesville, Inc. is a free clinic that serves uninsured individuals with household incomes at or below 185% of the

federal poverty level. Under current law, DHFS provides \$25,000 GPR annually to support HealthNet of Janesville, Inc.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

[Act 20 Section: 3033r]

**14. DENTAL HEALTH -- COMMUNITY CONNECTIONS FREE CLINIC IN DODGEVILLE**

GPR	\$35,000
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**Senate:** Provide \$17,500 in 2007-08 and \$17,500 in 2008-09 in one-time funding to the Community Connections Free Clinic in Dodgeville for purposes of expanding the clinic's capacity to provide dental services to low-income residents of Iowa County and surrounding areas.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

[Act 20 Sections: 403r and 9121(8x)]

**15. POISON CONTROL PROGRAM**

GPR	\$100,000
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**Senate:** Provide \$50,000 annually to the statewide poison control program to provide public and professional education services. DHFS has implemented a statewide poison control system that provides poison control services available statewide on a 24-hour per day and 365-day per year basis, and that provides poison information and education to health care professionals and the public. Funding for the program is used to support the activities of the Wisconsin Poison Center, which is also supported by Children's Hospital of Wisconsin. Base GPR funding for the statewide poison control program is \$375,000.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

[Act 20 Section: 2869h]

**16. HIV/AIDS PROGRAMS -- BLACK HEALTH COALITION OF WISCONSIN, INC.**

**Senate:** Require DHFS to provide \$100,000 FED in 2007-08 as a one-time grant to the Black Health Coalition of Wisconsin, Inc. to provide HIV infection outreach, education referral,

and other services. The source of the federal funds is funding the state receives under the Ryan White Comprehensive AIDS Resources Emergency Act of 1990 Part B grant funds.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

[Act 20 Section: 9121(9p)]

## 17. ABSTINENCE EDUCATION

**Assembly:** Require DHFS to apply annually for federal abstinence education funds from the Title V State Abstinence Education Grant Program administered by the U.S. Department of Health and Human Services (DHHS), Administration on Children, Youth, and Families. Specify that if the DHHS Secretary grants an allotment to the state, DHFS must accept the allotment and use it in accordance with federal law, regulations and guidelines applicable to the allotment.

**Conference Committee/Legislature:** Delete provision.

## 18. PEER REVIEW OF HEALTH CARE PROVIDERS

**Assembly:** Modify current law pertaining to information and records retained by organizations and individuals who participate in the review or evaluation of services of health care providers or charges for such services, as follows: (a) expand the list of persons and entities required to keep a record of their investigations, inquiries, proceedings, and conclusions to include all persons, organizations, or evaluators, whether from one or more entities; (b) specify that no such record may be used in any civil or criminal action against the health care provider or facility (current law limits that prohibition to civil actions for personal injuries against the health care provider or facility); (c) modify current law to authorize the release of information acquired in connection with the review and evaluation of health care services in a report in statistical form that is filed with a regulatory agency, accrediting agency, or person that publicly reports quality and patient safety information; and (d) delete the current provision that authorizes the release of information acquired in connection with the review and evaluation of health care services to the court of record in any criminal matter. Further, prohibit any report or information that a state or federal regulatory agency requires a health care provider to give or disclose to that state or federal regulatory agency from being used as evidence in a civil or criminal action brought against the health care provider, except that such reports and information may be used as evidence in any administrative proceeding conducted by the state regulatory agency.

**Conference Committee/Legislature:** Delete provision.

## **19. ACCESS TO MEDICAL HEALTH RECORDS**

**Assembly:** Modify current law to include other relevant "medical" information necessary for the current treatment of the individual among the types of treatment records that may be released without informed consent to health care providers in a related health care entity, or to any person acting under the supervision of such a health care provider who is involved with an individual's care, if necessary for the current treatment of the individual.

Under current law, the information that may be released to such persons is limited to: (a) the individual's name, address, and date of birth; (b) the name of the individual's mental health treatment provider; (c) the date of mental health service provided; (d) the individual's medications, allergies, and diagnoses; and (e) other relevant "demographic" information necessary for the current treatment of the individual. This item would substitute the word "medical" for the word "demographic" as it appears in the current statute.

**Conference Committee/Legislature:** Delete provision.

## **20. COPYING CHARGES FOR MEDICAL RECORDS**

**Assembly:** Modify current law to permit health care providers to charge a fee up to \$1.00 per record page for copies of medical records, indexed for inflation for years beginning after 2007. Current DHFS rules permit providers to charge up to \$0.31 per record page.

**Conference Committee/Legislature:** Delete provision.

## **21. LIABILITY IMMUNITY FOR HEALTH CARE PROVIDERS**

**Assembly:** Specify that a health care provider, health care facility, or employee thereof, that reports in good faith or provides information, the disclosure of which is not expressly prohibited by state or federal law or rule, or participates in, or testifies in any action or proceeding, is immune from any civil or criminal liability that may result from any act or omission in reporting or providing information, in the following circumstances: (a) reports to any professionally recognized accrediting or standard-setting body that has accredited, certified, or otherwise approved the health care facility or health care provider, to any officer or director of the health care facility or health care provider, or to any employee thereof who is in a supervisory capacity or in a position to take corrective action, with respect to an allegation that a health care provider, health care facility, or employee thereof has violated any state or federal law, rule, or regulation, or that there exists any situation in which the quality of any health care service provided by the health care facility or health care provider or by any employee thereof violates any standard established by any state or federal law or regulation or any clinical or ethical standard established by a professionally accrediting or standard-setting body and poses a potential risk to public health or safety, has engaged in unprofessional conduct, or has acted negligently in treating a patient; (b) initiates, participates in, or testifies in any action or

proceeding in which it is alleged that a health care provider, health care facility, or employee thereof has violated any state or federal law, rule, or regulation, or that there exists any situation in which the quality of any health care service provided by the health care facility or health care provider or by any employee thereof violates any standard established by any state or federal law or regulation or any clinical or ethical standard established by a professionally accrediting or standard-setting body and poses a potential risk to public health or safety, has engaged in unprofessional conduct, or has acted negligently in treating a patient; (c) provides to any legislator or legislative committee any information relating to an allegation that a health care provider, health care facility, or an employee thereof has violated any state or federal law, rule, or regulation, or that there exists any situation in which the quality of any health care service provided by the health care facility or health care provider or by any employee thereof violates any standard established by any state or federal law or regulation or any clinical or ethical standard established by a professionally accrediting or standard-setting body and poses a potential risk to public health or safety, has engaged in unprofessional conduct, or has acted negligently in treating a patient; or (d) provides to any prospective employer of an employee or former employee of a health care provider or health care facility any information relating to an allegation that the employee or former employee has violated any state or federal law, rule, or regulation, or that there exists any situation in which the quality of any health care service provided by the employee violated any standard established by any state or federal law or regulation or any clinical or ethical standard established by a professionally accrediting or standard-setting body and posed a potential risk to public health or safety, or that the employee has engaged in unprofessional conduct, or has acted negligently in treating a patient.

Provide that the immunity from civil or criminal liability described herein does not apply to allegations concerning the health care provider's, health care facility's, or the employee's own treatment of a patient. Further, provide that the health care provider, health care facility or the employee thereof that provides such information to an agency with the authority to investigate such allegations may disclose to the agency the name of the patient at issue and a description of the events giving rise to the allegations, and require the agency to keep such information confidential except for the purpose of investigating and taking action on the alleged violations.

**Conference Committee/Legislature:** Delete provision.

## **22. EMPLOYERS' USE OF FINANCIAL INCENTIVES TO ENCOURAGE OR DISCOURAGE USE OF A LAWFUL PRODUCT**

**Assembly:** Modify statutes pertaining to employment discrimination to permit employers, labor organizations, employment agencies, licensing agencies, or other persons to offer financial incentives related to employee health care benefits that are intended to encourage or discourage use of a lawful product during nonworking hours. Current law provides that the financial incentives these persons may offer include offering a policy or plan of life, health, or disability insurance under which the type of coverage or the price of coverage differs depending upon the employees' use or nonuse of a lawful product during nonworking hours.

This modification would allow employers to offer additional forms of financial incentives to encourage or discourage employees' use of a lawful product.

**Conference Committee/Legislature:** Delete provision.

## 23. FAMILY PLANNING SERVICES

**Assembly:** Modify provisions relating to the state's family planning program under s. 253.07 of the statutes as follows.

*Definition of Family Planning.* Modify the statutory definition of "family planning" to delete the current provision that includes providing nondirective information explaining pregnancy termination. Currently, "family planning" means voluntary action by individuals to prevent or aid conception, but does not include the performance, promotion, encouragement or counseling in favor of, or referral either directly or through an intermediary for, voluntary termination of pregnancy, but may include the providing of nondirective information explaining any of the following: (a) prenatal care and delivery; (2) infant care, foster care or adoption; or (3) pregnancy termination. This provision would delete reference to (3).

*Eligibility for Funding.* Authorize DHFS to provide funding for family planning services to any county or other governmental body, but prohibit DHFS from providing such funding to any county or other governmental body that provides counseling services with respect to the termination of pregnancies or that provides abortion services. Prohibit any county or other governmental body that receives such funding from contracting with any other county, governmental body, or private entity to provide family planning services if that other county, governmental body, or private entity provides counseling services with respect to the termination of pregnancies or provides abortion services. Further, prohibit DHFS from providing funding for family planning services to any private entity.

**Conference Committee/Legislature:** Delete provision.

## 24. GROUNDWATER AND AIR QUALITY STANDARDS

**Assembly:** Delete \$27,000 SEG annually with 0.18 SEG position from the groundwater and air quality standards development program (an 8.8% reduction) to reflect the deletion of the proposed 35¢ per ton increase in the environmental repair tipping fee that is deposited in the environmental management account, in order to maintain a positive account balance. Funding for groundwater and air quality standards would decrease from \$306,000 with 3.0 positions to \$279,000 with 2.82 positions annually. (See the entry under "DNR -- Air, Waste and Contaminated Land" for a list of all of the appropriations from the account that would be reduced by 8.8%.)

**Conference Committee/Legislature:** Delete provision.

## Children and Families

### 1. TRANSFERS TO THE DEPARTMENT OF CHILDREN AND FAMILIES [LFB Paper 200]

	<b>Governor (Chg. to Base)</b>		<b>Jt. Finance (Chg. to Gov)</b>		<b>Legislature (Chg. to JFC)</b>		<b>Net Change</b>	
	Funding	Positions	Funding	Positions	Funding	Positions	Funding	Positions
GPR	-\$152,956,300	- 151.19	-\$1,074,500	0.00	\$1,086,600	0.00	-\$152,944,200	- 151.19
FED	- 212,727,500	- 131.43	771,100	0.10	95,500	0.00	- 211,860,900	- 131.33
PR	<u>- 68,559,100</u>	<u>- 87.40</u>	<u>2,087,200</u>	<u>6.00</u>	<u>- 500,000</u>	<u>0.00</u>	<u>- 66,971,900</u>	<u>- 81.40</u>
Total	-\$434,242,900	- 370.02	\$1,783,800	6.10	\$682,100	0.00	-\$431,777,000	- 363.92

**Governor:** Reduce funding by \$434,242,900 (-\$152,956,300 GPR, -\$212,727,500 FED, and -\$68,559,100 PR) in 2008-09 and delete 370.02 positions (-151.19 GPR positions, -131.43 FED positions and -87.40 PR positions), beginning in 2008-09, to reflect the transfer of program responsibilities, funding and staff from DHFS to the Department of Children and Families (DCF), which would be created in the bill.

