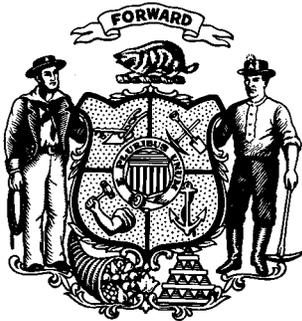


Comparative Summary of Budget Recommendations

2009 Act 28



Legislative Fiscal Bureau
August, 2009

2009-11 Wisconsin State Budget

2009-11 WISCONSIN STATE BUDGET

Comparative Summary of Budget Provisions

Enacted as 2009 Act 28

Volume I

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INTRODUCTION

This document, prepared by Wisconsin's Legislative Fiscal Bureau, is a cumulative summary of executive and legislative action on the 2009-11 Wisconsin state biennial budget. The budget was enacted into law as 2009 Wisconsin Act 28 on June 29, 2009. This document describes each of the provisions of Act 28, 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 2009-11 Budget, Brief Chronology of the 2009-11 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 2009-11 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.

The fourth section of the document lists the various reports and studies which are required in 2009 Act 28.

The final section lists the 2009-11 biennial budget issue papers prepared by the Legislative Fiscal Bureau.

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HISTORY OF THE 2009-11 BIENNIAL BUDGET

This section provides a narrative history of the 2009-11 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 June 25, 2008, the Department of Administration (DOA) released the Governor's major budget policies. On July 7, 2008, the technical budget instructions were issued for each state agency to follow in preparing their 2009-11 biennial budget requests. Included in these policy directives were instructions that state agencies prepare their 2009-11 biennial budget requests based on 100 percent of their fiscal year 2008-09 adjusted base. In addition, agencies were to assume zero growth in overall state general purpose revenue (GPR) appropriations, except for K-12 school aids, required cost-to-continue needs for the state's institutions (in the Department of Corrections and the Department of Health Services), the Department of Children and Families' Division of Prevention and Permanence, the Department of Workforce Development's Division of Vocational Rehabilitation, the University of Wisconsin System instruction and research activities that are focused on economic growth, and housekeeping adjustments like standard budget adjustments, fuel and utilities, and debt service. This directive also applied to segregated (SEG) funded administrative operations appropriations in all agencies that are supported by the transportation fund, the conversation fund, the environmental fund, and the lottery fund. Funding requests for other types of appropriations and funding sources in both years were to be limited to revenue availability and prioritized. Except for standard budget adjustments, routine budget items were to be handled in agencies' base budgets regardless of fund source. Consistent with the overall targets set forth, agencies were to limit requests to spending items associated with significant policy and operational changes.

Agencies with state operations, administrative appropriations, including the administrative activities of the University of Wisconsin, we directed to prepare plans to absorb a ten percent permanent base cut of all non-FED sum certain state operations administrative appropriations, excluding debt service and fuel and utilities appropriations. Base budget reduction plans were to be submitted by November 17, 2008.

Beginning in the 2003-05 biennium, one-third of all state agencies are required by statute to complete a base budget review. On August 21, 2008, the Department of Administration released the list of agencies to complete a base budget review as part of the 2009-11 biennial budget process. These agencies were:

- Agriculture, Trade and Consumer Protection
- Board for People with Developmental Disabilities
- Commerce
- Employee Trust Funds
- Financial Institutions
- Government Accountability Board
- Governor
- Judicial Council
- Justice
- Legislature
- Lieutenant Governor
- Military Affairs
- Natural Resources
- Office of State Employment Relations
- Public Instruction
- Regulation and Licensing
- Revenue
- State Fair Park Board
- Tourism
- Veterans Affairs
- Wisconsin Technical College System
- Workforce Development

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, 2008. The Division of Executive Budget and Finance (within DOA) began reviewing agency funding requests as they were submitted. On November 20, 2008, as required by statute, the Division distributed to Governor James E. Doyle, Jr., and the Legislature, a compilation of state agencies' 2009-11 biennial budget requests. This summary indicated that agencies were seeking total 2009-11 funding of \$63.01 billion (all funds), of which \$31.43 billion was requested from general purpose revenue. Also included in the summary was the statutorily required estimate of tax revenues for fiscal year 2008-09 and the 2009-11 biennium, as developed by the Department of Revenue. Total general fund tax collections for the 2009-11 biennium were projected at \$25.04 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 29, 2009, the Bureau estimated that the state's general fund would realize a total of \$342.4 million less in tax collections for the period from 2008-09 through 2010-11 than was reflected in the administration's November 20 report. The primary reason for the \$342.4 million reduction was due to lower corporate income tax collections of \$322.3 million over the three-year period.

On February 11, 2009, the Legislative Fiscal Bureau released a memorandum on the impact of the State Children's Health Insurance Program (SCHIP) legislation that had been recently signed by President Obama. In addition to providing additional revenues to support Wisconsin's BadgerCare Plus program, the legislation significantly raised federal excise taxes on cigarettes and tobacco products. The memorandum indicated that these tax increases were likely to lead to decreased purchases of these products and reduced revenues from state excise taxes on tobacco. The revised estimate due to decreased state tax revenues and tribal refunds was a loss to the general fund of \$56.3 million through June 30, 2011 (-\$6.4 million in 2008-09, -\$25.1 million in 2009-10, and -\$24.8 million in 2010-11).

The Joint Committee on Finance, at the request of Governor James E. Doyle, introduced Senate Bill 62 (SB 62), on February 17, 2009, to address expected revenue shortfalls for 2008-09, and the 2009-11 biennium. The Joint Committee on Finance held an executive session on February 17, 2009. The Committee adopted Senate Amendment 1 to SB 62 by a vote of 16-0. The Committee recommended passage, as amended, by a vote of 12-4.

The Senate took action on SB 62, as amended by Senate Amendment 1, on February 18, 2009. Senate Amendment 1 was adopted, the bill was read a third time and passed by a vote of 18 Ayes to 15

Noes. The bill was ordered immediately messaged to the Assembly. During the Assembly's deliberations, 50 amendments to SB 62 were offered. The Assembly failed to adopt any amendments. On February 18, 2009, the Assembly voted concurrence by a vote of 51 Ayes to 48 Noes. The legislation was approved by the Governor on February 19, 2009, and published on March 5, 2009, as 2009 Wisconsin Act 2.

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 Senate Amendment 1 to 2009 Senate Joint Resolution 1, adopted by the Senate on January 5, 2009, 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 10, 2009. On February 5, 2009, the Governor requested a second extension, pursuant to s. 16.45, that he be allowed to deliver his budget message and executive budget bill (or bills) on February 17, 2009. Under Senate Joint Resolution 8, adopted by the Senate on February 10, 2009, and concurred in by the Assembly on the same day, the deadline was extended to February 17, 2009. Governor Doyle officially delivered his 2009-11 biennial budget message and recommendations to a joint convention of the Legislature on February 17, 2009.

On February 17, 2009, the Joint Committee on Finance, at the request of the Governor, introduced the biennial budget bill in the Assembly. The bill, formally introduced as Assembly Bill 75 (AB 75) 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 7. These recommendations were taken up by the Joint Committee on Finance as modifications to the budget bill.

On February 17, reports were requested from the Joint Survey Committee on Retirement Systems and the Joint Survey Committee on Tax Exemptions on the provisions of AB 75. On June 3, 2009, the Joint Survey Committee on Tax Exemptions and the Joint Survey Committee on Retirement Systems submitted reports to the Legislature addressing provisions in AB 75. The Joint Survey Committee on Tax Exemption report addressing provisions in AB 75 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 capital gains exclusion; (c) domestic production activities; (d) sales and use tax on towing and hauling of motor vehicles; (e) oil company profits tax; (f) capital gain reinvestment in new business ventures; (g) sales and use tax exemption for youth sports; (h) sales and use tax exemptions for biotechnology and manufacturing research; (i) property tax exemptions for research machinery and equipment; (j) personal property tax exemption for research property; (k) sales and use tax exemption for Native American purchasers; (l) modifications to premier resort area tax; (m) regional transit authorities; (n) Wisconsin Quality Home Care Authority; and (o) sales tax definition of manufacturing. 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 profits tax. The report indicated that these provisions of the bill were good public policy.

The report submitted by the Joint Survey Committee on Retirement Systems addressed the following provisions included in Assembly Bill 75: (a) retirement eligibility for educational support personnel; (b) early retirement creditable service for certain part-time employees; and (c) domestic partner retirement benefits. The Joint Survey Committee on Retirement Systems indicated that these

provision were good public policy.

The Joint Committee on Finance held agency informational briefings on the biennial budget bill on March 17, 18, and 19. 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 Natural Resources, Supreme Court, University of Wisconsin System, Department of Justice, Government Accountability Board, Department of Health Services, Department of Children and Families, Department of Workforce Development, Department of Revenue, Department of Commerce, Department of Transportation, Department of Agriculture, Trade and Consumer Protection, Department of Corrections, Department of Public Instruction, Wisconsin Technical College System, and the Higher Educational Aids Board.

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 Sparta on March 23, West Allis on March 25, Eau Claire on March 27, Racine on March 30, Appleton on April 1, and Cambridge on April 3. The Chairs of the Committee also conducted a listening session on the budget in Ashland on March 28. In addition, the Committee held an informational briefing on April 29 by Department of Administration staff on the 2009-11 building program.

On April 7, 2009, Senator Mark Miller (D-Madison), the Senate Chair of the Joint Committee on Finance, and Representative Mark Pocan (D-Madison), the Assembly Chair of the Joint Committee on Finance, issued a memorandum identifying a total of 45 non-fiscal policy items in AB 75 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 11 executive sessions on the biennial budget bill. The first executive session was held on April 16, and the last was held on May 28. At the Committee's final executive session (May 28), the Committee adopted a substitute amendment (ASA 1 to AB 75) incorporating all of its previous actions modifying the biennial budget. The vote to recommend AB 75 for passage, as amended, received 12 Aye and 4 Nay votes. The Committee's version of the budget bill, ASA 1 to AB 75, was formally reported to the Assembly on June 8, 2009.

On June 5, 2009, Senators Miller and Decker, and Representatives Pocan and Sheridan, introduced 2009 Senate Bill 232 (SB 232). SB 232 provisions increased the amount of federal American Recovery and Reinvestment Act (ARRA) moneys used for the June, 2009, general school aids payment by \$261,278,000. The amount of funding the Department of Public Instruction (DPI) was required to lapse from the GPR general school aids appropriation was increased by an equal amount. In order to utilize these ARRA funds in 2008-09, SB 232 needed to be signed into law prior to the payment of the June installment of 2008-09 school aids on June 15, 2009. On June 9, the Joint Committee on Finance unanimously passed SB 232. That same day, the Senate met in extraordinary session to consider the bill. By a vote of 18 Ayes to 15 Noes, SB 232 was passed and immediately messaged to the Assembly. The Assembly concurred with the Senate on June 11, 2009, by a vote of 76 Ayes to 22 Noes. The bill was enrolled and presented to the Governor on June 11, 2009. The Governor approved the bill on June 11, 2009, and had it deposited to the Office of the Secretary of State as 2009 Wisconsin Act 23. The act was published on June 12, 2009.