Specify that on July 1, 2008, the following would occur:

a. The assets and liabilities primarily related to the functions of the DHFS' Division of Children and Family Services, child abuse and neglect prevention programs, food distribution and hunger prevention programs, and the women, infants and children (WIC) supplemental food program would become the assets and liabilities of DCF;

b. Classified positions, and incumbent employees holding positions, relating primarily to those programs, as determined by the Secretary of the Department of Administration (DOA), would be transferred to DCF;

c. Classified positions relating primarily to general administration and program support that the Secretary of DOA determines should be transferred would be transferred to DCF. Upon determination of these employees, DHFS would be required, in conjunction with the Department of Workforce Development (DWD), by October 1, 2007, to submit a plan to DOA requesting the transfer of moneys between the appropriations for DHFS, DWD, and DCF, if necessary to adjust previous allocated costs in accordance with the transfer of personnel;

d. Employees transferred would have the same rights and status in DCF that they enjoyed in DHFS, and no employee transferred who has attained permanent status would have to serve a probationary period;

e. All tangible personal property, including records, primarily related to the functions of the transferred programs, would be transferred to DCF;

f. All contracts primarily related to the functions of the transferred programs would

remain in effect and would be transferred to DCF. DCF would be required to carry out these contractual obligations unless modified or rescinded by DCF to the extent allowed under the contract;

g. All rules promulgated and orders issued that are in effect on July 1, 2008, and are primarily related to the transferred programs would remain in effect until their specified expiration dates or until amended, repealed, modified, or rescinded by DCF; and

h. Any matter pending primarily related to the functions of the transferred programs would be transferred to DCF and all materials submitted to or actions taken by DHFS with respect to the pending matter would be considered as having been submitted to or taken by DCF.

As part of the transfer, renumber appropriations in the DHFS Division of Children and Family Services so that they would be transferred to the state child welfare and Milwaukee child welfare divisions in DCF. Delete references to children and family services in Chapter 46 ("Social Services") and create identical provisions in Chapter 48 ("Children's Code"), with new references to the Department of Children and Families. Using existing statutes in Chapter 46, create identical provisions in Chapter 49 ("Public Assistance"). Correct and delete obsolete references related to DHFS and to statutory sections related to actions affecting the family.

*Agency and Council Attachments.* Attach the Child Abuse and Neglect Prevention Board and the Milwaukee Child Welfare Partnership Council to the new Department for administrative support services. Currently, the Board and Council are attached to DHFS for this purpose. Transfer the Council on Domestic Abuse from DHFS to DCF.

*Community Aids and Income Augmentation Funds.* Transfer the child welfare funding sources for community aids to DCF as child and family aids. The administration indicates that counties would receive two basic county allocations (BCA), which in sum, would equal what counties would have received under the original BCA if the transfer did not take place. Transfer the child welfare revenue collected under the DHFS income augmentation program to DCF. The expenditure of income augmentation revenue would still be subject to the same criteria as under current law.

*HIV Prevention Grant Program and Food Pantry Grant Program.* Transfer the HIV prevention grant program from the Division of Children and Family Services to the DHFS Division of Public Health. Eliminate the food pantry grant program and appropriation

*Other.* Change references from "child caring institutions" to "residential care centers," and decrease the maximum amount DHFS may distribute for community social and mental hygiene services from \$3,809,600 to \$3,554,300 to coincide with the change in Title IV-B, Part I grant.

**Joint Finance:** Increase the amount of funding to be transferred from DHFS to DCF by \$1,074,500 GPR, decrease the amount to be transferred by \$771,100 FED and \$2,087,200 PR, and transfer 0.1 fewer FED position and 6.0 fewer PR positions in 2008-09 to reflect various funding



and position changes made to child welfare-related programs during the 2007-09 biennium. These funding changes are described elsewhere in this section.

**Senate:** Increase the amount of funding that would be transferred to DCF by \$250,000 GPR in 2008-09 to reflect the Senate's change relating to the Allied Drive initiative.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore Senate provision, but reduce the amount transferred by \$932,100 (\$1,336,600 GPR, \$95,500 FED and -\$500,000 PR) in 2008-09 to reflect the Conference Committee's changes relating to funding for the skills enhancement program, post-adoption resource centers, the Adoption Exchange and Adoption Information Center, the Foster Youth Independence Center, and high-cost out-of-home care placements of American Indian children ordered by tribal courts.

A complete summary of the Governor's proposal to create the Department of Children and Family Services is provided under "Children and Family Services."

## 2. MILWAUKEE CHILD WELFARE [LFB Paper 429]

	<b>Governor (Chg. to Base)</b>		<b>Jt. Finance/Leg. (Chg. to Gov)</b>		<b>Net Change</b>	
	<b>Funding</b>	<b>Positions</b>	<b>Funding</b>	<b>Positions</b>	<b>Funding</b>	<b>Positions</b>
GPR	\$11,131,900	11.27	-\$462,000	0.00	\$10,669,900	11.27
FED	- 5,384,900	- 11.27	- 124,600	0.00	- 5,509,500	- 11.27
PR	<u>5,270,600</u>	<u>0.00</u>	<u>0</u>	<u>0.00</u>	<u>5,270,600</u>	<u>0.00</u>
Total	\$11,017,600	0.00	-\$586,600	0.00	\$10,431,000	0.00

**Governor:** Provide \$5,508,800 (\$3,009,400 GPR, -\$2,701,400 FED, and \$5,200,800 PR) in 2007-08 and \$5,508,800 (\$8,122,500 GPR, -\$2,683,500 FED, and \$69,800 PR) in 2008-09 to reflect the net effect of funding changes for activities administered by the Bureau of Milwaukee Child Welfare (BMCW). In addition, convert 11.27 FED positions to GPR, beginning in 2007-08.

*Milwaukee Child Welfare Aids.* Provide \$5,423,100 (\$2,065,600 GPR, -\$1,697,600 FED, and \$5,055,100 PR) in 2007-08 and \$5,423,100 (\$7,178,700 GPR, -\$1,679,700 FED, and -\$75,900 PR) in 2008-09 to fund projected costs of aids expenses. The federal funding is available under Title IV-E; PR funding is TANF funds transferred from DWD, federal targeted case management funds, and collections. Base funding for Milwaukee child welfare aids is \$83,476,500 (\$34,852,500 GPR, \$16,846,400 FED, and \$31,777,600 PR).

This item would: (a) replace decreasing federal Title IV-E funds with GPR and PR sources (\$900,800 GPR, -\$2,221,200 FED, and \$1,320,300 PR in 2007-08 and \$2,203,700 GPR and -\$2,203,700 FED in 2008-09); (b) support projected increases in the number of children with special care needs in the out-of-home care population (\$1,164,800 GPR, \$160,500 FED, and \$1,427,100 PR in 2007-08 and \$2,591,400 GPR and \$160,900 FED in 2008-09); (c) reduce funding

for wraparound and safety services, based on projected costs of providing these services (-\$502,200 PR annually); (d) increase funding to support existing contracted services (\$105,500 PR in 2007-08 and -\$320,800 GPR and \$426,300 PR in 2008-09); and (e) increase funding to support ongoing initiatives (\$363,100 FED and \$2,704,400 PR in 2007-08 and \$2,704,400 GPR and \$363,100 FED in 2008-09).

These ongoing initiatives include: (a) case manager salary increases (\$266,500 FED and \$1,012,300 PR in 2007-08 and \$1,012,300 GPR and \$266,500 FED in 2008-09); (b) case manager training expansion (\$500,000 PR in 2007-08 and \$500,000 GPR in 2008-09); (c) case manager and supervisor phase-in (\$96,600 FED and \$366,900 PR in 2007-08 and \$366,900 GPR and \$96,600 FED in 2008-09); (d) University of Wisconsin-Milwaukee master of social work program expansion (\$222,400 PR in 2007-08 and \$222,400 GPR in 2008-09); (e) Milwaukee DA IV-E supplement (\$233,600 PR in 2007-08 and \$233,600 GPR in 2008-09); and (f) training partnership IV-E supplement (\$369,200 PR in 2007-08 and \$369,200 GPR in 2008-09).

*Milwaukee Child Welfare Operations.* Provide \$85,700 (\$943,800 GPR, -\$1,003,800 FED, and \$145,700 PR annually) to fund BMCW operations. Request the conversion of 11.27 FED positions, beginning in 2007-08, to GPR positions to reflect decreasing Title IV-E reimbursement rates. Base funding for Milwaukee child welfare operations is \$18,700,900 (\$10,502,800 GPR, \$6,073,300 FED, and \$2,124,800 PR).

This funding would support: (a) the electronic Wisconsin statewide automated child welfare information system (eWISACWIS) in Milwaukee (\$52,300 GPR, -\$124,900 FED, and \$72,600 PR annually); (b) reestimates of infrastructure costs related to the Bureau's computer systems (\$7,500 GPR, \$5,100 FED, and \$3,300 PR annually); (c) a reestimate of the amount of federal Title IV-E that the state can claim (\$884,000 GPR and -\$884,000 FED annually); and (d) increased rent costs (\$69,800 PR annually).

**Joint Finance:** Decrease funding by \$293,300 (-\$211,600 GPR and -\$81,700 FED) in 2007-08 and by \$293,300 (-\$250,400 GPR and -\$42,900 FED) in 2008-09 to reflect a reestimate of the amount of funding needed to fully fund out-of-home care costs.

**Assembly/Legislature:** Maintain the level of total funding that would be provided to support BMCW, but reduce funding by \$75,900 GPR annually and increase PR by a corresponding amount for child welfare safety services and increase funding by \$75,900 GPR annually and decrease PR by a corresponding amount for the statewide automated child welfare information system, to reflect the amount of temporary assistance for needy families (TANF) funding available to support child welfare services in Milwaukee County.

3. STATE FOSTER CARE AND ADOPTION ASSISTANCE [LFB Paper 430]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$2,217,900	- \$405,000	\$1,812,900
FED	<u>2,755,100</u>	<u>- 1,782,300</u>	<u>972,800</u>
Total	\$4,973,000	-\$2,187,300	\$2,785,700

**Governor:** Reduce funding by \$288,900 (-\$231,900 GPR and -\$57,000 FED) in 2007-08 and provide \$5,261,900 (\$2,449,800 GPR and \$2,812,100 FED) in 2008-09 to reflect reestimates of the amount of funding required to support foster care payments for children with special needs who are under the state's guardianship (but do not live in Milwaukee County) and adoption assistance payments for children with special needs who have been adopted. (Funding for foster care payments DHFS makes on behalf of children with special needs in Milwaukee County is budgeted as part of the budget for the Bureau of Milwaukee Child Welfare.)

The state serves as guardian for children with special needs following termination of parental rights. The state pays the costs of out-of-home placements for these children while they await adoption and makes adoption assistance payments to families who adopt children with special needs. Base funding for this program is \$92,744,900 (\$48,040,600 GPR and \$44,704,300 FED).