The Assembly began consideration of the 2009-11 state budget on June 10, 2009. During the Assembly's deliberations, 153 amendments to ASA 1 were offered (131 amendments to ASA 1 and 22 amendments to AA 122 to ASA 1). Two Assembly amendments were adopted – AA 15 to Assembly

Amendment 122 and AA 122, as amended, to ASA 1. On June 11, 2009, the Assembly substitute amendment (ASA 1), as amended, was adopted and the bill, as amended, was passed on a vote of 50-48. The bill was ordered immediately messaged to the Senate.

The Senate began consideration of the 2009-11 state budget on June 15, 2009, by introducing Senate substitute amendment 1 (the version of the budget bill that was adopted by the Joint Committee on Finance). Senate deliberations of their substitute amendment began on June 17, 2009. A total of 32 amendments to the Senate substitute amendment (SSA 1) were offered. Two Senate amendments were adopted -- Senate Amendment 1 to SSA 1 and Senate Amendment 17 to Senate Substitute Amendment 1 were adopted. The Senate substitute amendment (SSA 1), as amended, was adopted and the bill, as amended, passed on a vote of 17-16.

Both during and after the Assembly and Senate 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, Assembly, and Senate.

On June 24, 2009, pursuant to Joint Rule 3, the Senate requested a Committee of Conference and appointed Senators Decker (D-Schofield), Miller (D-Madison), and S. Fitzgerald (R-Juneau) as conferees. The Assembly agreed to the Committee of Conference and appointed Representatives Sheridan (D-Janesville), Hubler (D-Rice Lake), and J. Fitzgerald (R-Horicon) as conferees. Senator Decker and Representative Sheridan served as Co-chairs of the Conference Committee.

The Conference Committee met on June 24 and 25. The Conference Committee approved, by a vote of 4-2, Conference Amendment 1 to Senate Substitute Amendment 1 on June 25, 2009. That same day the Senate adopted the Conference Amendment, by a vote of 17-15. On June 26, 2009, the Assembly concurred with the Senate on a 51-46 vote.

The bill was enrolled and presented to the Governor on June 29, 2009. He approved the bill, in part, on June 29 and had it deposited to the Office of the Secretary of State as 2009 Wisconsin Act 28. The Governor indicated in his message to the Legislature that he had exercised his authority to make 81 partial vetoes to the bill, as passed by the Legislature. Act 28 was published on June 29, and except as otherwise specifically provided, became effective the following day.

On June 30, 2009, the Legislative Fiscal Bureau sent a memorandum to the Legislature regarding a gubernatorial veto identified as D-4 (page 34) in the Governor's veto message. The subject of the partial veto was "ICF-MR Preservation Study." The Governor's veto, by striking words from each of three sentences, created a new sentence. It was determined that this veto was not within the Governor's veto authority pursuant to Article V, Section 10, of the Wisconsin Constitution. Art. V, Sec. 10(1)(c) states: "In approving an appropriation bill in part, the Governor may not create a new word by rejecting individual letters in the words of an enrolled bill, and may not create a new sentence by combining parts of 2 or more sentences of the enrolled bill." Following the veto, the Joint Committee on Legislative Organization directed the Legislative Reference Bureau to publish a supplement to Act 28 which displays the provision as shown in the enrolled bill, rather than as vetoed.

BRIEF CHRONOLOGY OF THE 2009-11 BUDGET

GOVERNOR/ADMINISTRATION

- June 25, 2008 Department of Administration issued major budget policies.
- July 7 Department of Administration issued technical budget instructions.
- August 21 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 17, 2009 Governor Doyle delivered budget message and recommendations to the Legislature.
- April 7 Recommendations of the State Building Commission for the capital budget and state building program submitted to the Joint Committee on Finance.

JOINT COMMITTEE ON FINANCE

- January 29 Legislative Fiscal Bureau releases general fund expenditure and revenue projections.
- February 11 Legislative Fiscal Bureau releases revision to January 29, 2009, projections due to decreases in estimated tax collections because of an increase in the federal excise tax on cigarette and tobacco products.
- February 17 Introduced the executive budget bill as 2009 Assembly Bill 75.
- March 17, 18, 19 Budget bill briefings by agency officials.
- March 23-April 3 Public hearings.
- April 7 Received recommendations of the State Building Commission for the capital budget and authorized state building program.
- April 7 Nonfiscal items removed from budget bill.
- April 16-May 28 Executive sessions.
- May 28 Adopted Assembly Substitute Amendment 1 (ASA 1) to AB 75 and considered the bill for passage on a 12-4 vote.
- June 8 ASA 1 to AB 75, as recommended by the Joint Committee on Finance, reported to the Assembly.

LEGISLATURE

- June 11 Assembly adopted Assembly Substitute Amendment 1 to AB 75 and passed the bill, as amended, on a vote of 50-48.
- June 15 Senate introduced Senate Substitute Amendment to Assembly Bill 75 (Joint Committee on Finance version).

- June 17 Senate adopted Senate Substitute Amendment 1 to AB 75 and passed the bill, as amended, on a vote of 17-16.
- June 24 Conference Committee deliberations began.
- June 25 Conference Committee reported Conference Amendment 1 to SSA 1 on a vote of 4-2.
- June 25 Senate passed 2009 Assembly Bill 75, as amended by Conference Amendment 1 to SSA 1, by a vote of 17-15.
- June 26 Assembly passed 2009 Assembly Bill 75, as amended by Conference Amendment 1 to SSA 1, by a vote of 51-46.

ENACTMENT

- June 29 Enrolled AB 75 presented to Governor
- June 29 Governor approved bill, with partial vetoes, as 2009 Wisconsin Act 28.
- June 29 Act 28 published.
- June 30 Act 28 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

2009 Wisconsin Act 2	The budget adjustment act.
2007 Wisconsin Act 20	The 2007-09 budget act.
AB 75	2009 Assembly Bill 75, the Governor's 2009-11 budget recommendations.
ASA 1 to AB 75 SSA 1 to AB 75	Assembly Substitute Amendment 1 and Senate Substitute Amendment 1 to Assembly Bill 75, the 2009-11 budget recommendations of the Joint Committee on Finance.
2009 Wisconsin Act 28	The 2009-11 budget act.
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.
2008-09 Base	The 2008-09 authorized funding level for an agency or program. It is this base that serves as the beginning point for calculating budget changes for 2009-11.
2008-09 Base Year Doubled	The 2008-09 base multiplied by two. This produces the biennial base level against which 2009-11 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.

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 2008-09 base represents authorized appropriation and position levels for 2008-09. 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 2009 Wisconsin Act 28 (includes the impact of any gubernatorial vetoes).
- 5 These columns indicate the change of the budget level contained in 2009 Wisconsin Act 28 to the 2008-09 base year doubled. For positions, the increase or decrease is based on the 2010-11 authorized level compared to the 2008-09 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 [480] pertains to turnover reductions for the Office of the Commissioner of Insurance. A complete listing of all Fiscal Bureau issue papers begins on page 1183 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, Assembly, Senate, and Conference Committee.
- 9 Narrative description of partial vetoes by the Governor. At the beginning of the veto entry in the "[]" is the number (in this example D-16) of the veto from the Governor's veto message (June 29, 2009).
- 10 Bill sections relating to the budget change item. "Act 28 Sections" lists the sections which remain in the act. "Act 28 Vetoed Sections" lists those sections which were partially or entirely vetoed.

INSURANCE

1

Budget Summary							
2	3	4	4	4	4	5	
Fund	2008-09 Base Year Doubled	2009-11 Governor	2009-11 Jt. Finance	2009-11 Legislature	2009-11 Act 28	Act 28 Change Over Base Year Doubled Amount	Percent
PR	\$32,310,000	\$35,915,800	\$32,750,900	\$32,750,900	\$32,750,900	\$440,900	1.4%
SEG	<u>176,097,600</u>	<u>174,645,800</u>	<u>174,551,400</u>	<u>174,551,400</u>	<u>174,551,400</u>	<u>- 1,546,200</u>	- 0.9
TOTAL	\$208,407,600	\$210,561,600	\$207,302,300	\$207,302,300	\$207,302,300	- \$1,105,300	- 0.5%

FTE Position Summary						
2	3	4	4	4	4	5
Fund	2008-09 Base	2010-11 Governor	2010-11 Jt. Finance	2010-11 Legislature	2010-11 Act 28	Act 28 Change Over 2008-09 Base
PR	120.25	123.25	131.25	131.25	131.25	11.00
SEG	<u>12.75</u>	<u>12.75</u>	<u>12.75</u>	<u>12.75</u>	<u>12.75</u>	<u>0.00</u>
TOTAL	133.00	136.00	144.00	144.00	144.00	11.00

Budget Change Items

6

1. STANDARD BUDGET ADJUSTMENTS [LFB Paper 480]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
PR	\$1,591,400	- \$419,800	\$1,171,600
SEG	<u>158,000</u>	<u>0</u>	<u>158,000</u>
Total	\$1,749,400	- \$419,800	\$1,329,600

7

Governor: Provide \$874,700 (\$795,700 PR and \$79,000 SEG) annually to adjust the Office of the Commissioner of Insurance (OCI) base budget for: (a) full funding of continuing salaries and fringe benefits (\$680,500 PR and \$73,600 SEG annually); and (b) full funding of lease increases (\$115,200 PR and \$5,400 SEG annually). The administration exempted OCI from the turnover reduction that would have otherwise been included in this item (-\$209,900 PR annually) in order to provide the agency with additional flexibility in meeting workload needs.

Joint Finance/Legislature: Reduce funding by \$209,900 PR annually to apply the standard budget adjustment for turnover reduction to the agency's PR-funded general program operations appropriation.

8

2. INSURER PRACTICES

Conference Committee/Legislature: Prohibit an insurer from placing an insured in a high-risk category on the basis that the applicant or insured has not previously had motor vehicle insurance. Prohibit an ...

9

Veto by Governor [D-16]: Delete the provision that prohibits an insurer from assessing an applicant's or insured's risk on the basis of the city, village, town, or county in which the insured motor vehicle is customarily kept.

[Act 28 Sections: 3172k, 9326(6f), and 9426(2)]

10 [Act 28 Vetoed Section: 3172k]

PROVISIONS OF AB 75 ENACTED BY 2009 ACT 2

Provisions of AB 75 Enacted by 2009 Act 2

The following items of AB 75 were enacted into law in 2009 Act 2 (budget adjustment legislation). A description of these provisions can be found in the Legislative Fiscal Bureau's February 23, 2009, document entitled, "Summary of Budget Adjustment Provisions -- 2009 Wisconsin Act 2." Thus, although these items were included in AB 75, they are not summarized in this document. However, the titles of these items are shown below.

2009 Act 2

Summary

Page #

20	2	Early Stage Business Investment Program
23	3	Dairy Cooperative Manufacturing Facility Investment Tax Credit
26	4	Meat Processing Facility Tax Credit
28	5	Business Development Tax Incentives Program/Cessation of Economic Activity Zone Programs
52	1	Federal Temporary Assistance For Needy Families Contingency and Maintenance of Effort Funding
53	2	Child Care Subsidies
54	3	Emergency Assistance

PROVISIONS OF ACT 28 AFFECTING 2008-09

Summary of 2008-09 Provisions

CHILDREN AND FAMILIES

1. MILWAUKEE CHILD WELFARE

GPR	\$3,000,000
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Governor/Legislature: Provide \$3,000,000 in 2008-09 to fund projected costs of aids expenses for the Bureau of Milwaukee Child Welfare (BMCW).

In a letter dated September 2, 2008, to the Co-chairs of the Joint Committee on Finance, the Secretary of the Department of Children and Families (DCF) identified a potential 2008-09 shortfall in BMCW in the amount of \$10.8 million for: (a) out-of-home care; (b) assessment and stabilization; and (c) wraparound services. DCF also identified excess funds from the state foster care and adoption assistance program and from Milwaukee child welfare collections that would partially offset the deficit. As a result, a net \$4.2 million deficit was identified in BMCW for 2008-09. This provision would help address that deficit.

[Act 28 Sections: 9208(1) and 9408(13)]

2. AFDC OVERPAYMENT LIABILITY

FED	\$2,500,500
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Governor/Legislature: Provide \$2,500,500 in 2008-09 to repay the federal government for previously failing to pay the federal share of aid to families with dependent children (AFDC) overpayment recoveries. Funding would be provided from the estimated unallocated temporary assistance for needy families (TANF) balance of \$3.3 million at the end of 2008-09.

Create a statutory allocation of TANF funds for AFDC overpayments liability and specify that \$2,500,500 be allocated in 2008-09 to repay the federal government. This statutory allocation would take effect on the day after publication of the budget bill or retroactively to June 30, 2009, whichever is earlier. In addition, repeal this statutory allocation on July 1, 2009. The bill would also provide a similar provision creating a statutory allocation of TANF funds for AFDC overpayments liability for the 2009-11 biennium, which is shown in an entry under the Department of Children and Families for the 2009-11 biennium.

When the federal TANF program replaced the former AFDC program in 1996, there was some confusion as to what states should do with the AFDC overpayment recoveries collected from AFDC recipients who had received more benefits than they were entitled to. The Administration for Children and Families (ACF), in the U.S. Department of Health and Human Services, issued conflicting guidance. One of the instructions from ACF suggested that states could retain the federal share of the AFDC overpayment recoveries and use the funds in their

TANF programs. A subsequent program instruction rescinded that prior instruction and clearly indicated that states must pay the federal share of AFDC overpayment recoveries. ACF then sought repayment of the federal share of AFDC overpayment recoveries that the state failed to pay during that time period. Although the state appealed this decision, it was determined that the state owed \$10.7 million, with an additional \$4.0 million in interest that continues to accrue.

[Act 28 Sections: 1233, 1234, and 9408(12)]

3. KINSHIP CARE

FED	\$306,000
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Governor/Legislature: Provide \$306,000 in 2008-09 to reflect a reestimate of the amount of funding that would be required to fully fund kinship care benefits in 2008-09. Funding would be provided from the estimated unallocated TANF balance of \$3.3 million at the end of 2008-09. Funding for kinship care would total \$23,885,800 in 2008-09.

Counties pay, and in Milwaukee County DCF 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.

[Act 28 Sections: 1244 and 9408(4)]

CORRECTIONS

1. 2008-09 GPR APPROPRIATION CHANGE FOR DEPARTMENT OF CORRECTIONS
[LFB Paper 272]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$21,000,000	\$3,344,100	\$24,344,100

Governor: Provide \$21,000,000 in the Department of Corrections' general program operations appropriation, effective on the day after publication of the bill. According to the Department, 2008-09 appropriation deficiencies include: (a) -\$12.7 million in general program operations associated with salary costs and supplies and services; (b) -\$2.5 million in services for community corrections associated with salary costs; (c) -\$3.0 million in contract bed funding for supplies and services; and (d) -\$2.8 million for the serious juvenile offender (SJO) program associated with supplies and services. [Under the bill as drafted, total funding is provided in

the Department's general program operations appropriation, and would thus not be available for funding the identified community corrections, contract beds, and SJO costs.]

Joint Finance/Legislature: Increase the Governor's recommendation by \$3,344,100 and further specify that the funding (a total of \$24,344,100 GPR) be appropriated as follows: (a) general program operations, \$15,907,700; (b) community corrections, \$2,500,000; (c) contract bed funding, \$3,000,000; and (d) serious juvenile offender program, \$2,936,400.

[Act 28 Sections: 9211(2i) and 9411(2)]

HEALTH SERVICES

1. MA BENEFITS LAPSE TO GENERAL FUND

GPR-Lapse	\$306,000,000
FED	\$306,000,000

Governor/Legislature: Lapse \$306,000,000 from the GPR-funded MA benefits appropriation to the general fund in 2008-09, and specify that this section would take effect on the day after the bill's publication.

The administration anticipates that this funding will be available due to an increase in the state's federal medical assistance percentage (FMAP) enacted as part of the American Recovery and Reinvestment Act of 2009 (ARRA), which temporarily increased the federal share of MA-eligible costs and reduced, by a corresponding amount, the state's share of these costs.

[Act 28 Sections: 9222(1) and 9422(8)]

2. UW HOSPITAL AND CLINICS AUTHORITY PAYMENT [LFB Paper 418]

GPR-REV	\$49,000,000
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Governor: Require the University of Wisconsin Hospital and Clinics Authority, no later than June 30, 2009, to pay to the state, for deposit in the general fund, an amount equal to \$49,000,000. Specify that this provision would take effect on the day after the bill's publication.

Joint Finance/Legislature: Modify the bill to specify that the \$49 million transfer to the state general fund in 2008-09 would be made from the UW System's general operations receipts appropriation, rather than from the University of Wisconsin Hospitals and Clinics Authority.

[Act 28 Sections: 9254(1j) and 9454(2j)]

3. MA BENEFITS FUNDING FROM THE MA TRUST FUND AND RELATED ADJUSTMENTS [LFB Paper 415]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
FED	\$0	\$234,400	\$234,400
PR	0	234,400	234,400
SEG	<u>62,000,000</u>	<u>29,881,500</u>	<u>91,881,500</u>
Total	\$62,000,000	\$30,350,300	\$92,350,300

Governor: Provide \$62,000,000 from the MA trust fund to support MA benefits in 2008-09. The bill would increase the MA benefits appropriation from the MA trust fund by \$62,000,000 for the second fiscal year of the fiscal biennium in which the provision takes effect. This amount reflects the administration's estimates of the balance of unappropriated revenues available in the MA trust fund.

Joint Finance/Legislature: Increase funding available to support MA benefits in 2008-09 from the MA trust fund by \$29,881,500 to reflect the net impact of the following items: (a) increase funding by \$46,881,500 to reflect an additional transfer of SEG from the hospital assessment fund to the MA trust fund resulting from the state's temporarily increased federal medical assistance percentage under the American Recovery and Reinvestment Act of 2009; and (b) decrease funding by \$17,000,000 to reflect lower estimates of other revenues that will be deposited into the MA trust fund in 2008-09. In addition, increase funding for the DHS PR and FED appropriations relating to administrative costs for the hospital assessment by \$234,400 in 2008-09.

[Act 28 Sections: 9222(2)&(2u) and 9422(8)&(10)]

4. UW REQUIRED TRANSFER TO THE MA TRUST FUND [LFB Paper 415]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
SEG-REV	\$12,500,000	- \$12,500,000	\$0

Governor: Increase, from \$15,000,000 to \$27,500,000, the amount of funding the University of Wisconsin System is required to transfer to the MA trust fund from its general program operations appropriation in 2008-09. Provisions relating to transfers in 2009-10 and subsequent years are summarized under "Health Services -- MA -- Overview and Base Funding Adjustments."

Joint Finance/Legislature: Delete provision.

5. NURSING HOME CERTIFIED PUBLIC EXPENDITURE PROGRAM [LFB Paper 434]

GPR	\$10,193,500
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Joint Finance/Legislature: Increase MA benefits funding by \$10,193,500 in 2008-09.

As introduced, the bill contained a provision that would have permitted DHS to use this amount of unanticipated revenue DHS currently expects to collect under the nursing home certified public expenditure (CPE) program to support general MA benefits costs, rather than distribute these funds to county- and municipally-owned nursing homes, as required under current law. The Joint Committee on Finance deleted the Governor's provision. Consequently, DHS would be required to distribute these unanticipated CPE revenues to county- and municipally-owned nursing homes. This item would replace the CPE revenues that DHS had anticipated using to support general MA benefits costs in 2008-09 under the Governor's bill.

The Governor's provision is summarized under "Health Services -- Medical Assistance -- Long-Term Care."

[Act 28 Sections: 9222(4q) and 9422(11)]

6. INCREASED HOSPITAL ASSESSMENT

SEG-REV	\$60,500,000
GPR	-\$26,644,000
FED	74,385,700
PR	138,900
SEG	88,282,900
Total	\$136,163,500

Joint Finance/Legislature: Provide \$136,163,500 (-\$26,644,000 GPR, \$74,385,700 FED, \$138,900 PR, and \$88,282,900 SEG) in 2008-09 to reflect an increase in the current hospital assessment, consistent with the following: (a) increase the Department's authority to assess hospitals (and corresponding SEG revenues) by \$60,500,000 in 2008-09 for the purpose of increasing MA payments to hospitals and increasing the substitution of SEG revenues from the hospital assessment for base GPR funding budgeted for MA benefits in 2008-09; (b) increase the FED MA benefits appropriation by \$74,246,800 to reflect the increased federal MA matching funds generated by the increased payments to hospitals and HMOs under the increased hospital assessment and to increase payments to independent rural hospitals as described below; (c) increase funding in the MA trust fund by \$27,782,900 to reflect the transfer of SEG from the hospital assessment fund to the MA trust fund; (d) increase funding in both the DHS PR and FED appropriations for administrative costs associated with the hospital assessment by \$138,900; and (e) decrease the GPR MA benefits appropriation by \$26,644,000 to reflect the substitution of GPR by SEG for MA benefit expenditures as provided by the transfer of SEG funds from the hospital assessment fund to the MA trust fund, net of the administrative costs and additional payments to independent rural hospitals.