**Joint Finance/Legislature:** Decrease funding by \$928,900 (-\$6,100 GPR and -\$922,800 FED) in 2007-08 and by \$1,258,400 (-\$398,900 GPR and -\$859,500 FED) in 2008-09 to reflect a reestimate of the costs to fully fund the state foster care and adoption assistance programs during the biennium.

4. FOSTER CARE RATES [LFB Paper 431]

GPR	\$1,704,300
FED	<u>525,300</u>
Total	\$2,229,600

**Governor:** Provide \$557,400 (\$426,000 GPR and \$131,400 FED) in 2007-08 and \$1,672,200 (\$1,278,300 GPR and \$393,900 FED) in 2008-09 to fund a 5% increase in the uniform foster care rates, effective January, 2008, and an additional 5% increase in the uniform foster care rates, effective January, 2009. Counties and DHFS make payments to foster parents, treatment foster parents, and family-operated group homes to support food, clothing, housing, personal care, and other expenses for children in foster care. In addition to the basic rate, if a foster child has emotional, behavioral, or medical problems, the foster parents may receive a supplemental or exceptional payment. The basic foster care rates under current law and under this item are shown in the following table.

### Basic Monthly Maintenance Payments

Age	Current Law	Governor's Recommendation	
		CY 2008	CY 2009
0 thru 4	\$317	\$333	\$349
5 thru 11	346	363	381
12 thru 14	394	414	433
15 and Over	411	432	452

**Assembly:** Delete provision. Instead, increase uniform foster care rates by 5%, effective January 1, 2009. Decrease funding in the bill by \$557,400 (-\$426,000 GPR and -\$131,400 FED) in 2007-08 and by \$1,566,100 (-\$1,189,700 GPR and -\$376,400 FED) in 2008-09. The basic foster care rates, effective January 1, 2009, would be: (a) \$333 for children through age four; (b) \$363 for children ages five through 11; (c) \$414 for children ages 12 through 14; and (d) \$432 for children ages 15 and older.

**Conference Committee/Legislature:** Delete Assembly modification.

[Act 20 Sections: 1322 and 9421(1)]

#### 5. DOMESTIC ABUSE SERVICES [LFB Paper 425]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$0	\$1,673,700	\$1,673,700
PR	<u>1,900,000</u>	<u>-1,673,700</u>	<u>226,300</u>
Total	\$1,900,000	\$0	\$1,900,000

**Governor:** Provide \$950,000 PR annually from revenue the state collects from vital records fees to increase funding for grants DHFS distributes to support domestic abuse services. Require DHFS to transfer funds annually from its PR appropriation that supports the vital records program to an interagency and intra-agency aids appropriation to support these grants, and to distribute \$950,000 annually from this appropriation to fund grants for domestic abuse services.

Currently, DHFS provides approximately \$8.6 million (\$6.4 million GPR, \$1.6 million FED, and \$0.6 million PR) annually for grants to support: (a) shelter facilities or private home shelter care; (b) advocacy and counseling for victims; (c) a 24-hour telephone service; and (d) community education shelters. The administration indicates that the additional funding may be used to increase funding for current grant recipients, and to provide funding to organizations that currently do not receive grants.

**Joint Finance:** Delete provision. Instead, increase the domestic abuse surcharge from \$75

to \$100, effective for convictions that occur on or after January 1, 2008, in order to increase funding for grants from this source by \$43,400 PR in 2007-08 and \$182,900 PR in 2008-09. In addition, provide \$906,600 GPR in 2007-08 and \$767,100 GPR in 2008-09 for grants DHFS distributes to support domestic abuse services.

**Assembly:** Reduce funding that would be provided in the JFC substitute amendment for domestic abuse grants by \$706,600 GPR in 2007-08 and by \$567,100 GPR in 2008-09. However, retain the provision that would increase the domestic abuse surcharge from \$75 to \$100, effective for convictions that occur on or after January 1, 2008. Consequently, funding for domestic abuse grants would increase by \$243,400 (\$200,000 GPR and \$43,400 PR) in 2007-08 and \$382,900 (\$200,000 GPR and \$182,900 PR) in 2008-09.

**Conference Committee/Legislature:** Delete Assembly modification.

[Act 20 Sections: 3885in and 9309(2c)]

**6. SERVICES FOR CHILDREN AND FAMILIES [LFB Papers 426, 427, and 428]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Legislature (Chg. to JFC)</b>	<b>Net Change</b>
GPR	\$0	\$100,000	\$400,000	\$500,000
PR	1,600,000	-1,600,000	0	0
Total	\$1,600,000	-\$1,500,000	\$400,000	\$500,000

**Governor:** Provide \$800,000 annually from revenue the state collects from vital records fees to fund: (a) gender-responsive alcohol and other drug abuse treatment, case management, child and family services, and educational services to drug dependent women with children (\$250,000 annually); (b) services to aid youth in making the transition from foster care to independent living (\$50,000 annually); and (c) comprehensive early childhood initiatives in Dane County that provide home visiting and employment preparation and support for low-income families (\$500,000).

Although grant recipients are not named in the bill, the Governor's intent is to provide: (a) \$250,000 annually to support services provided by Meta House, Inc. in the City of Milwaukee; (b) \$50,000 to the Foster Youth Independence Center in the City of Milwaukee; and (c) \$500,000 annually to Dane County to continue the Allied Drive initiative

Meta House, Inc. provides drug treatment services for women with children. The Foster Youth Independence Center provides services to assist youths in the transition from foster care to independent living. The Allied Drive initiative provides intensive case management services to families and helps parents improve child-rearing skills and secure housing, jobs and health care.

**Joint Finance:** Delete provision. Instead, provide \$50,000 GPR annually in Milwaukee County to organizations that provide services to aid youth in making the transition from foster

care to independent living.

**Senate:** Modify Joint Finance by providing one-time funding of \$250,000 in 2007-08 and 2008-09 to fund the comprehensive early childhood initiative that provides home visiting and employment preparation and support for low-income families in Dane County in order to expand the initiative to one new neighborhood and provide ongoing support for the current Allied Drive early childhood initiative.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Delete provision, except provide \$250,000 GPR annually to fund the comprehensive early childhood initiative to expand the initiative to one new neighborhood and to provide ongoing support for the current Allied Drive early childhood initiative.

[Act 20 Sections: 341x, 342, 424e, 9121(9u), 9155(9u), and 9455(9u)]

## 7. HOME VISITING PROGRAM [LFB Paper 432]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$531,100	-\$531,100	\$0
FED	<u>111,300</u>	<u>- 111,300</u>	<u>0</u>
Total	\$642,400	-\$642,400	\$0

**Governor:** Provide \$642,400 (\$531,100 GPR and \$111,300 FED) in 2008-09 to: (a) support a new universal home visiting program for first-time parents; and (b) increase funding for a current program that provides targeted home visiting services for first-time, MA-eligible parents, with identified risk factors for child abuse and neglect.

**Universal Home Visiting.** Provide \$122,400 GPR in 2008-09 for a universal home-visiting program. Direct DHFS to award grants for universal home visiting services to applying organizations, which may include a county department of human or social services, local health department, Indian tribe, private nonprofit agency, or local partnership, under a competitive application process which ranks applicants based on the quality of their applications. Require DHFS to determine the amount of an organization's grant award based on the number of first-time births in the community served by the organization.

Modify the current appropriation that supports child abuse and neglect prevention grants to also include universal home visitation grants.

*Allowable Uses of Grant Funding.* Require grant recipients to provide matching funds or in-kind contributions, in amounts determined by DHFS, and prohibit a grant recipient from using any of the grant funds to supplant any other funds used by the grant recipient at the time of the grant award to provide home visitation services.

Require grant recipients to use the grant award to provide a one-time visit to all first-time parents in the community served by the organization for the purposes of: (a) providing parents with basic information regarding infant health and nutrition, the care, safety, and development of infants, and emergency services for infants and with information prepared by the Child Abuse and Neglect Prevention Board relating to shaken baby syndrome and impacted babies; (b) identifying parents' needs; and (c) providing parents with referrals to programs, services, and other resources that may meet those needs. Require that any informational materials distributed about the home visitation services state the sources of funding for the services.

Specify that an organization may visit a first-time parent only if the parent (or, if the parent is a child, his or her parent, guardian, or legal custodian) consents to the visit.

In the first year in which a grant is awarded to an organization, permit the organization to use a portion of the grant to support start-up costs and capacity building related to the provision of home visitation services and require DHFS to determine the maximum amount of the grant that could be used for these costs.

*Child Abuse or Neglect Reports.* Prohibit persons who are mandated to report suspected or threatened child abuse or neglect from making or threatening to make a report of child abuse or neglect based on a person's refusal to receive a home visit under this program.

Specify that, if a person providing home visitation services under this program determines that he or she is required or permitted to make a report of suspected or threatened abuse or neglect of a child in the family receiving services, require the person, before making the report, to make a reasonable effort to notify the child's parent that an abuse or neglect report will be made and to encourage the parent to contact the county child welfare department or DHFS to request assistance. Specify that this notification requirement does not affect the individual's mandated reporting requirements for child abuse and neglect.

*Confidentiality Requirements.* Prohibit individuals from using or disclosing any information concerning an individual offered home visitation services under this program, including an individual who declines to receive those services, or concerning an individual who is provided with a referral to other programs, services, or other resources, unless: (a) as a mandated reporter of suspected or threatened child abuse or neglect, disclosure of the information is required; (b) the use or disclosure of the information is connected to the administration of the universal home visiting program; or (c) the individual has given his or her written informed consent to the use or disclosure of the information.

Require an organization that receives a grant for a universal home visiting program to provide or designate an individual or entity to provide an explanation of these confidentiality requirements to each individual offered home visitation services under this program by the organization.

*Statewide Implementation.* The Governor's recommendation assumes 25% matching funds from grant recipients. Statewide expansion would be implemented over five years, with the

program serving 20% of the state's first-time parents in the first year, and adding another 20% in every year thereafter until reaching 100% in the fifth year. Assuming each family is served for three years, the estimated total cost of the program, when fully implemented, would be \$1.6 million (all funds) annually, of which \$1.2 million would be supported by the state, and the remainder by grant recipients.

**Targeted Home Visiting.** Provide \$520,000 (\$408,700 GPR and \$111,300 FED) in 2008-09 to increase funding for DHFS' current targeted home visiting program, which the administration estimates would be sufficient to serve approximately 25% of first-time parents eligible for MA in 2008-09.

The funding in this item includes: (a) \$360,100 GPR to support grants to counties (base funding for this aspect of the program is \$995,700 GPR annually); (b) \$48,600 GPR to support technical assistance training for grant recipients; and (c) \$111,300 FED in federal MA matching funds, to reflect funds that counties could claim for MA-eligible services under this program. In addition, the Governor's recommendation assumes \$69,100 in local or county matching funds in 2008-09.

*Changes to Current Program.* Eliminate the current requirements that no more than six rural counties, three urban counties, and two tribes can receive funding under the program. Delete the requirement in current law that DHFS allocate available funding based on the comparative number of MA-eligible births parents in each county or tribe, and in Milwaukee County, 60% of the number of MA-eligible births. These changes would take effect January 1, 2009.

Under current law, the program has two components: (a) a primary intervention, voluntary, home-visitation program for first-time parents who are eligible for MA; and (b) a voluntary intervention program that serves families with children who are at risk of abuse or neglect.