Increase the amount DHS pays from the GPR MA benefits appropriation, and, if the federal government authorizes federal financial participation under the federal MA program, from the FED MA benefits appropriation, to independent rural hospitals that are in counties that border another state and that are not critical access hospitals, as follows: (i) by \$500,000 if the percentage of the hospital's gross patient revenue attributable to the MA program is less

than 7 percent; and (ii) by \$500,000, if the percentage of the hospital's gross patient revenues attributable to the MA program is equal to or greater than 7 percent.

The following table summarizes the estimated impact of the increased hospital assessment in 2008-09, as described above:

Hospital Assessment Revenue	\$60,500,000
Use of Assessment Revenue	
Additional Payments to Hospitals/HMOs	\$32,717,100
Administrative Costs	138,900
Additional Payments to Independent Rural Hospitals	1,000,000
Net GPR Replacement	<u>26,644,000</u>
Total	\$60,500,000
Federal Matching Revenue	
Additional Payments to Hospitals/HMOs	\$72,044,800
Administrative Costs	138,900
Additional Payments to Independent Rural Hospitals	<u>2,202,000</u>
Total	\$74,385,700
Total Additional Payments to Hospitals/HMOs	\$107,963,900

Additional information on this item is summarized under "Health Services -- Medical Assistance -- Overview and Base Funding Adjustment."

[Act 28 Sections: 3416b, 9122(5i), 9222(4i), and 9422(13i)]

7. MA FUNDING SHIFT AND CARRYOVER BALANCE

GPR	\$15,000,000
FED	<u>33,030,700</u>
Total	\$48,030,700

Joint Finance/Legislature: Increase funding for MA benefits by \$48,030,700 (\$15,000,000 GPR and \$33,030,700 FED) in 2008-09. Provide that any unencumbered balance in the GPR-funded MA benefits appropriation at the end of the 2007-09 biennium would not revert to the general fund. Permit DHS to expend the unencumbered balance to support MA benefits costs in the 2009-11 biennium.

This item also reduces funding for MA benefits by \$50,761,400 (-\$15,000,000 GPR and -\$35,761,400 FED) in 2009-10. The 2009-10 fiscal effect of this item is summarized under "Health Services -- Medical Assistance -- Overview and Base Funding Adjustment."

[Act 28 Sections: 9222(1c)&(1d) and 9422(8)]

PUBLIC INSTRUCTION

1. GENERAL SCHOOL AIDS -- 2008-09 FISCAL YEAR

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR-Lapse	\$291,000,000	- \$291,000,000	\$0
FED	\$291,000,000	- \$291,000,000	\$0

Governor: Provide \$291,000,000 FED in 2008-09 for the June, 2009, equalization aid payments and require DPI to lapse \$291,000,000 GPR in 2008-09 from the general school aids appropriation to the general fund. Specify that the federal funding would be provided from a newly-created continuing appropriation for all federal monies received, as authorized by the Governor, from allocations from the state fiscal stabilization fund under the American Recovery and Reinvestment Act that are distributed to districts as equalization aid.

The bill also contains language to incorporate into the June, 2009, equalization aid payments any federal funding from the state fiscal stabilization fund that would be required to be distributed as subgrants based on districts' relative shares of funding under the federal Title I program. Based on the final language included in the federal act and the general aid funding level in the bill, the administration indicates that these provisions would not need to be utilized. These provisions would require DPI to make the June, 2009, payment by subtracting from each district's June equalization aid entitlement the amount of federal moneys that the district will receive in 2008-09 from the state fiscal stabilization fund allocations that are distributed to districts as subgrants based on the districts' relative shares of funding under the federal Title I program. If the result is a positive number, require DPI to pay that amount to the district from the state general school aids appropriation. If the result is a negative number, require DPI to deduct from other state aid payments made to the district in 2008-09 an amount equal to either that difference or the amount of other state aids, whichever is less, and add the amount of the deduction to the total amount to be distributed as equalization aid.

Specify that these provisions would take effect on the day after publication of the act.

Under current law, equalization aid is distributed to districts according to the following payment schedule: 15% on the third Monday in September; 25% on the first Monday in December; 25% on the fourth Monday in March; and 35% on the third Monday in June. The state pays \$75 million of equalization aid on a delayed basis on the fourth Monday in July of the following school year. DPI estimates that \$1,585,000,000 in equalization aid entitlements will be paid in June, 2009.

Joint Finance/Legislature: Delete provision because it was enacted as part of 2009 Act 11.

2. PUBLIC LIBRARY SYSTEM AIDS -- 2008-09 FISCAL YEAR

GPR	- \$11,297,400
SEG	<u>11,297,400</u>
Total	\$0

Governor/Legislature: Provide \$11,297,400 SEG in 2008-09 and delete \$11,297,400 GPR in 2008-09 for aids to public library systems.

Specify that the segregated funding would come from the universal service fund, which receives its revenues from assessments on annual gross operating revenues from intrastate telecommunications providers. Specify that these provisions would take effect on the day after publication of the act.

Under current law, public library system aid is distributed from two appropriations, one funded with GPR and the other funded with SEG. In 2008-09, appropriated funding equals \$11,297,400 GPR and \$5,486,100 SEG, for an all funds total of \$16,783,500.

[Act 28 Sections: 9239(1)&(2) and 9439(2)]

OVERVIEW

ALL FUNDS BUDGET AND POSITION SUMMARIES

TABLE 1**Summary of 2009-11 Appropriations and Authorizations**

<u>Fund Source</u>	<u>2009-10</u>	<u>2010-11</u>	<u>Total</u>	<u>% of Total</u>
General Purpose Revenue	\$13,470,870,900	\$14,200,780,300	\$27,671,651,200	42.1%
Appropriations	13,423,591,800	14,104,817,600	27,528,409,400	
Compensation Reserves	47,279,100	95,962,700	143,241,800	
Federal Revenue	9,380,918,100	8,809,515,000	18,190,433,100	27.7
Appropriations	9,366,816,600	8,781,199,900	18,148,016,500	
Compensation Reserves	14,101,500	28,315,100	42,416,600	
Program Revenue	4,296,691,900	4,403,424,200	8,700,116,100	13.2
Appropriations	4,250,781,200	4,310,399,600	8,561,180,800	
Compensation Reserves	45,910,700	93,024,600	138,935,300	
Segregated Revenue	3,844,369,800	3,785,542,100	7,629,911,900	11.6
Appropriations	3,835,529,400	3,767,834,500	7,603,363,900	
Compensation Reserves	<u>8,840,400</u>	<u>17,707,600</u>	<u>26,548,000</u>	
Subtotal	\$30,992,850,700	\$31,199,261,600	\$62,192,112,300	94.6%
Appropriations	30,876,719,000	30,964,251,600	61,840,970,600	
Compensation Reserves	116,131,700	235,010,000	351,141,700	
Bond Revenue			3,581,172,100	5.4%
General Obligation Bonding			2,900,528,900	
Revenue Bonding			<u>680,643,200</u>	
TOTAL			\$65,773,284,400	100.0%

TABLE 2**2009-11 Comparative Summary of Appropriations and Authorizations**

<u>Fund Source</u>	<u>Governor</u>	<u>Jt. Finance</u>	<u>Assembly</u>	<u>Senate</u>	<u>Legislature</u>	<u>Act 28</u>
General Purpose Revenue	\$28,075,458,000	\$27,493,715,500	\$27,667,595,200	\$28,055,775,600	\$27,679,677,600	\$27,671,651,200
Federal Revenue	19,028,474,800	18,475,267,200	18,219,007,000	18,218,388,800	18,191,793,100	18,190,433,100
Program Revenue	8,946,987,600	8,701,672,200	8,700,905,900	8,700,421,200	8,701,234,400	8,700,116,100
Segregated Revenue	<u>7,024,223,700</u>	<u>7,573,056,000</u>	<u>7,690,193,600</u>	<u>7,587,127,100</u>	<u>7,629,911,900</u>	<u>7,629,911,900</u>
Subtotal	\$63,075,144,100	\$62,243,710,900	\$62,277,701,700	\$62,561,712,700	\$62,202,617,000	\$62,192,112,300
Bonding						
General Obligation	\$1,993,065,700	\$2,629,598,600	\$2,601,528,900	\$2,639,598,600	\$2,900,528,900	\$2,900,528,900
Revenue	<u>720,243,200</u>	<u>680,643,200</u>	<u>680,643,200</u>	<u>680,643,200</u>	<u>680,643,200</u>	<u>680,643,200</u>
Subtotal	\$2,713,308,900*	\$3,310,241,800	\$3,282,172,100	\$3,320,241,800	\$3,581,172,100	\$3,581,172,100
TOTAL	\$65,788,453,000	\$65,553,952,700	\$65,559,873,800	\$65,881,954,500	\$65,783,789,100	\$65,773,284,400

*Includes Building Commission's recommendations.