*Statewide Implementation.* The Governor's intent is to implement this program statewide over five years, with 25% of the first-time parents eligible for MA served in the first year, an additional 20% in the second year, an additional 25% in the third year, and an additional 15% in both the fourth and fifth years. When fully implemented, DHFS estimates that the annual cost of the targeted home-visiting program would be \$17.1 million (all funds), which includes federal and local funding and approximately \$13.6 million GPR.

Under the bill, the current program and the new program would be transferred to the Department of Children and Families.

**Joint Finance/Legislature:** Delete provision.



8. KINSHIP CARE [LFB Paper 886]

	Governor (Chg. to Base)	Jt. Finance./Leg. (Chg. to Gov)	Net Change
PR	\$1,937,400	-\$150,400	\$1,787,000

**Governor:** Provide \$968,700 annually in TANF funds transferred from the Department of Workforce Development (DWD) to reflect estimates of the amount of funding that will be required to fully fund kinship care benefits in the 2007-09 biennium. This item would increase annual funding for DHFS to make kinship care payments to caretakers in Milwaukee County (\$1,881,400 annually) and decrease funding for counties to make kinship care payments to caretakers non-Milwaukee counties (-\$912,700 annually). These amounts reflect the administration's estimates of the cost of funding: (a) current caseloads, under the assumption that caseloads will not grow in 2006-07 or the 2007-09 biennium; (b) cases on waiting lists; and (c) county-funded cases. Under the bill, \$21,953,500 would be budgeted annually to fund kinship care payments to caretakers in Milwaukee County (\$11,943,500) and other counties (\$10,010,000).

Increase the statutory allocation of TANF funds for the kinship care programs by deleting references to funding levels allocated for the program in the 2005-07 biennium and instead, specifying a transfer of \$23,655,000 annually. DHFS would use this funding to support kinship care benefits (\$21,953,500 annually), costs to conduct kinship care assessments in counties other than Milwaukee County (\$826,600 annually) and in Milwaukee County (\$637,400 annually), the costs of kinship care-related hearings conducted by the DOA Division of Hearings and Appeals (\$87,600 annually), and program staff positions in DHFS (\$149,900 annually).

Counties pay, and in Milwaukee County DHFS pays, a benefit of \$215 per month per child to kinship care relatives if: (a) there is a need for the child to be placed with the relative and the placement is in the best interests of the child; (b) the child meets the criteria, or would be at risk of meeting the criteria, for a child in need of protection or services or a juvenile in need of protection or services, if the child were to remain at home; and (c) the relative meets other non-financial requirements.

**Joint Finance/Legislature:** Decrease funding in the bill by \$150,400 PR (-\$75,200 annually) to reflect a reestimate of the costs to fully fund the kinship care program during the biennium.

9. TRIBAL OUT-OF-HOME CARE PLACEMENTS [LFB Paper 433]

GPR-REV	-\$1,000,000
PR	\$1,000,000

**Governor:** Authorize DHFS in 2007-08 and the Department of Children and Families (DCF, which would be created in the bill) in 2008-09 to expend up to \$500,000 in income augmentation services receipts, MA targeted case management, and excess

federal revenues the agency received in fiscal year 2006-07 or 2007-08 for unexpected or unusually high-cost out-of-home care placements of American Indian children ordered by tribal courts. Specify that DHFS or DCF may only expend funds for this purpose if it determines, in light of overall child welfare needs and after paying federal disallowances, that there are sufficient moneys in the income augmentation appropriation and an appropriation DHFS uses to pay federal disallowances to expend for that purpose.

Income augmentation funds are unanticipated federal funds DHFS receives under Title IV-E (foster care), Title XIX (medical assistance, or MA), and Title XVIII (Medicare) of the federal Social Security Act as reimbursement for costs that were initially paid with state or local revenue, or revenue from one of these sources that would not otherwise have been available had it not been for activities conducted to augment federal income. Annually, the Department of Administration submits a proposed plan for the use of uncommitted income augmentation funds to the Joint Committee on Finance for its review and approval. This provision would permit DHFS in 2007-08 and DCF in 2008-09 to use up to \$500,000 of income funds for tribal out-of-home care placements without the item being approved as part of an annual plan for the use of these funds.

Funds that have not been expended or encumbered in the Department's excess federal revenue appropriation must lapse to the general fund at the end of each fiscal year.

Counties pay for the placement of American Indian children as determined by tribal courts according to the tribe's children's code.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Provide \$500,000 in 2007-08 and 2008-09 of tribal gaming funds for DHFS and the Department of Children and Families (DCF) to support unexpected or unusually high-cost out-of-home placements of Indian children by tribal courts. Provide that, in 2008-09, the Department of Children and Families may expend not more than \$500,000 in funds transferred from tribal gaming funds on unexpected or unusually high-cost out-of-home placements of Indian children by tribal courts, less any funds that DHFS expended for that purpose in 2007-08. Although Act 20 budgets \$500,000 in each year of the biennium to support these costs, the statutory restriction relating to DCF's spending authority limits the total amount that may be expended for this purpose to \$500,000 in the 2007-09 biennium.

[Act 20 Sections: 542g, 9121(1t), and 9155(1t)]

**10. QUALITY RATING SYSTEM [LFB Paper 892]**

	Governor (Chg. to Base)		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
PR	\$881,100	6.00	-\$881,100	-6.00	\$0	0.00

**Governor:** Provide \$436,200 in 2007-08 and \$444,900 in 2008-09 to support 6.0 positions, beginning in 2007-08, in the Bureau of Regulation and Licensing to implement a quality rating system as part of the Governor's Quality Care for Quality Kids initiative. The quality rating system would rate the quality of the child care provided by state licensed or certified child care providers and day care programs established or contracted for by school boards. The positions would be funded by TANF funds transferred from DWD [This item is summarized in "Workforce Development -- Economic Support and Child Care."]

**Joint Finance/Legislature:** Delete provision.

**11. BACKGROUND INVESTIGATIONS OF PROPOSED FOSTER PARENTS AND ADOPTIVE PARENTS**

GPR	\$214,900
FED	<u>108,800</u>
Total	\$323,700

**Governor/Legislature:** Provide \$138,700 (\$92,100 GPR and \$46,600 FED) in 2007-08 and \$185,000 (\$122,800 GPR and \$62,200 FED) in 2008-09 to fund fees assessed by the Department of Justice and the Federal Bureau of Investigation to meet background investigation requirements of the federal Adam Walsh Child Protection and Safety Act of 2006 (P.L. 109-248). These costs would be partially supported by federal child welfare (Title IV-E) matching funds. In addition, make the following statutory changes to comply with provisions of the federal act.

*Fingerprint Based Background Checks.* Require DHFS, a county department of human services or social services, or a child welfare agency (entities) to request a fingerprint based check of the national crime information databases for individuals seeking, or who are required to obtain, a license to operate a foster home or treatment foster home prior to the placement of a child for adoption. Prohibit entities from releasing any information obtained only as permitted under federal law. Additionally, for individuals who were not a resident of the state for any period of time during the five years preceding date of the background check, require entities to check any child abuse or neglect registry maintained by any state or other United States jurisdiction in which the person or adult resident resided within those preceding five years. Prohibit the entity from using any information it obtains under this provision for any purpose other than a search of the person's background.

*Criminal History and Child Abuse or Neglect Record Background Check.* Require entities to perform a background check (including criminal history and child abuse or neglect record) of individuals: (a) seeking a license to operate a foster home or treatment foster home; (b) who are licensed to operate a foster home or treatment foster home and are seeking to adopt a child; and (c) any adult resident of the home, regardless of whether foster care maintenance payments or adoption assistance payments would be provided after the placement is made or the adoption is finalized.

Specify that the new standards for background investigations would take effect on January 1, 2008, and would initially apply to persons who apply for a license to operate a foster

home or treatment foster home or to persons undergoing an investigation of a proposed adoptive home on the bill's general effective date.

[Act 20 Sections: 1346, 1347, 1349, 1351 thru 1356, 1367, 1370, 9321(5), and 9421(3)]

**12. eWISACWIS**

**Governor/Legislature:** Reduce funding by \$188,500 (-\$11,500 FED and -\$177,000 PR) and by \$201,000 (\$22,100 FED and -\$223,100 PR) and convert 1.0 PR position to 0.50 GPR position and 0.50 FED position, beginning in 2007-08, to reflect the net cost of items relating to the electronic Wisconsin statewide automated child welfare information system (eWISACWIS).

	Funding	Positions
GPR	\$0	0.50
FED	10,600	0.50
PR	<u>-400,100</u>	<u>-1.00</u>
Total	-\$389,500	0.00

Child welfare case workers and administrators use eWISACWIS to manage child welfare services. The system maintains information on intake, assessment, eligibility determinations, case management, court processing, financial reporting, and administration. The system is funded with GPR, federal Title IV-E matching funds (FED), county funds that originate as federal medical assistance matching funds the state claims for certain case management services counties provide (PR), and TANF funds transferred to DHFS from DWD to support the costs associated with the kinship care cases in eWISACWIS PR (TANF). Base funding for eWISACWIS is \$4,649,900 (\$2,074,100 GPR, \$1,017,200 FED, \$436,300 PR (TANF) and \$1,122,300 PR (county funds).

This item includes funding changes to reflect: (a) a decrease in masterlease costs due to the completion of masterleases for the initial phases of the system; (b) an increase in ongoing infrastructure and personnel costs, including contracted maintenance costs; and (c) reestimates of federal funding reimbursement rates in the next biennium.

**13. CHILDREN'S CODE AND JUVENILE JUSTICE CODE -- COURT PROCEDURES**

**Governor/Legislature:** Modify court procedures under the Children's Code (Chapter 48) and the Juvenile Justice Code (Chapter 938) as follows.

*Court Reports and Orders in TPR Cases.* Require an agency that files a termination of parental rights (TPR) petition, or that is ordered by the court in a TPR case to prepare a report on the history of a child, to include in its report specific information showing that the agency primarily responsible for providing services to the child has made reasonable efforts to achieve the goal of the child's permanency plan, if a permanency plan had previously been prepared for the child. Require a court order, in a TPR cases in which a permanency plan had previously been prepared for the child, to include a finding as to whether the agency primarily responsible for providing services to the child has made reasonable efforts to achieve the goal of the child's permanency plan.

Specify that this change would first apply to reports filed with the juvenile court on the bill's general effective date.

*Transfer of the Custody of Children in Actions Affecting Families.* Permit a circuit court to transfer the legal custody of a child found to be in need of protection or services in an action affecting the family in Milwaukee County to DHFS. Currently, the court may transfer legal custody of the child to a relative, to the county department of human services or social services, or to a licensed child welfare agency.

In addition, when the circuit court transfers legal custody of a child to DHFS, a county department or licensed child welfare agency, require the circuit court to refer the matter to the juvenile court intake worker to conduct an intake inquiry to determine whether a petition alleging the child to be in need of protection or services should be filed with the juvenile court. Require the court to include in the order transferring legal custody a finding that placement of the child in his or her home would be contrary to the welfare of the child and, subject to certain exceptions, a finding that reasonable efforts have been made to prevent the removal of the child from home. Require the court to make the findings on a case-by-case basis, based on circumstances specific to the child and to document or reference the specific information on which those findings are based in the order. Specify that an order that merely references this requirement without documenting or referencing that specific information in the order or an amended order that retroactively corrects an earlier order that does not comply with this requirement is not sufficient to comply with the requirement.

Require the circuit court, when it transfers legal custody of the child to a county department, to order the child into the placement and care responsibility of the county departments and to assign the county department primary responsibility for providing services to the child.

Specify that these provisions would first apply to court orders granted on the bill's general effective date.

*Out-of-Home Placements of Children.* Require a juvenile court, when it orders a child to be placed outside the home under the supervision of a county department or DHFS, to order the child into the placement and care responsibility of the county department or DHFS and to assign the county department or DHFS primary responsibility for providing services to the child. Require DHFS, the Department of Corrections, or a county department, when placing a child outside the home under a voluntary agreement, to state in the voluntary agreement that the agency has placement and care responsibilities for the child and has primary responsibility for providing services to the child.

Specify that these changes would first apply to court orders and voluntary agreement placing a child outside the home granted or entered into on the bill's general effective date.

*Temporary Physical Custody Orders.* Require a juvenile court order relating to a child held in temporary physical custody, when sufficient information is not available to make a finding as

to whether reasonable efforts were made to prevent the removal of the child from the home, to include an order requiring the county department, DHFS, or agency primarily responsible for providing services to the child to file with the court sufficient information for the court to make a finding within five days, excluding Saturdays, Sundays and Holidays, after the date on which a temporary physical custody order is granted. Currently, agencies are required to file that information within five days (including Saturdays, Sundays, and legal holidays, after the date of the court order.

Specify that this change would first apply to court orders granted on the bill's general effective date.

[Act 20 Sections: 1234 thru 1238, 1242 thru 1244, 1247 thru 1253, 1262 thru 1266, 1330, 1362, 3726, 3728, 3729, 3786 thru 3788, 3793, 3797, 3798, 3807, 3808, 3810 thru 3817, 3825, and 9321(3)]

**14. POST-ADOPTION RESOURCE CENTERS AND ADOPTION EXCHANGE AND ADOPTION INFORMATION CENTER**

	<b>Jt. Finance (Chg. to Base)</b>	<b>Legislature (Chg. to JFC)</b>	<b>Net Change</b>
GPR	\$226,300	-\$226,300	\$0
FED	185,300	- 185,300	0
Total	\$411,600	-\$411,600	\$0

**Joint Finance:** Provide \$124,400 (\$68,300 GPR and \$55,900 FED) annually to increase funding for post-adoption resource centers and \$75,300 (\$41,400 GPR and \$33,900 FED) in 2007-08 and \$87,900 (\$48,300 GPR and \$39,600 FED) in 2008-09 to increase funding for the Adoption Exchange and Adoption Information Center.

**Assembly/Legislature:** Delete provision.

**15. PREADOPTIION TRAINING**

**Joint Finance/Legislature:** Authorize Wisconsin Technical College districts schools and University of Wisconsin System institutions and college campuses to provide preadoption preparation for proposed adoptive parents.

Under current law, before a child can be placed for adoption by DHFS, a county department, or a child welfare agency, a proposed adoptive parent who has not previously adopted a child must complete preadoptive preparation. The statutes currently authorize the following to provide preadoption training services: (a) a licensed child welfare agency; (b) a licensed private adoption agency; (c) the state adoption information exchange; (d) the state adoption center; (e) a state-funded foster care and adoption resource center; or (f) a state-funded postadoption resource center.

[Act 20 Section: 1366m]

**16. COMMUNITY COLLABORATION**

**Joint Finance/Legislature:** Require DHFS to collaborate with community-based organizations that serve children, adolescents, and their families to promote health and wellness, and to reduce childhood and adolescent obesity.

[Act 20 Section: 3039r]

**17. CHILD CARE LICENSING**

**Assembly:** Decrease the amount of funding that would be provided to support child care licensing activities by \$360,100 annually to reflect a reduction in the amount of temporary assistance for needy families (TANF) that would be budgeted for this purpose. See "Workforce Development" for a full explanation of all changes to TANF funding.

**Conference Committee/Legislature:** Delete provision.

**Disability and Elder Services**

**1. STATE -FUNDED SSI BENEFITS [LFB Papers 435 and 886]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance (Chg. to Gov)</b>	<b>Legislature (Chg. to JFC)</b>	<b>Net Change</b>
GPR	\$12,585,900	\$0	\$423,000	\$13,008,900
PR	<u>- 243,200</u>	<u>- 355,400</u>	<u>0</u>	<u>- 598,600</u>
Total	\$12,342,700	-\$355,400	\$423,000	\$12,410,300

**Governor:** Provide \$5,088,000 (\$5,209,600 GPR and -\$121,600 PR) in 2007-08 and \$7,254,700 (\$7,376,300 GPR and -\$121,600 PR) in 2008-09 to reflect estimates of the amount of GPR and TANF funding (PR) that will be required to support state-funded supplemental security income (SSI) benefit payments to elderly and disabled low-income individuals and SSI caretaker supplement benefits in the 2007-09 biennium.

*SSI State Supplement Benefits.* Provide \$5,209,600 GPR in 2007-08 and \$7,376,300 GPR in 2008-09 to reflect estimates of the amounts needed to fully fund the state supplement to federal SSI payments. DHFS makes these monthly payments to approximately 98,000 individuals who receive federal SSI benefits, and 6,900 individuals who do not qualify for the federal benefit but were receiving a partial state benefit as of January 1, 1996, when the state discontinued its state-only benefit for new applicants. Base funding for these payments is \$128,281,600 GPR. The bill would provide \$133,491,200 GPR in 2007-08 and \$135,657,900 GPR annually in a sum sufficient appropriation for DHFS to make these payments.

*SSI Caretaker Supplement Benefits.* Decrease funding by \$121,600 PR annually to reflect estimates of the amounts needed to fully fund SSI caretaker supplement payments. DHFS makes these payments to SSI recipients who have dependent children. Recipients receive \$250 per month for the first child and \$150 per month for each additional child. Base funding for these payments is \$29,749,400 PR. The bill would provide \$29,627,800 PR annually for DHFS to make these payments.

The bill would maintain base funding for TANF-supported program administration costs (\$644,600 PR annually). Under the bill, a total of \$30,272,400 in TANF funds would be budgeted to support SSI caretaker supplement benefits and program administration costs, which is reflected in the statutory allocations of TANF funds.

**Joint Finance:** Decrease funding by \$177,700 PR annually to reflect a reestimate of the costs to fully fund the SSI caretaker supplement in the next biennium.

**Senate/Legislature:** Increase funding by \$193,700 GPR in 2007-08 and by \$229,300 GPR in 2008-09 to reflect a reestimate of the amounts needed to fully fund state SSI supplemental benefits.

[Act 20 Section: 1450]

**2. SERVICES FOR DRIVERS -- SUPPLEMENTAL COUNTY ALLOCATIONS**

PR	-\$900,000
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**Governor/Legislature:** Reduce funding DHFS distributes to counties to support services for drivers who have been referred for assessments following operating while intoxicated (OWI) violations by \$450,000 annually, so that DHFS would be budgeted \$1,000,000 annually from OWI surcharge revenues for this purpose. The bill would make no change to the statutory distribution of OWI surcharge revenue between counties, which retain 61.5% of revenue collected by clerks of court to support services for drivers, and the state, which collects 38.5% of the revenue to support several OWI-related programs.

In addition, convert the current DHFS appropriation that funds supplemental county allocations for services for drivers from an annual appropriation to a continuing appropriation, and repeal the provision that specifies that the unencumbered balance of the appropriation on June 30 of each year reverts to a continuing appropriation to which all of the state's share of these revenues are credited, and from which the state's share of these funds are allocated.

[Act 20 Section: 417]

**3. QUALITY HOME CARE COMMISSION [LFB Paper 436]**

GPR	\$334,000
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**Governor:** Provide \$167,000 annually and require DHFS to distribute at least \$167,000 annually to an organization to provide services to consumers and providers of supportive home



care and personal care services. Although not named in the bill, DHFS would use these funds to support the Quality Home Care Commission. The Commission was created through an intergovernmental cooperation agreement between DHFS and the Dane County Executive in September, 2006, to provide certain services to consumers and providers of home care and personal care services. The Commission works to ensure that home health providers are available to consumers and provides employer-related services to providers.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

[Act 20 Section: 1114]

#### 4. NOTIFICATION OF PENDING CARETAKER INVESTIGATION

**Assembly:** Direct DHFS to modify the registry the Department maintains of persons who have satisfactorily completed a nurse's assistant, home health aide, or hospice aide instructional program and competency evaluation program or only a competency evaluation program to indicate when individuals on the registry are under investigation for charges relating to the abuse or neglect of a patient.

**Conference Committee/Legislature:** Delete provision.

#### 5. COMMUNITY AIDS

GPR	\$206,200
FED	64,800
Total	\$271,000

**Governor:** Provide \$135,500 (\$103,100 GPR and \$32,400 FED) annually to fully fund a 5% increase in foster care rates, enacted as part of 2005 Act 25, which took effect on January 1, 2006 (\$103,100 GPR and \$32,400 FED of Title IV-E funds annually). In addition, adjust federal funding budgeted to support community aids by: (a) reducing Title IV-B support by \$255,300 FED annually; (b) reducing support from the social services block grant by \$78,600 FED annually; and (c) offsetting these reductions by increasing Title IV-E support by \$333,900 FED annually. The provision to increase Title IV-E funding for community aids would reduce the amount of funding that would otherwise be generated as federal income augmentation revenue from this source, 50% of which, under current law, DHFS is required to distribute to non-Milwaukee counties for services and projects to assist children and families.

In addition, increase the annual basic county allocation from \$242,078,700 to \$242,421,500 in 2007-08 (an increase of \$342,800) and \$176,225,400 in 2008-09 (a decrease of \$66,166,100). The decrease in 2008-09 reflects the transfer of federal child welfare funds previously counted as community aids that would instead be distributed by the new Department of Children and Families for children and family aids.

**Joint Finance/Legislature:** Decrease the annual basic county allocation from \$176,225,400 to \$176,068,400 in 2008-09 to reflect the additional transfer of funds to the new Department of Children and Families. The fiscal effect of this change is shown under "Health and Family Services -- Children and Families."

[Act 20 Sections: 1100 and 1101]

**6. COUNCIL ON DEVELOPMENTAL DISABILITIES [LFB Paper 111]**

	<b>Governor (Chg. to Base)</b>		<b>Jt. Finance (Chg. to Gov)</b>		<b>Legislature (Chg. to JFC)</b>		<b>Net Change</b>	
	<b>Funding</b>	<b>Positions</b>	<b>Funding</b>	<b>Positions</b>	<b>Funding</b>	<b>Positions</b>	<b>Funding</b>	<b>Positions</b>
GPR	-\$30,000	0.00	\$15,000	0.00	-\$15,000	0.00	-\$30,000	0.00
FED	<u>-2,543,600</u>	<u>-7.75</u>	<u>1,271,800</u>	<u>0.00</u>	<u>-1,271,800</u>	<u>0.00</u>	<u>-2,543,600</u>	<u>-7.75</u>
Total	-\$2,573,600	-7.75	\$1,286,600	0.00	-\$1,286,600	0.00	-\$2,573,600	-7.75

**Governor:** Reduce funding by \$1,286,800 (-\$15,000 GPR and -\$1,271,800 FED) annually and delete 7.75 FED positions, beginning in 2007-08, to reflect the Governor's proposal to transfer funding and staff for the Council on Developmental Disabilities from DHFS to the Department of Administration (DOA).