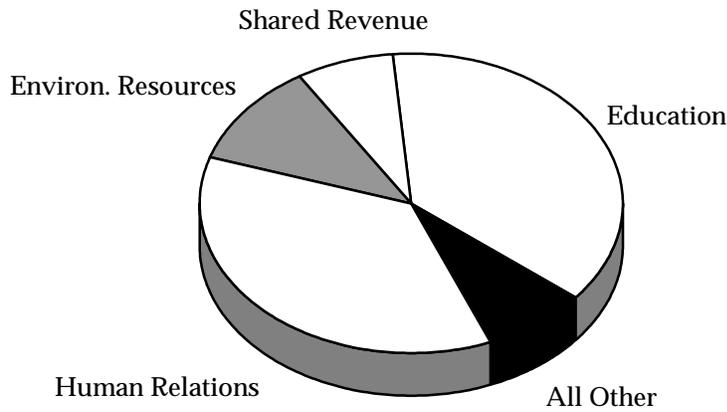
TABLE 3**Summary of Total All Funds Appropriations by Agency**

<u>Agency</u>	<u>2008-09 Adjusted Base Doubled</u>	<u>2009-11 Governor</u>	<u>2009-11 Jt. Finance</u>	<u>2009-11 Assembly</u>	<u>2009-11 Senate</u>	<u>2009-11 Legislature</u>	<u>2009-11 Act 28</u>	<u>2009-11 Act 28 Change Over Base</u>	
								<u>Amount</u>	<u>%</u>
Administration	\$1,905,285,200	\$1,742,988,400	\$2,048,841,100	\$2,048,891,100	\$2,047,267,100	\$2,048,891,100	\$2,048,622,800	\$143,337,600	7.5%
Agriculture, Trade and Consumer Protection	201,944,800	206,781,000	198,600,900	200,255,300	198,600,900	200,255,300	200,255,300	- 1,689,500	- 0.8
Arts Board	7,294,400	7,561,000	7,444,800	7,444,800	7,444,800	7,444,800	7,444,800	150,400	2.1
Board for People with Developmental Disabilities	2,591,200	2,846,600	2,809,000	2,809,000	2,809,000	2,809,000	2,809,000	217,800	8.4
Board of Commissioners of Public Lands	3,154,600	3,175,600	3,112,800	3,112,800	3,112,800	3,112,800	3,112,800	- 41,800	- 1.3
Board on Aging and Long-Term Care	4,973,600	5,562,500	5,161,400	5,161,400	5,161,400	5,161,400	5,161,400	187,800	3.8
Building Commission	95,211,600	81,887,200	84,897,000	84,897,000	84,897,000	84,897,000	84,897,000	- 10,314,600	- 10.8
Child Abuse and Neglect Prevention Board	7,407,400	7,374,000	7,569,600	7,569,600	7,569,600	7,569,600	7,569,600	162,200	2.2
Children and Families	2,261,718,000	2,190,156,800	2,242,110,800	2,242,367,800	2,242,060,800	2,241,910,800	2,241,910,800	- 19,807,200	- 0.9
Circuit Courts	183,224,400	190,713,100	190,713,100	190,713,100	190,713,100	190,713,100	190,713,100	7,488,700	4.1
Commerce	402,152,000	377,775,300	347,486,800	361,576,800	362,336,800	359,836,800	359,436,800	- 42,715,200	- 10.6
Compensation Reserves	---	351,141,700	351,141,700	351,141,700	351,141,700	351,141,700	351,141,700	351,141,700	N.A.
Corrections	2,492,217,200	2,608,064,200	2,566,037,500	2,566,037,500	2,566,037,500	2,566,299,800	2,566,299,800	74,082,600	3.0
Court of Appeals	19,686,000	20,324,000	20,324,000	20,324,000	20,324,000	20,324,000	20,324,000	638,000	3.2
District Attorneys	95,249,200	89,104,300	87,507,100	87,507,100	87,507,100	87,507,100	87,507,100	- 7,742,100	- 8.1
Educational Communications Board	36,344,400	37,680,500	37,561,500	37,561,500	37,561,500	37,561,500	37,561,500	1,217,100	3.3
Employee Trust Funds	54,186,400	55,923,700	54,572,200	54,577,200	54,572,200	54,572,200	54,572,200	385,800	0.7
Employment Relations Commission	6,518,000	6,636,000	6,055,000	6,055,000	6,055,000	6,055,000	6,055,000	- 463,000	- 7.1
Environmental Improvement Fund	110,800,600	118,759,200	264,394,200	264,394,200	264,394,200	264,394,200	264,394,200	153,593,600	138.6
Financial Institutions	35,156,600	35,806,000	32,649,400	32,649,400	32,649,400	32,649,400	32,649,400	- 2,507,200	- 7.1
Fox River Navigational System Authority	253,400	250,800	250,800	250,800	250,800	250,800	250,800	- 2,600	- 1.0
Government Accountability Board	10,901,600	10,716,600	10,262,400	10,262,400	10,262,400	10,262,400	10,262,400	- 639,200	- 5.9
Governor	8,244,600	8,054,000	8,466,400	8,466,400	8,466,400	8,466,400	8,466,400	221,800	2.7
Health Services	13,664,706,000	15,627,787,900	15,981,404,300	15,988,372,100	15,991,493,400	15,947,457,500	15,943,353,900	2,278,647,900	16.7
Higher Educational Aids Board	259,599,200	310,813,400	290,677,300	290,677,300	290,677,300	290,677,300	290,677,300	31,078,100	12.0
Historical Society	46,090,400	44,311,800	43,944,800	43,944,800	43,944,800	43,944,800	43,944,800	- 2,145,600	- 4.7
Insurance	208,407,600	210,561,600	207,302,300	207,302,300	207,302,300	207,302,300	207,302,300	- 1,105,300	- 0.5
Investment Board	60,430,600	59,440,800	57,917,800	57,917,800	57,917,800	57,917,800	57,917,800	- 2,512,800	- 4.2
Judicial Commission	487,000	473,200	491,600	491,600	491,600	491,600	491,600	4,600	0.9
Judicial Council	225,800	246,800	255,200	255,200	255,200	255,200	255,200	29,400	13.0

Agency	2008-09 Adjusted Base Doubled	2009-11 Governor	2009-11 Jt. Finance	2009-11 Assembly	2009-11 Senate	2009-11 Legislature	2009-11 Act 28	2009-11 Act 28 Change Over Base	
								Amount	%
Justice	\$185,495,200	\$190,021,400	\$181,624,600	\$186,029,600	\$181,624,600	\$186,029,600	\$186,029,600	\$534,400	0.3 %
Legislature	146,365,200	149,016,100	147,730,500	147,730,500	147,735,500	147,735,500	147,735,500	1,370,300	0.9
Lieutenant Governor	834,400	772,200	870,400	870,400	870,400	870,400	781,600	- 52,800	- 6.3
Lower-WI State Riverway Board	380,200	417,600	405,400	405,400	405,400	405,400	405,400	25,200	6.6
Medical College of Wisconsin	14,734,200	15,288,700	15,219,800	15,219,800	15,219,800	15,219,800	15,219,800	485,600	3.3
Military Affairs	156,649,400	162,843,700	161,255,400	161,255,400	161,255,400	161,255,400	161,255,400	4,606,000	2.9
Miscellaneous Appropriations	362,769,600	390,842,700	390,808,200	390,808,200	650,903,800	394,146,600	394,146,600	31,377,000	8.6
Natural Resources	1,165,870,200	1,163,566,800	1,140,026,500	1,142,330,300	1,144,942,900	1,143,567,500	1,143,567,500	- 22,302,700	- 1.9
Office of State Employment Relations	12,996,600	13,007,000	11,988,400	11,988,400	11,988,400	11,988,400	11,988,400	- 1,008,200	- 7.8
Program Supplements	88,974,800	663,925,400	36,109,900	36,109,900	36,109,900	36,109,900	36,109,900	- 52,864,900	- 59.4
Public Defender	162,944,800	160,980,300	156,833,500	156,833,500	156,833,500	156,833,500	156,833,500	- 6,111,300	- 3.8
Public Instruction	12,729,443,400	13,305,010,700	12,955,884,100	12,957,073,500	12,972,141,500	12,970,720,900	12,969,176,900	239,733,500	1.9
Public Service Commission	56,129,600	238,874,600	48,747,200	49,347,200	48,747,200	49,347,200	48,747,200	- 7,382,400	- 13.2
Regulation and Licensing	26,167,400	31,694,200	26,643,400	26,643,400	26,643,400	26,643,400	26,643,400	476,000	1.8
Revenue	364,089,600	354,879,600	358,708,400	358,708,400	358,708,400	358,708,400	358,708,400	- 5,381,200	- 1.5
Secretary of State	1,552,400	1,564,400	1,451,400	1,451,400	1,451,400	1,451,400	1,451,400	- 101,000	- 6.5
Shared Revenue and Tax Relief	4,229,813,000	4,657,672,400	4,706,145,800	4,706,145,800	4,721,345,800	4,721,345,800	4,719,345,800	489,532,800	11.6
State Fair Park Board	41,085,800	38,874,700	37,143,600	37,143,600	37,143,600	37,143,600	37,143,600	- 3,942,200	- 9.6
State Treasurer	12,579,000	12,049,800	11,787,400	11,787,400	11,787,400	11,787,400	11,787,400	- 791,600	- 6.3
Supreme Court	60,123,200	62,529,400	62,540,600	62,540,600	62,540,600	62,540,600	62,540,600	2,417,400	4.0
Tourism	32,208,200	29,050,600	28,041,000	28,041,000	28,041,000	28,041,000	28,041,000	- 4,167,200	- 12.9
Transportation	5,478,479,800	5,761,709,800	5,492,565,700	5,492,814,100	5,490,158,000	5,426,755,700	5,426,755,700	- 51,724,100	- 0.9
UW Hospitals and Clinics Board	310,584,800	307,479,000	307,479,000	307,479,000	307,479,000	307,479,000	307,479,000	- 3,105,800	- 1.0
University of Wisconsin System	9,435,445,400	9,614,685,400	9,447,079,300	9,447,299,300	9,447,699,300	9,447,699,300	9,447,699,300	12,253,900	0.1
Veterans Affairs	293,290,400	288,981,000	284,512,000	284,512,000	284,512,000	284,512,000	284,512,000	- 8,778,400	- 3.0
Wisconsin Technical College System	369,380,600	366,017,700	369,699,900	369,699,900	369,699,900	369,699,900	369,699,900	319,300	0.1
Workforce Development	<u>635,945,400</u>	<u>680,470,900</u>	<u>702,446,700</u>	<u>704,446,700</u>	<u>702,446,700</u>	<u>704,446,700</u>	<u>702,946,700</u>	<u>67,001,300</u>	10.5
TOTAL	\$58,558,794,400	\$63,075,144,100	\$62,243,710,900	\$62,277,701,700	\$62,561,712,700	\$62,202,617,000	\$62,192,112,300	\$3,633,317,900	6.2%
Change to Base		\$4,516,349,700	\$3,684,916,500	\$3,718,907,300	\$4,002,918,300	\$3,643,822,600	\$3,633,317,900		
Change to Governor			- 831,433,200	- 797,442,400	- 513,431,400	- 872,527,100	- 883,031,800		
Change to Jt. Finance				33,990,800	318,001,800	- 41,093,900	- 51,598,600		
Change to Assembly					284,011,000	- 75,084,700	- 85,589,400		
Change to Senate						- 359,095,700	- 369,600,400		
Change to Legislature							- 10,504,700		