Create an appropriation in DOA for the receipt and distribution of federal funding for the Council. Require DHFS to ensure that the matching funds requirement for the state developmental disabilities councils grant, as received from the U.S. Department of Health and Human Services (DHHS), is met by reporting to DHHS county expenditures for services to persons with developmental disabilities under the community aids program.

Specify that: (a) the assets and liabilities related to the functions of Council would become the assets and liabilities of DOA; (b) incumbent employees holding positions, relating to the functions of the Council would be transferred to DOA; (c) transferred employees would have the same rights and status in DOA that they enjoyed in DHFS, and no employee transferred who has attained permanent status would have to serve a probationary period; (d) all tangible personal property, including records, related to the functions of the Council would be transferred to DOA; (e) all contracts related to the functions of the Council would remain in effect and would be transferred to DOA, which would be required to carry out these contractual obligations unless modified or rescinded by DOA to the extent allowed under the contract.

**Joint Finance:** Delete provision. Instead, reduce funding by \$1,286,800 (-\$15,000 GPR and -\$1,271,800 FED) and delete 7.75 FED positions, beginning in 2008-09, to reflect the transfer of the Council on Developmental Disabilities from DHFS to the Department of Children and Families (DCF).

**Senate:** Delete Joint Finance provision. Instead, create a new state agency, the Board for People with Developmental Disabilities (BPDD), and assign the agency the statutory

responsibilities currently assigned to the Council. Reduce funding for DHFS by \$15,000 GPR and \$1,271,800 FED in 2007-08 and delete 7.75 FED positions in 2007-08.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore Senate provision. See "Board for People with Developmental Disabilities."

**Veto by Governor [D-6]:** Delete nonstatutory provisions that would have: (a) decreased funding for DHFS by \$728,200 FED in 2007-08 to reflect the transfer of 7.75 FED positions to the Board for People with Developmental Disabilities (BPDD); and (b) decreased funding for the Department of Children and Families by \$724,600 FED in 2008-09 to reflect the transfer of 7.75 FED positions to BPDD. It was not necessary to retain these provision in the act, since the federal general operations appropriations for DHFS, DCF, and BPDD had already been adjusted to reflect these staff transfers.

[Act 20 Sections: 52b, 330s, 524w, 1824b, and 9121(9i)]

[Act 20 Vetoed Sections: 9221(1q) and 9255(1q)]

**7. OFFICE FOR THE BLIND AND VISUALLY IMPAIRED**

FED	\$635,200
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**Governor/Legislature:** Provide \$289,800 in 2007-08 and \$345,400 in 2008-09, from federal income augmentation funds, to support DHFS estimates of funding that would be needed to support current authorized staff in the Office for the Blind and Visually Impaired (OBVI) in the 2007-09 biennium. OBVI offers rehabilitation teaching services to assist blind and visually impaired individuals in achieving independent living

Beginning in 2005-06, base funding available to support OBVI, from a variety of sources, was reduced by approximately \$255,000 annually. This occurred primarily because the Division of Vocational Rehabilitation in the Department of Workforce Development prohibited DHFS from using base GPR funding as a match for federal Title IB (vocational rehabilitation) funds so that DWD could instead use the Title IB funds to support individualized employment plans for individuals with disabilities. This resulted in a loss of approximately \$110,000 FED annually to support OBVI. In addition, DHFS reduced GPR support for the office by approximately \$119,900 annually in response to GPR funding reductions enacted as part of 2005 Wisconsin Act 25. In the 2005-07 biennium, DHFS has maintained vacant positions in OBVI and allocated one-time federal funding to address this reduction in base support for the office.

**8. UNCLASSIFIED DIVISION ADMINISTRATOR POSITION**

	<b>Positions</b>
GPR	1.00

**Governor:** Create 1.0 unclassified division administrator position, beginning in 2007-08. DHFS intends to divide the Division of Disability

and Elder Services (DDES) into two divisions: (a) long term care; and (b) mental health and substance abuse. Since no funding would be budgeted to support this position, DHFS would need to reallocate funding within the current division's general program operations appropriation.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

#### **9. FEMALE OFFENDER REINTEGRATION PROGRAM -- CONTINUE GRANT FUNDING**

**Governor:** Authorize DHFS to award up to \$106,400 annually as a grant to an organization or group of organizations to provide services for female prisoners and offenders from Milwaukee County and their children, if the prisoners or offenders have been convicted of nonviolent crimes. Under current law, DHFS is authorized to provide up to \$83,800 in 2005-06 and \$106,400 in 2006-07 for this purpose, but has no statutory authority to award grants in subsequent fiscal years. Funding for grants is part of the agency's base budget.

The program provides screening, assessment, and treatment services, including mental health and permanency services, for prisoners and offenders to assist in their reintegration into the community. The GPR funding for the program supports costs that cannot be funded under the federal access to recovery grant or other sources.

**Assembly:** Delete provision. Instead, eliminate base GPR funding for the program (-\$106,400 annually).

**Conference Committee/Legislature:** Restore provision.

[Act 20 Section: 1115]

#### **10. FAMILY SUPPORT PROGRAM -- CRITERIA FOR PRIORITY USE OF FUNDS**

**Governor/Legislature:** Repeal the requirement that DHFS, in promulgating rules for the family support program, include criteria by which county departments may determine priorities for available funding. Instead, require DHFS to establish criteria for priority of services that take into account urgency of need, statewide consistency, developmental impact on eligible children, and other factors, so as to ensure that available funds are used consistently and effectively. These criteria would not need to be promulgated as rules.

[Act 20 Sections: 1202 and 1203]

#### **11. DRUG ABUSE PROGRAM IMPROVEMENT SURCHARGE [LFB Paper 126]**

**Governor/Legislature:** Modify the distribution of revenue the state collects from the drug abuse program improvement surcharge so that: (a) the first \$850,000 plus two-thirds of all funds collected in excess of \$1,275,000 in each fiscal year would be credited to a DHFS appropriation that supports programs that provide prevention, intervention, and treatment for alcohol and other drug abuse problems; and (b) all moneys in excess of \$850,000 and up to \$1,275,000 plus one-third of moneys in excess of \$1,275,000 would be credited to an appropriation for the Office of Justice Assistance (OJA) to fund grants for substance abuse treatment programs for criminals. Specify that the new allocations would take effect on July 1, 2007.

Under current law, as of July 1, 2007, two-thirds of all moneys from the surcharge are credited to the DHFS appropriation and one-third of the surcharge revenues are credited to the OJA appropriation.

[Act 20 Sections: 3866 and 9407(1)]

#### **12. BIRTH-TO-THREE PROGRAM -- TREATMENT OF UNEXPENDED FUNDS**

**Governor/Legislature:** Modify the GPR appropriation that supports county funding allocations under the early intervention services for infants and toddlers with disabilities program (the birth-to-three program) by changing the appropriation from an annual appropriation to a continuing appropriation. Repeal provisions that: (a) permit DHFS to transfer funds between fiscal years; and (b) specify that funds that are not encumbered by December 31 of each year lapse to the general fund on the next January 1, unless the Joint Committee on Finance permits DHFS to carry these funds forward to the next calendar year. At the end of each fiscal year, unexpended funding budgeted in a continuing appropriation does not lapse to the originating fund, but rather is carried forward to the next fiscal year and available for expenditure by the agency.

[Act 20 Section: 414]

#### **13. PROPOSED COUNTY BUDGET FOR COMMUNITY AIDS EXPENDITURES**

**Governor:** Repeal the requirement that each county department of social services, department of human services, department of community programs, department of developmental disabilities services and tribal governing body submit to DHFS, by December 1 of each year, a proposed budget for the expenditure funds the counties receive under the community aids program.

**Joint Finance/Legislature:** Delete provision as a non-fiscal policy item.

**14. AUDIT LIMIT FOR STATE AND COUNTY-PURCHASED HUMAN AND CORRECTIONAL SERVICES**

**Governor:** Modify the dollar threshold that determines whether or not a provider of care or services (other than a family operated group home) must submit a certified financial and compliance audit report annually, or, if required by federal law, biennially to DHFS, a county department of social services, human services, developmental disabilities services, or community programs (for contracted human services), or to the Department of Corrections (for contracted correctional services). The bill would increase this threshold from \$25,000 to \$100,000, or any higher threshold amount determined by the DHFS (for human services) or the Department of Corrections (for correctional services). Specify that this change would first apply to contracts entered into or renewed on the bill's general effective date.

**Joint Finance/Legislature:** Delete provision as a non-fiscal policy item.

**15. SKILLS ENHANCEMENT PROGRAM**

	<b>Jt. Finance (Chg. to Base)</b>	<b>Legislature (Chg. to JFC)</b>	<b>Net Change</b>
GPR	\$2,340,000	-\$2,340,000	\$0

**Joint Finance:** Provide \$1,170,000 annually for DHFS to distribute to community action agencies to support the skills enhancement program. This program provides individuals who are working at least 20 hours per week and whose earned income does not exceed 150% of the federal poverty level access to transportation, child care, career, counseling, job placement assistance, and financial support to cover the costs of classes and training to help participants acquire the skills necessary to obtain higher-wage employment.

In 2006-07, the program is funded with \$750,000 FED under a contract with the Department of Workforce Development. This discretionary federal funding, which may only be used to support pilot programs, will no longer be available after June 30, 2007. This item would: (a) replace discontinuing federal funds (\$750,000 GPR annually); and (b) provide funding for DHFS to distribute as grants to community action agencies and organizations that are not currently supported under the DWD contract (\$420,000 GPR annually).

**Assembly/Legislature:** Delete provision.

**16. COMMUNITY MENTAL HEALTH SERVICES BLOCK GRANT ALLOCATIONS**

**Joint Finance:** Modify statutory references to funding for programs that are supported by the Federal Community Mental Health Services (CMHS) block grant to require DHFS to provide annually the amounts specified in statute for community aids, the integrated services program, the consumer and family self-help and peer-supported programs, and protection and

advocacy services, rather than permit DHFS to distribute up to the amounts specified in statute for these programs. Require DHFS to annually allocate any funding the state receives that exceeds \$6,711,200 FED from the CMHS block grant to these programs.

**Assembly/Legislature:** Delete provision that would require DHFS to annually allocate any funding the state receives that exceeds \$6,711,200 FED from the federal community mental health services block grant to community aids, the integrated services program, the consumer and family self-help and peer-supported programs, and protection and advocacy services.

[Act 20 Sections: 1101p, 1167n, and 1835c]

#### 17. COUNCIL ON PHYSICAL DISABILITIES

**Joint Finance/Legislature:** Require DHFS to allocate at least \$16,100 GPR annually from its general program operations appropriation for the Division of Disability and Elder Services to support the Council on Physical Disabilities.

[Act 20 Section: 1073v]

#### 18. WISCONSIN COUNCIL ON PROBLEM GAMBLING

PR	\$200,000
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**Senate/Legislature:** Provide \$100,000 annually from the lottery fund to the Wisconsin Council on Problem Gambling to provide funding for staff to a 24-hour hotline that provides assistance to compulsive gamblers and their families. DHFS is currently budgeted \$300,000 annually to support the Council.

#### 19. OUTREACH SERVICES

GPR	\$168,000
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**Senate/Legislature:** Provide \$84,000 annually to community organizations in south-central and southeastern Wisconsin to provide outreach services relating to health, mental health, housing, assisted living, domestic violence, and other services.

[Act 20 Section: 1116e]

## Institutions

**1. SEXUALLY VIOLENT PERSONS -- NEW UNITS AT THE SAND RIDGE SECURE TREATMENT CENTER [LFB Paper 440]**

	Funding	Positions
GPR	\$3,477,200	91.10

**Governor/Legislature:** Provide \$3,477,200 and 91.10 positions in 2008-09 to fund staff, supplies, and one-time costs for four new 25-bed units at the Sand Ridge Secure Treatment Center (SRSTC). Two units would open in January, 2009, and the other two units would open in April, 2009.

The SRSTC and the Wisconsin Resource Center (WRC) provide inpatient treatment services for individuals committed as sexually violent persons (SVPs) under Chapter 980 of the statutes. The rate at which persons are being committed as SVPs in Wisconsin has increased due to recent legislation that, among other things, broadened the statutory definition of an SVP. The SVP population is projected to exceed the current combined SVP capacity at SRSTC and WRC (420 beds) during the 2007-09 biennium. At its March, 2006, meeting, the State Building Commission authorized planning funds for a 300-bed expansion at SRSTC. In its 2007-09 capital budget request, DHFS requested funding to build this expansion.

**2. SEXUALLY VIOLENT PERSONS -- CONTRACTED BEDS [LFB Paper 411]**

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$479,800	-\$42,500	\$437,300

**Governor:** Provide \$56,800 in 2007-08 and \$423,000 in 2008-09 to fund costs for DHFS to contract for beds in county jails to temporarily house sexually violent persons (SVPs). The administration projects that temporary beds will be needed for SVPs before a 100-bed expansion planned for the Sand Ridge Secure Treatment Center (SRSTC) is completed in early 2009.

The SRSTC and the Wisconsin Resource Center (WRC) provide inpatient treatment services for persons committed as SVPs under Chapter 980 of the statutes. The rate at which persons are being committed as SVPs in Wisconsin has increased due to recent legislation that, among other things, broadened the statutory definition of an SVP. The administration projects that the SVP population will exceed the current combined SVP capacity at SRSTC and WRC during the 2007-09 biennium. To address that capacity issue, the Governor has recommended a 300-bed expansion at SRSTC, with the first two 25-bed units to open in January 2009, and two additional 25-bed units to open in April 2009.

**Joint Finance/Legislature:** Reduce funding by \$42,500 in 2008-09 to reflect reestimates of the funding that would be needed to support these costs so that \$56,800 in 2007-08 and \$380,500



in 2008-09 would be budgeted for DHFS to contract for beds in county jails to temporarily house SVPs.

**3. OUTPATIENT COMPETENCY, CONDITIONAL RELEASE, AND SUPERVISED RELEASE CONTRACTED SERVICES [LFB Paper 441]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
GPR	\$1,890,900	-\$512,300	\$1,378,600

**Governor:** Provide \$398,300 in 2007-08 and \$1,492,600 in 2008-09 to fund a net projected increase in the costs of services provided under the conditional release program, the supervised release program, outpatient competency examinations, and related contracted services.

*Conditional Release.* Reduce funding by \$101,600 in 2007-08 and increase funding by \$511,900 in 2008-09 to fund projected costs of services for individuals on conditional release. The conditional release program provides treatment to individuals who have been conditionally released from the state mental health institutes. It is a state-funded, community-based program, administered by private and public agencies under the supervision of DHFS. The administration estimates the average daily population (ADP) of individuals on conditional release will be 300 in 2007-08 at an annual cost of \$15,390 per person, and the ADP of individuals on conditional release in 2008-09 will be 330 at an annual cost of \$15,850 per person.

*Supervised Release.* Reduce funding by \$89,500 in 2007-08 and increase funding by \$142,200 in 2008-09 to fund projected costs of services under the supervised release program. The supervised release program provides treatment to individuals who are committed as sexually violent persons under Chapter 980 of the statutes and who have been released by the court under the supervision of DHFS. The projected cost increase results from a projected increase in caseload and service costs, including the costs of global positioning system monitoring and escorts.

*Outpatient Competency Examinations.* Increase funding by \$339,200 in 2007-08 and by \$499,000 in 2008-09 to fund projected costs of outpatient competency examinations. Competency-to-stand-trial examinations are conducted on both an inpatient and outpatient basis. Inpatient examinations are performed by DHFS staff at the mental health institutes. DHFS contracts with a private vendor, currently Wisconsin Forensic Unit (WFU), to conduct outpatient examinations in jails or locked units of a facility. In 2005-06, approximately 97% of competency examinations were conducted by WFU. The administration estimates 1,375 outpatient examinations will be conducted in 2007-08 at a cost of \$1,143 per examination, and 1,471 outpatient examinations will be conducted in 2008-09 at a cost of \$1,177 per examination.

*Contracts with Corrections.* Increase funding by \$250,200 in 2007-08 and by \$339,500 in 2008-09 to increase funding for contracts with the Department of Corrections for supervision

services, equipment rental and escort transportation.

**Joint Finance/Legislature:** Reduce funding by \$60,000 in 2007-08 and by \$452,300 in 2008-09 for these services. The following table compares 2006-07 base funding, the Governor's funding amounts, and the amounts budgeted under Act 20.

**Summary of Funding for Competency Examinations and  
Conditional and Supervised Release Services**

	Base	Governor		Joint Finance/Leg.		Net Change	
	2006-07	2007-08	2008-09	2007-08	2008-09	2007-08	2008-09
Conditional Release	\$4,718,600	\$4,617,000	\$5,230,500	\$4,847,200	\$5,089,500	\$128,600	\$370,900
Supervised Release	1,449,100	1,359,600	1,591,300	1,205,100	1,495,800	-244,000	46,700
Outpatient Competency Exams	1,232,400	1,571,600	1,731,400	1,427,300	1,572,600	194,900	340,200
Other Related Contracted Services	<u>527,400</u>	<u>777,600</u>	<u>866,900</u>	<u>786,200</u>	<u>809,900</u>	<u>258,800</u>	<u>282,500</u>
Total	\$7,927,500	\$8,325,800	\$9,420,100	\$8,265,800	\$8,967,800	\$338,300	\$1,040,300

**4. TREATMENT TO COMPETENCY [LFB Paper 442]**

GPR	\$608,000
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**Governor:** Provide \$262,500 in 2007-08 and \$345,500 in 2008-09 to fund costs of providing treatment-to-competency services to individuals determined not competent to proceed to criminal trial, and modify the appropriation that currently funds competency examinations and conditional and supervised release services to authorize DHFS to support competency treatment services. Currently, DHFS provides these treatment services in the state mental health institutes. Due to capacity restraints at the institutes, there is a waiting list for individuals to receive these treatment-to-competency services. The bill would authorize DHFS to provide those services in settings other than the state mental health institutes, including jails. The bill would fund estimates of the cost to DHFS of providing additional treatment-to-competency services in settings other than the state mental health institutes.

Provide that, if an examiner appointed by the court to examine a criminal defendant's competency reports to the court that the defendant lacks competency, the examiner must also provide an opinion as to whether the individual's treatment should occur in an inpatient facility designated by DHFS, or should be conducted in a jail or locked unit of a facility, as a condition of bail or bond.

Provide that, if the court determines the defendant is not competent but is likely to become competent within a period of time not to exceed 12 months or the maximum sentence specified for the most serious offense with which the defendant is charged, whichever is less, DHFS must determine whether treatment shall occur in an institution, or in a community-based treatment conducted in a jail or a locked unit of a facility, as a condition of bond or bail. Current law does not require DHFS to make that determination.

Further, require DHFS examiners to periodically reexamine the defendant, and provide written reports of those examinations to the court within the timeframes set by statute. Current law states that the defendant shall be periodically reexamined by the treatment facility, rather than specifically requiring DHFS to conduct those reexaminations.

Provide that, in the event the court receives from DHFS a reexamination report indicating the defendant has regained competency or is not competent and is unlikely to become competent in the remaining commitment period, the court must hold a hearing within 14 days of receipt of the report, and the court must proceed to determine the defendant's competency as provided in statute. Under current law, the court must proceed with a competency hearing when it receives a reexamination report of the defendant. The bill alters that provision by requiring the court to proceed with a competency hearing only if the reexamination report indicates that the defendant has regained competency or is not competent and is unlikely to become competent in the remaining commitment period.

**Joint Finance:** Modify the Governor's statutory changes to provide that DHFS may determine whether treatment shall occur in an appropriate institution designated by DHFS, or in community-based treatment conducted in a jail or in the locked unit of a facility that voluntarily contracts with the state to serve as a location where treatment-to-competency services can be provided. With respect to treatment services provided in a jail, authorize DHFS to commence treatment-to-competency services to persons in county jails who are awaiting transfer to a mental health institute or other authorized setting, and direct DHFS to transfer such persons to an authorized treatment setting other than a jail as soon as the treatment services can be provided in an authorized non-jail setting.

**Assembly:** Delete provision.

**Conference Committee/Legislature:** Restore provision.

[Act 20 Sections: 337 and 3871 thru 3874]

**5. MENTAL HEALTH INSTITUTES -- ALLOCATION OF COSTS**

	<b>Funding</b>	<b>Positions</b>
GPR	\$3,711,900	7.53
PR	<u>-3,711,900</u>	<u>-7.53</u>
Total	\$0	0.00

**Governor/Legislature:** Provide \$1,846,300 GPR and reduce funding by \$1,846,300 PR in 2007-08, and provide \$1,865,600 GPR and reduce funding by \$1,865,600 PR in 2008-09 to adjust base funding for the mental health institutes (MHIs) to assign the costs of certain services at the MHIs to the appropriate funding source. Convert 7.53 PR positions to GPR positions, beginning in 2007-08.

Biennially, a funding adjustment is made to assign costs of certain services each MHI provides to appropriate funding sources. The costs of these services are assigned to payment sources based on the estimated percentage of the population at the MHIs whose care will be supported by GPR (nearly all forensic patients and other non-billable patients), and by program

revenues contributed by counties, medical assistance, and other third-party payers (civil commitments, MA recipients, and certain other patients). Examples of these services include housekeeping, food production, maintenance and security, library, and administrative services. The administration projects that the population splits will be 70% GPR/30% PR at Mendota Mental Health Institute, and 55% GPR/45% PR at the Winnebago Mental Health Institute for both years of the 2007-09 biennium.