FIGURE 1

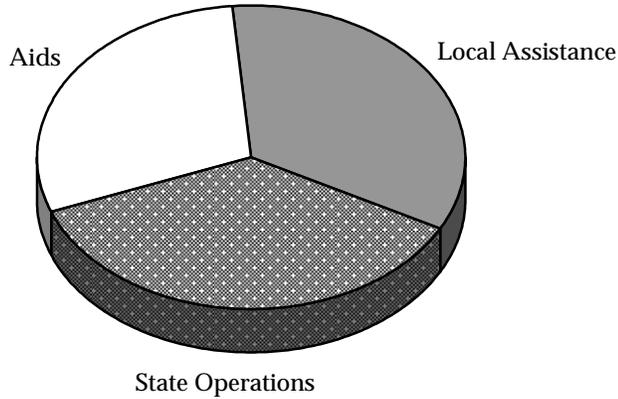
**2009-11 All Funds Appropriations
By Functional Area**



<u>Functional Area</u>	<u>Amount</u>	<u>Percent of Total</u>
Education	\$23,181,424,300	37.3%
Human Relations and Resources	22,502,889,300	36.2
Environmental Resources	6,863,414,600	11.0
Shared Revenue and Tax Relief	4,719,345,800	7.6
All Other		
General Executive	2,724,505,100	4.4
Commerce	912,178,000	1.5
General Appropriations	515,153,500	0.8
Compensation Reserves	351,141,700	0.6
Judicial	274,324,500	0.4
Legislative	<u>147,735,500</u>	<u>0.2</u>
TOTAL	\$62,192,112,300	100.0%

FIGURE 2

**2009-11 All Funds Appropriations
By Purpose**



<u>Purpose</u>	<u>Amount</u>	<u>Percent of Total</u>
Local Assistance	\$21,214,154,300	34.1%
State Operations	(22,682,775,300)	(36.5)
UW System	9,447,699,300	15.2
Other Programs	12,883,934,300	20.7
Compensation Reserves	351,141,700	0.6
Aids to Individuals and Organizations	<u>18,295,182,700</u>	<u>29.4</u>
TOTAL	\$62,192,112,300	100.0%

	2008-09 <u>Base</u>	2010-11 <u>Governor</u>	2010-11 <u>Jt. Finance</u>	2010-11 <u>Assembly</u>	2010-11 <u>Senate</u>	2010-11 <u>Legislature</u>	2010-11 <u>Act 28</u>	Act 28 Change to Base
Military Affairs	432.11	417.36	417.36	417.36	417.36	417.36	417.36	- 14.75
Natural Resources	2,745.53	2,660.07	2,658.17	2,709.47	2,658.92	2,671.17	2,671.17	- 74.36
Office of State Employment Relations	55.50	55.50	55.50	55.50	55.50	55.50	55.50	0.00
Public Defender	535.45	535.45	584.75	584.75	584.75	584.75	535.45	0.00
Public Instruction	631.50	630.50	630.50	630.50	631.50	631.50	631.50	0.00
Public Service Commission	162.00	185.80	162.00	162.00	163.00	162.00	162.00	0.00
Regulation and Licensing	114.32	127.82	118.82	118.82	121.82	118.82	118.82	4.50
Revenue	1,119.83	1,084.43	1,114.43	1,114.43	1,116.43	1,114.43	1,114.43	- 5.40
Secretary of State	7.50	7.50	7.50	7.50	7.50	7.50	7.50	0.00
State Fair Park Board	29.40	29.40	29.40	29.40	29.40	29.40	29.40	0.00
State Treasurer	14.70	10.70	10.70	10.70	10.70	10.70	10.70	- 4.00
Supreme Court	222.75	220.75	220.75	220.75	220.75	220.75	220.75	- 2.00
Tourism	41.40	33.45	34.45	34.45	34.45	34.45	34.45	- 6.95
Transportation	3,448.78	3,414.48	3,478.58	3,478.58	3,456.48	3,455.48	3,455.48	6.70
UW Hospitals and Clinics Board	2,639.11	2,639.11	2,639.11	2,639.11	2,639.11	2,639.11	2,639.11	0.00
University of Wisconsin System	32,282.70	32,282.70	32,282.70	32,282.70	32,282.70	32,282.70	32,282.70	0.00
Veterans Affairs	1,107.90	1,113.10	1,113.10	1,113.10	1,113.10	1,113.10	1,113.10	5.20
Wisconsin Technical College System	82.30	82.30	82.30	82.30	82.30	82.30	82.30	0.00
Workforce Development	<u>1,665.64</u>	<u>1,627.59</u>	<u>1,632.59</u>	<u>1,632.59</u>	<u>1,632.59</u>	<u>1,632.59</u>	<u>1,632.59</u>	<u>- 33.05</u>
TOTAL	69,246.98	69,037.97	69,415.77	69,467.82	69,394.42	69,407.42	69,356.12	109.14

Full-Time Equivalent Positions Summary by Funding Source

	2008-09 <u>Base</u>	2010-11 <u>Governor</u>	2010-11 <u>Jt. Finance</u>	2010-11 <u>Assembly</u>	2010-11 <u>Senate</u>	2010-11 <u>Legislature</u>	2010-11 <u>Act 28</u>	Act 28 Change to Base
GPR	35,406.75	35,614.90	35,709.45	35,755.76	35,711.45	35,721.19	35,669.89	263.14
FED	9,771.09	9,712.53	9,734.64	9,739.63	9,734.64	9,735.90	9,735.90	- 35.19
PR	18,861.43	18,593.84	18,799.54	18,799.54	18,796.54	18,799.54	18,799.54	- 61.89
SEG	<u>5,207.71</u>	<u>5,116.70</u>	<u>5,172.14</u>	<u>5,172.89</u>	<u>5,151.79</u>	<u>5,150.79</u>	<u>5,150.79</u>	<u>- 56.92</u>
TOTAL	69,246.98	69,037.97	69,415.77	69,467.82	69,394.42	69,407.42	69,356.12	109.14

TABLE 5

Comparative Summary of Full-Time Equivalent Positions

All Funds Comparison

	2008-09 <u>Base</u>	2010-11 <u>Governor</u>	2010-11 <u>Jt. Finance</u>	2010-11 <u>Assembly</u>	2010-11 <u>Senate</u>	2010-11 <u>Legislature</u>	2010-11 <u>Act 28</u>
Authorized Positions	69,246.98	69,037.97	69,415.77	69,467.82	69,394.42	69,407.42	69,356.12
Change to Base		- 209.01	168.79	220.84	147.44	160.44	109.14
Change to Governor			377.80	429.85	356.45	369.45	318.15
Change to Jt. Finance				52.05	- 21.35	- 8.35	- 59.65
Change to Assembly					- 73.40	- 60.40	- 111.70
Change to Senate						13.00	- 38.30
Change to Legislature							- 51.30

General Fund Comparison

	2008-09 <u>Base</u>	2010-11 <u>Governor</u>	2010-11 <u>Jt. Finance</u>	2010-11 <u>Assembly</u>	2010-11 <u>Senate</u>	2010-11 <u>Legislature</u>	2010-11 <u>Act 28</u>
Authorized Positions	35,406.75	35,614.90	35,709.45	35,755.76	35,711.45	35,721.19	35,669.89
Change to Base		208.15	302.70	349.01	304.70	314.44	263.14
Change to Governor			94.55	140.86	96.55	106.29	54.99
Change to Jt. Finance				46.31	2.00	11.74	- 39.56
Change to Assembly					- 44.31	- 34.57	- 85.87
Change to Senate						9.74	- 41.56
Change to Legislature							- 51.30

OVERVIEW

GENERAL FUND BUDGET AND POSITION SUMMARIES

TABLE 6

2009-11 General Fund Condition Statement

	<u>2009-10</u>	<u>2010-11</u>
Revenues		
Opening Balance, July 1	\$70,420,400	\$368,881,200
Taxes	12,346,223,000	12,882,301,000
Departmental Revenues		
Tribal Gaming Revenues	19,476,600	22,580,300
Other	<u>811,810,300</u>	<u>790,411,400</u>
Total Available	\$13,247,930,300	\$14,064,173,900
 Appropriations and Reserves		
Gross Appropriations	\$13,423,591,800	\$14,104,817,600
Compensation Reserves	47,279,100	95,962,700
Less Lapses	<u>-591,821,800</u>	<u>-411,750,200</u>
Net Appropriations	\$12,879,049,100	\$13,789,030,100
 Balances		
Gross Balance	\$368,881,200	\$275,143,800
Less Required Statutory Balance	<u>-65,000,000</u>	<u>-65,000,000</u>
Net Balance, June 30	\$303,881,200	\$210,143,800

TABLE 7

Estimated 2009-11 General Fund Taxes

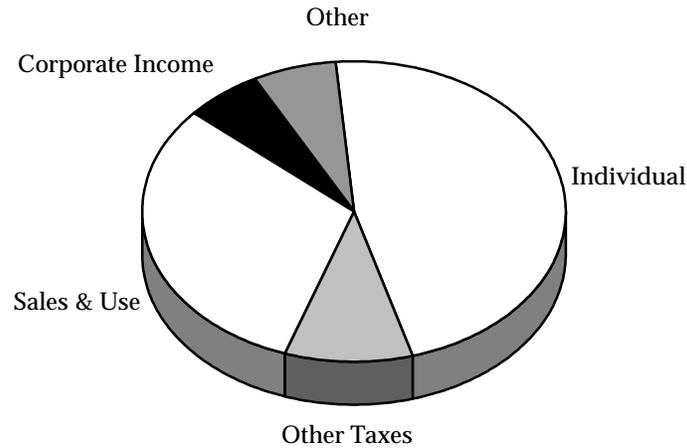
<u>Tax Source</u>	<u>2009-10</u>	<u>2010-11</u>	<u>2009-11</u>	<u>% of Total</u>
Individual Income	\$6,230,973,000	\$6,432,371,000	\$12,663,344,000	50.2%
Sales and Use	4,089,220,000	4,320,730,000	8,409,950,000	33.3
Corporate Income and Franchise	717,150,000	808,300,000	1,525,450,000	6.0
Public Utility	318,200,000	327,400,000	645,600,000	2.6
Excise				
Cigarette	687,600,000	684,700,000	1,372,300,000	5.4
Liquor and Wine	45,800,000	47,600,000	93,400,000	0.4
Tobacco Products	52,280,000	55,200,000	107,480,000	0.4
Beer	10,000,000	10,000,000	20,000,000	0.1
Insurance Company	148,000,000	148,000,000	296,000,000	1.2
Miscellaneous	<u>47,000,000</u>	<u>48,000,000</u>	<u>95,000,000</u>	<u>0.4</u>
TOTAL	\$12,346,223,000	\$12,882,301,000	\$25,228,524,000	100.0%

TABLE 8**Estimated 2009-11 Departmental Revenues**

	<u>2009-10</u>	<u>2010-11</u>	<u>2009-11</u>
Administration	\$16,881,100	\$17,436,100	\$34,317,200
Agriculture, Trade and Consumer Protection	88,200	88,200	176,400
Children and Families	10,000	10,000	20,000
Circuit Courts	52,621,000	53,147,200	105,768,200
Commerce	27,350,000	24,050,000	51,400,000
Corrections	3,035,500	3,090,500	6,126,000
Court of Appeals	216,000	216,000	432,000
Educational Communications Board	10,000	10,000	20,000
Financial Institutions	48,842,600	48,764,700	97,607,300
Health Services	30,847,000	31,312,600	62,159,600
Higher Educational Aids Board	20,000	10,000	30,000
Insurance	15,177,300	15,191,400	30,368,700
Justice	398,000	398,000	796,000
Miscellaneous Appropriations	5,320,000	5,160,000	10,480,000
Natural Resources	6,677,300	6,577,300	13,254,600
Pension Obligation Bonds	117,182,800	122,917,000	240,099,800
Public Instruction	2,168,900	2,130,900	4,299,800
Public Service Commission	1,948,700	1,948,700	3,897,400
Regulation and Licensing	1,895,800	1,510,900	3,406,700
Revenue	24,273,500	31,694,300	55,967,800
Secretary of State	8,300	0	8,300
Shared Revenue and Tax Relief	11,399,000	11,899,000	23,298,000
Supreme Court	61,000	61,000	122,000
Tobacco Settlement Revenues	100,761,600	94,412,800	195,174,400
Transfers/Lapses (2009 Act 2)	43,477,800	43,477,800	86,955,600
Transfers/Lapses (Act 28)	190,484,800	164,322,800	354,807,600
Transfers/Lapses (2007 Act 20)	100,000,000	100,000,000	200,000,000
UW System	9,731,500	9,708,700	19,440,200
Veterans Affairs	394,500	337,400	731,900
Wisconsin Housing and Economic Development Authority	225,000	225,000	450,000
Wisconsin Technical College System	62,600	62,600	125,200
Workforce Development	<u>240,500</u>	<u>240,500</u>	<u>481,000</u>
Subtotal	\$811,810,300	\$790,411,400	\$1,602,221,700
Tribal Gaming	<u>19,476,600</u>	<u>22,580,300</u>	<u>42,056,900</u>
TOTAL	\$831,286,900	\$812,991,700	\$1,644,278,600

FIGURE 3

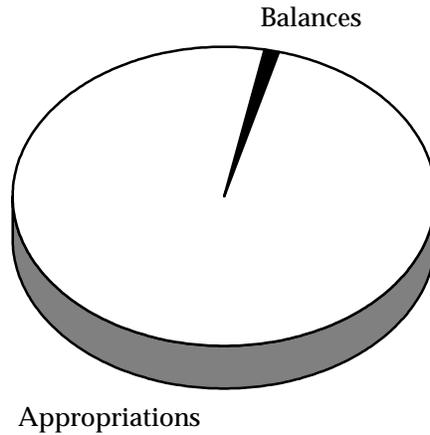
Estimated 2009-11 General Fund Revenues



<u>Tax Source</u>	<u>Amount</u>	<u>Percent of Total</u>
Individual Income	\$12,663,344,000	47.0%
Sales and Use	8,409,950,000	31.2
Corporate Income and Franchise	1,525,450,000	5.7
Public Utility	645,600,000	2.4
Excise		
Cigarette	1,372,300,000	5.1
Liquor and Wine	93,400,000	0.3
Tobacco Products	107,480,000	0.4
Beer	20,000,000	0.1
Insurance	296,000,000	1.1
Miscellaneous	<u>95,000,000</u>	<u>0.3</u>
Total--Taxes	\$25,228,524,000	93.6%
Other		
Opening Balance, July 1, 2009	\$70,420,400	0.3%
Departmental Revenues	<u>1,644,278,600</u>	<u>6.1</u>
Total--Other	\$1,714,699,000	6.4%
GRAND TOTAL	\$26,943,223,000	100.0%

FIGURE 4

Use of 2009-11 General Fund Revenues



<u>Use</u>	<u>Amount</u>	<u>Percent of Total</u>
Appropriations	(\$27,671,651,200)	(99.0%)
Gross Appropriations	27,528,409,400	98.5
Compensation Reserves	143,241,800	0.5
Balances	(\$275,143,800)	(1.0%)
Statutory Balance	65,000,000	0.2
Net Balance	<u>210,143,800</u>	<u>0.8</u>
GROSS TOTAL	\$27,946,795,000	100.0%
Less Lapses	<u>-1,003,572,000</u>	
NET TOTAL	\$26,943,223,000	

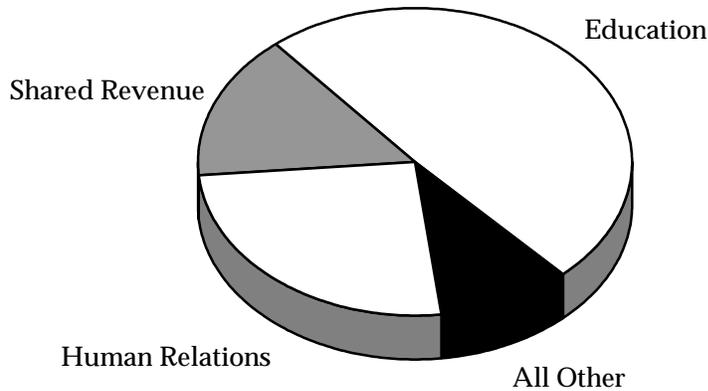
TABLE 9**Summary of General Fund Appropriations by Agency**

<u>Agency</u>	2008-09 Adjusted <u>Base Doubled</u>	2009-11 <u>Governor</u>	2009-11 <u>Jt. Finance</u>	2009-11 <u>Assembly</u>	2009-11 <u>Senate</u>	2009-11 <u>Legislature</u>	2009-11 <u>Act 28</u>	2009-11 Act 28	
								<u>Change Over Base</u> <u>Amount</u>	<u>%</u>
Administration	\$772,366,600	\$803,325,500	\$765,856,900	\$765,906,900	\$765,856,900	\$765,906,900	\$765,906,900	- \$6,459,700	- 0.8%
Agriculture, Trade and Consumer Protection	61,452,400	57,451,500	55,538,500	55,538,500	55,538,500	55,538,500	55,538,500	- 5,913,900	- 9.6
Arts Board	4,957,800	4,869,800	4,835,400	4,835,400	4,835,400	4,835,400	4,835,400	- 122,400	- 2.5
Board for People with Developmental Disabilities	30,000	41,200	39,600	39,600	39,600	39,600	39,600	9,600	32.0
Board on Aging and Long-Term Care	2,190,400	2,221,200	2,033,800	2,033,800	2,033,800	2,033,800	2,033,800	- 156,600	- 7.1
Building Commission	93,163,200	79,838,800	79,838,800	79,838,800	79,838,800	79,838,800	79,838,800	- 13,324,400	- 14.3
Child Abuse and Neglect Prevention Board	2,262,200	2,221,000	2,215,200	2,215,200	2,215,200	2,215,200	2,215,200	- 47,000	- 2.1
Children and Families	628,660,000	660,311,800	671,326,800	671,583,800	689,606,200	689,606,200	689,606,200	60,946,200	9.7
Circuit Courts	183,224,400	190,713,100	190,713,100	190,713,100	190,713,100	190,713,100	190,713,100	7,488,700	4.1
Commerce	50,389,800	50,488,900	49,241,100	49,241,100	49,241,100	46,741,100	46,591,100	- 3,798,700	- 7.5
Compensation Reserves	---	143,241,800	143,241,800	143,241,800	143,241,800	143,241,800	143,241,800	143,241,800	N.A.
Corrections	2,200,428,400	2,300,310,300	2,252,105,600	2,252,105,600	2,252,105,600	2,252,212,400	2,252,212,400	51,784,000	2.4
Court of Appeals	19,686,000	20,324,000	20,324,000	20,324,000	20,324,000	20,324,000	20,324,000	638,000	3.2
District Attorneys	88,453,000	84,400,000	82,751,000	82,751,000	64,471,600	64,471,600	64,471,600	- 23,981,400	- 27.1
Educational Communications Board	16,068,800	16,070,100	15,790,900	15,790,900	15,790,900	15,790,900	15,790,900	- 277,900	- 1.7
Employee Trust Funds	2,125,800	1,512,700	1,515,600	1,520,600	1,515,600	1,515,600	1,515,600	- 610,200	- 28.7
Employment Relations Commission	5,295,800	5,418,200	4,945,400	4,945,400	4,945,400	4,945,400	4,945,400	- 350,400	- 6.6
Environmental Improvement Fund	98,800,600	100,759,200	94,759,200	94,759,200	94,759,200	94,759,200	94,759,200	- 4,041,400	- 4.1
Government Accountability Board	5,254,400	5,126,200	4,820,400	4,820,400	4,820,400	4,820,400	4,820,400	- 434,000	- 8.3
Governor	8,244,600	8,054,000	8,466,400	8,466,400	8,466,400	8,466,400	8,466,400	221,800	- 7
Health Services	4,578,716,000	4,071,031,700	3,916,751,000	3,920,477,400	3,926,147,500	3,908,878,200	3,906,134,600	- 672,581,400	- 14.7
Higher Educational Aids Board	254,465,000	280,519,500	268,105,900	268,105,900	268,105,900	268,105,900	268,105,900	13,640,900	5.4
Historical Society	29,871,400	28,388,100	27,716,900	27,716,900	27,716,900	27,716,900	27,716,900	- 2,154,500	- 7.2
Judicial Commission	487,000	473,200	491,600	491,600	491,600	491,600	491,600	4,600	0.9
Judicial Council	225,800	246,800	255,200	255,200	255,200	255,200	255,200	29,400	13.0
Justice	84,032,400	83,895,900	77,028,700	81,344,100	77,028,700	81,344,100	81,344,100	- 2,688,300	- 3.2
Legislature	142,356,400	145,145,800	143,795,200	143,795,200	143,800,200	143,800,200	143,800,200	1,443,800	1.0
Lieutenant Governor	834,400	772,200	870,400	870,400	870,400	870,400	781,600	- 52,800	- 6.3
Medical College of Wisconsin	14,234,200	14,793,700	14,724,800	14,724,800	14,724,800	14,724,800	14,724,800	490,600	3.4
Military Affairs	42,242,600	44,580,200	44,124,000	44,124,000	44,124,000	44,124,000	44,124,000	1,881,400	4.5