**6. CENTERS OPERATIONS ADJUSTMENTS DUE TO ACTUAL AND PROJECTED CIP IA PLACEMENTS**

	<u>Governor</u> <u>(Chg. to Base)</u>		<u>Jt. Finance</u> <u>(Chg. to Gov)</u>		<u>Legislature</u>		<u>Net Change</u>	
	<u>Funding</u>	<u>Positions</u>	<u>Funding</u>	<u>Positions</u>	<u>Funding</u>	<u>Positions</u>	<u>Funding</u>	<u>Positions</u>
PR	\$5,423,800	0.00	-\$1,891,400	-24.20	\$0	6.64	\$3,532,400	-17.56

**Governor:** Provide \$2,711,900 annually and 73.86 positions, beginning in 2007-08, to partially restore funding and staff for the centers for the developmentally disabled to reflect that fewer residents will relocate from the centers in the 2005-07 biennium under the community integration program (CIP IA) than had been assumed in 2005 Act 25 (the 2005-07 biennial budget act). In addition, delete 73.86 positions in 2008-09, effective at the end of the biennium, to reflect projected staffing reductions that will occur as residents relocate from the centers in the 2007-09 biennium.

*Central Wisconsin Center (CWC).* Provide \$1,732,600 annually, and 46.20 positions, beginning in 2007-08, to reflect DHFS' estimate that 12 individuals, rather than 40 (as assumed in Act 25), will relocate from CWC in the 2005-07 biennium. Act 25 deleted 67.70 positions from CWC in 2006-07. The bill deletes funding for these 67.70 positions (\$3,113,100 annually) as part of the standard budget adjustment for full funding of salary and fringe benefits. Based on the statutory requirement that DHFS reduce funding for the centers by \$325 per day following a relocation, DHFS estimates that \$1,380,500 annually will need to be deleted from CWC's budget. This item funds the difference between the amount that is removed under the standard budget adjustment and the required funding reduction, and restores position authority accordingly.

In addition, delete 46.20 positions in 2008-09 to reflect the administration's estimate that 16 residents will relocate from CWC in the 2007-09 biennium. Funding for these positions would be deleted as a standard budget adjustment as part of the 2009-11 budget.

*Southern Wisconsin Center (SWC).* Provide \$979,300 annually, and 27.66 positions beginning in 2007-08, to reflect DHFS' estimate that 16 individuals, rather than 50 (as assumed in Act 25) will relocate from SWC in the 2005-07 biennium. Act 25 deleted 64.30 positions from SWC in 2006-07. The bill deletes funding for these positions (\$2,850,900 annually) as part of the standard budget adjustment for full funding of salary and fringe benefits. Based on the statutory requirement that DHFS reduce funding for the centers by \$325 per day following a

relocation, DHFS estimates that \$1,871,600 will need to be deleted from SWC's budget. This item funds the difference between the amount that is removed under the standard budget adjustment and the required funding reduction, and restores position authority accordingly.

In addition, delete 27.66 positions in 2008-09 to reflect the administration's estimate that 20 residents will relocate from SWC in the 2007-09 biennium. Funding for these positions would be deleted as a standard budget adjustment as part of the 2009-11 budget.

**Joint Finance:** Reduce funding and positions that would be restored for CWC under the bill to reflect that 21 (rather than 12) individuals will be relocated from CWC during 2006-07. Reduce funding by \$957,100 PR in 2007-08, and by \$934,300 PR in 2008-09 and delete 24.2 PR positions, beginning in 2007-08. With this modification, \$622,000 PR would be provided to fund the difference between the amount that is removed under the standard budget adjustment and the required funding reduction, and restores 22.0 positions to reflect current estimates.

**Senate/Legislature:** Provide an additional 6.64 positions, beginning in 2007-08, for the state centers for the developmentally disabled so that 17.56 positions, rather than 24.20 positions, would be deleted, beginning in 2007-08, due to placements from the centers under the community integration program (CIP IA) that occurred in the 2005-07 biennium. This adjustment would permit DHFS to accomplish the statutory funding reduction, by eliminating fewer, but higher cost vacant positions, than under the JFC substitute amendment.

[Act 20 Section: 9121(9f)]

**7. VARIABLE NONFOOD ITEMS AND SERVICES [LFB Paper 443]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
GPR	\$2,049,000	-\$366,300	\$1,682,700
PR	<u>3,206,900</u>	<u>-901,400</u>	<u>2,305,500</u>
Total	\$5,255,900	-\$1,267,700	\$3,988,200

**Governor:** Provide \$2,013,500 (\$602,400 GPR and \$1,411,100 PR) in 2007-08 and \$3,242,400 (\$1,446,600 GPR and \$1,795,800 PR) in 2008-09 to fund projected increases in variable nonfood costs at the centers for the developmentally disabled, the mental health institutes, the Wisconsin Resource Center, and the Sand Ridge Secure Treatment Center.

**Joint Finance/Legislature:** Reduce funding in the bill by \$525,900 (-\$123,600 GPR and -\$402,300 PR) in 2007-08 and by \$741,800 (-\$242,700 GPR and -\$499,100 PR) in 2008-09 so that \$1,487,600 (\$478,800 GPR and \$1,008,800 PR) in 2007-08 and \$2,500,600 (\$1,203,900 GPR and \$1,296,700 PR) in 2008-09 would be provided to reflect reestimates of variable nonfood costs at these facilities.

**8. FOOD [LFB Paper 444]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
GPR	\$388,700	-\$60,100	\$328,600
PR	<u>1,256,800</u>	<u>-13,700</u>	<u>1,243,100</u>
Total	\$1,645,500	-\$73,800	\$1,571,700

**Governor:** Provide \$792,200 (\$160,300 GPR and \$631,900 PR) in 2007-08 and \$853,300 (\$228,400 GPR and \$624,900 PR) in 2008-09 to fund projected increases in the cost of food for residents at the centers for the developmentally disabled, the mental health institutes, the Wisconsin Resource Center, and the Sand Ridge Secure Treatment Center.

**Joint Finance/Legislature:** Reduce funding by \$34,800 (-\$15,600 GPR and -\$19,200 PR) in 2007-08 and by \$39,000 (-\$44,500 GPR and \$5,500 PR) in 2008-09 so that \$757,400 (\$144,700 GPR and \$612,700 PR) in 2007-08 and \$814,300 (\$183,900 GPR and \$630,400 PR) in 2008-09 would be provided to reflect reestimates of food costs at these facilities.

**9. FUEL AND UTILITIES [LFB Paper 445]**

	<b>Governor (Chg. to Base)</b>	<b>Jt. Finance/Leg. (Chg. to Gov)</b>	<b>Net Change</b>
GPR	\$679,100	\$296,800	\$975,900
PR	<u>2,930,400</u>	<u>-1,216,700</u>	<u>1,713,700</u>
Total	\$3,609,500	-\$919,900	\$2,689,600

**Governor:** Provide \$1,597,300 (\$309,600 GPR and \$1,287,700 PR) in 2007-08 and \$2,012,200 (\$369,500 GPR and \$1,642,700 PR) in 2008-09 to fund projected increases in fuel and utility costs at the centers for the developmentally disabled, the mental health institutes, the Wisconsin Resource Center, and the Sand Ridge Secure Treatment Center.

**Joint Finance/Legislature:** Reduce funding by \$434,200 (\$110,500 GPR and -\$544,700 PR) in 2007-08 and by \$485,700 (\$186,300 GPR and -\$672,000 PR) in 2008-09 so that an additional \$1,163,100 (\$420,100 GPR and \$743,000 PR) in 2007-08 and \$1,526,500 (\$555,800 GPR and \$970,700 PR) in 2008-09 would be provided to fund projected increases in fuel and utility costs at these facilities.

**10. MUNICIPAL SERVICES**

PR	\$316,800
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**Governor/Legislature:** Provide \$158,400 annually for payment for municipal services assessments associated with the cost of municipal services provided by local governments to the centers for the developmentally disabled and to the mental health institutes. Base funding for these services is \$683,100 PR.

**11. SHARED SERVICES**

**Governor/Legislature:** Transfer funding and positions within and between appropriations that support DHFS institutions to more accurately reflect the allocation of funding for service positions (including building and grounds and office positions). This adjustment would fund shared services positions to reflect actual tasks performed, and eliminate the necessity for the facilities to charge each other for these services. The funding and position transfers are shown below.

<u>Facility</u>	<u>Fund Source</u>	<u>Positions</u>	<u>Salary</u>	<u>Fringe Benefits</u>	<u>Supplies and Services</u>
Wisconsin Resource Center	GPR	0.00	-\$20,200	-\$8,900	\$29,100
Mendota Mental Health Institute	PR	0.00	-123,900	-54,800	178,700
Central Wisconsin Center	PR	-0.24	-8,400	-3,900	0
Winnebago Mental Health Institute	PR	<u>0.24</u>	<u>-40,200</u>	<u>-17,700</u>	<u>70,200</u>
Total		0.00	-\$192,700	-\$85,300	\$278,000

**12. COMBINE WRC AND SVP OPERATIONS APPROPRIATIONS**

**Governor/Legislature:** Repeal an appropriation that currently funds general program operations, other than operations related to security, of the Wisconsin Resource Center (WRC), and transfer base funding and positions from this appropriation (\$30,410,900 GPR and 400.65 GPR positions), beginning in 2007-08, to the appropriation that currently supports operations of the Sand Ridge Secure Treatment Center and other secure mental health units or facilities at which individuals committed as sexually violent persons (SVPs) are placed. Authorize DHFS to expend funds budgeted in the latter appropriation to support the operations of the WRC, other than for security operations at the facility.

The WRC provides mental health services to Department of Corrections inmates and to individuals civilly committed as SVPs.

[Act 20 Sections: 336 and 338]

**13. CONDITIONAL RELEASE -- EXTEND TIME TO SUBMIT A PETITION TO REVOKE CONDITIONAL RELEASE**

**Governor/Legislature:** Extend, from 48 hours to 72 hours, the period within which DHFS must submit to the committing court, and the regional office of the State Public Defender where the committing court is located, a petition to revoke an order granting a person's conditional release, after DHFS detains the person for allegedly violating a condition or rule of his or her conditional release or because the safety of the person or others requires that conditional release be revoked. Further, exclude Saturday, Sundays, and legal holidays from the 72-hour period. Specify that this change would first apply to persons who are detained on the bill's general

effective date.

Under current law, a person found not guilty of a crime by reason of mental disease or defect may petition the court for an order placing them in the community on conditional release. An order for conditional release places the person in the custody and control of DHFS. The statutes allow DHFS to detain the person and petition to have the order granting their conditional release revoked if DHFS alleges the person violated a condition or rule of their conditional release or if the safety of the person or others requires that the conditional release be revoked. Under current law, DHFS must submit that petition to the committing court and the state public defender's office within 48 hours after detaining the person. This provision would extend that period to 72 hours, and specify that the 72-hour period excludes Saturdays, Sundays, and legal holidays.

[Act 20 Sections: 3875 and 9309(1)]

#### **14. REQUEST FOR PROPOSAL – PHARMACY SERVICES**

**Assembly:** Require DHFS to issue a request for proposals to provide pharmacy management services for the Winnebago Mental Health Institute and for the Wisconsin Resource Center. Specify that DHFS may prepare an offer to continue to provide pharmacy management services at these facilities, but is not required to do so. Direct DHFS to select the offer that would meet all of the requirements included in the request at the lowest cost to the state. Direct DHFS to offer a one-year contract to the organization that submitted the lowest-cost offer for a period of one year, with an option to renew the contract for three additional one-year periods.

**Conference Committee/Legislature.** Delete provision. Instead, require DHFS to issue a request for proposals to provide pharmacy management services for all institutions operated by the Department.

[Act 20 Section: 1810r]