<u>Agency</u>	<u>2008-09 Adjusted Base Doubled</u>	<u>2009-11 Governor</u>	<u>2009-11 Jt. Finance</u>	<u>2009-11 Assembly</u>	<u>2009-11 Senate</u>	<u>2009-11 Legislature</u>	<u>2009-11 Act 28</u>	<u>2009-11 Act 28 Change Over Base</u>	
								<u>Amount</u>	<u>%</u>
Miscellaneous Appropriations	\$305,467,600	\$333,352,600	\$333,358,800	\$333,358,800	\$593,454,400	\$336,697,200	\$336,697,200	\$31,229,600	10.2%
Natural Resources	308,638,800	262,179,700	261,729,000	265,054,300	261,729,000	262,775,000	262,775,000	- 45,863,800	- 14.9
Office of State Employment Relations	10,701,800	0	0	0	0	0	0	- 10,701,800	- 100.0
Program Supplements	35,142,800	13,925,400	29,639,000	29,639,000	29,639,000	29,639,000	29,639,000	- 5,503,800	- 15.7
Public Defender	160,106,400	158,109,700	153,988,500	153,988,500	153,988,500	153,988,500	153,988,500	- 6,117,900	- 3.8
Public Instruction	11,256,756,400	10,745,493,000	10,447,294,000	10,709,761,400	10,724,657,000	10,723,236,400	10,721,692,400	- 535,064,000	- 4.8
Revenue	186,921,000	181,795,600	188,363,600	188,363,600	188,363,600	188,363,600	188,363,600	1,442,600	0.8
Shared Revenue and Tax Relief	3,925,309,400	4,301,596,800	4,328,139,900	4,225,873,100	4,343,339,900	4,236,073,100	4,234,073,100	308,763,700	7.9
State Fair Park Board	4,598,400	5,000,400	5,000,400	5,000,400	5,000,400	5,000,400	5,000,400	402,000	8.7
Supreme Court	28,571,200	29,684,200	29,684,200	29,684,200	29,684,200	29,684,200	29,684,200	1,113,000	3.9
Tourism	7,290,800	6,068,800	5,879,400	5,879,400	5,879,400	5,879,400	5,879,400	- 1,411,400	- 19.4
Transportation	135,500,600	148,626,700	153,484,100	153,484,100	153,484,100	155,081,800	155,081,800	19,581,200	14.5
University of Wisconsin System	2,298,738,400	2,346,763,200	2,273,309,900	2,273,309,900	2,273,309,900	2,273,309,900	2,273,309,900	- 25,428,500	- 1.1
Veterans Affairs	4,736,200	4,772,200	4,698,800	4,698,800	4,698,800	4,698,800	4,698,800	- 37,400	- 0.8
Wisconsin Technical College System	286,480,600	282,619,200	287,181,400	287,181,400	287,181,400	287,181,400	287,181,400	700,800	0.2
Workforce Development	<u>52,964,200</u>	<u>48,924,100</u>	<u>47,741,300</u>	<u>49,741,300</u>	<u>47,741,300</u>	<u>49,741,300</u>	<u>48,241,300</u>	<u>- 4,722,900</u>	<u>- 8.9</u>
TOTAL	\$28,398,444,000	\$28,075,458,000	\$27,493,715,500	\$27,667,595,200	\$28,055,775,600	\$27,679,677,600	\$27,671,651,200	- \$726,792,800	- 2.6%
Change to Base		- \$322,986,000	- \$904,728,500	- \$730,848,800	- \$342,668,400	- \$718,766,400	- \$726,792,800		
Change to Governor			- 581,742,500	- 407,862,800	- 19,682,400	- 395,780,400	- 403,806,800		
Change to Jt. Finance				173,879,700	562,060,100	185,962,100	177,935,700		
Change to Assembly					388,180,400	12,082,400	4,056,000		
Change to Senate						- 376,098,000	- 384,124,400		
Change to Legislature							- 8,026,400		

FIGURE 5

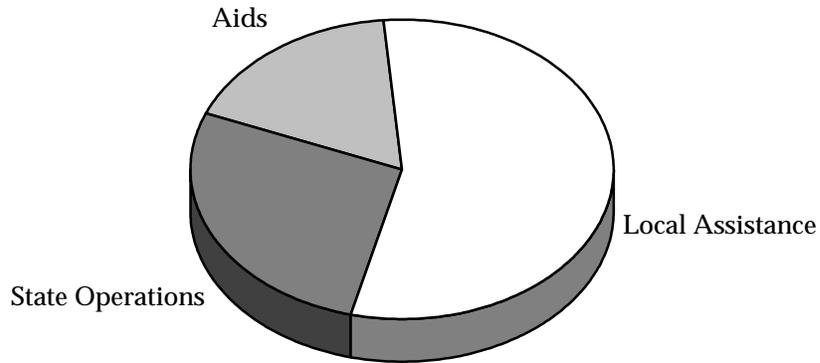
**2009-11 General Fund Appropriations
By Functional Area**



<u>Functional Area</u>	<u>Amount</u>	<u>Percent of Total</u>
Education	\$13,613,357,600	49.2%
Human Relations and Resources	7,100,067,000	25.6
Shared Revenue and Tax Relief	4,234,073,100	15.3
All Other		
General Executive	1,123,843,000	4.1
Environmental Resources	518,495,400	1.9
General Appropriations	446,175,000	1.6
Judicial	241,468,100	0.9
Legislative	143,800,200	0.5
Compensation Reserves	143,241,800	0.5
Commerce	<u>107,130,000</u>	<u>0.4</u>
TOTAL	\$27,671,651,200	100.0%

FIGURE 6

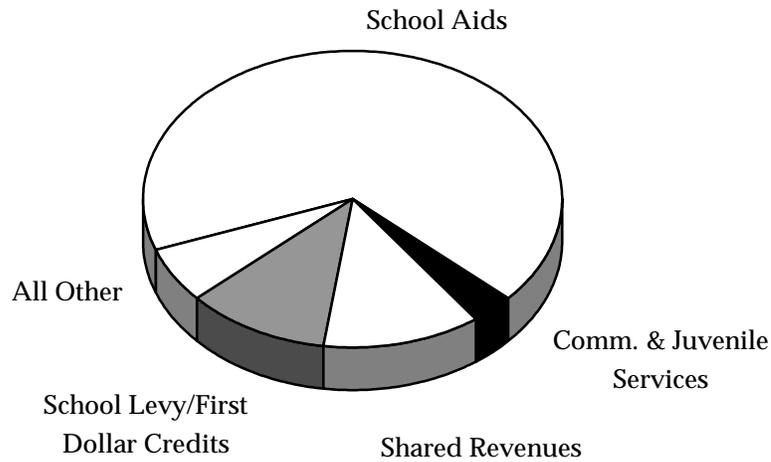
**2009-11 General Fund Appropriations
By Purpose**



<u>Purpose</u>	<u>Amount</u>	<u>Percent of Total</u>
Local Assistance	\$15,296,048,200	55.3%
State Operations	(7,528,288,000)	(27.2)
UW System	2,273,309,900	8.2
Other Programs	5,111,736,300	18.5
Compensation Reserves	143,241,800	0.5
Aids to Individuals and Organizations	<u>4,847,315,000</u>	<u>17.5</u>
TOTAL	\$27,671,651,200	100.0%

FIGURE 7

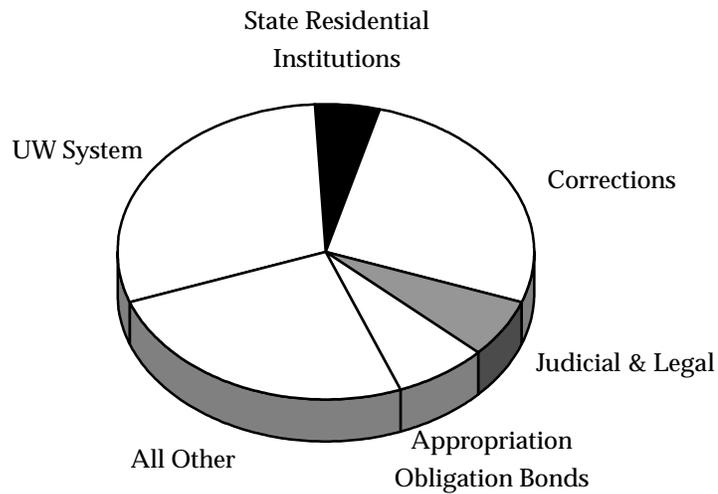
**2009-11 General Fund Appropriations
Local Assistance**



<u>Program</u>	<u>Amount</u>	<u>Percent of Total</u>
Elementary and Secondary School Aids	\$10,296,746,200	67.3%
Shared Revenues	1,857,718,900	12.1
School Levy/First Dollar Tax Credits	1,697,625,200	11.1
Community & Juvenile Correctional Services	503,577,700	3.3
Technical College System Aids	273,943,800	1.8
Environmental Aid	196,502,100	1.3
Long-Term Care Programs	175,619,400	1.2
Other	<u>294,314,900</u>	<u>1.9</u>
TOTAL	\$15,296,048,200	100.0%

FIGURE 8

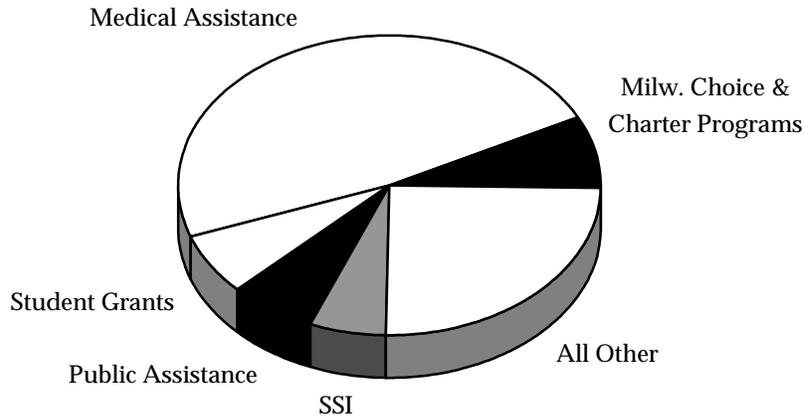
**2009-11 General Fund Appropriations
State Operations**



<u>Program</u>	<u>Amount</u>	<u>Percent of Total</u>
UW System	\$2,236,656,800	29.7%
Correctional Operations	1,988,035,800	26.4
Appropriation Obligation Bonds	728,715,000	9.7
Judicial and Legal Services	486,265,500	6.4
State Residential Institutions	378,485,700	5.0
Tax Administration	188,363,600	2.5
Natural Resources	169,937,500	2.3
DHS/Workforce Development	169,892,800	2.3
Legislature	143,800,200	1.9
Compensation Reserves	143,241,800	1.9
Other	<u>894,893,300</u>	<u>11.9</u>
TOTAL	\$7,528,288,000	100.0%

FIGURE 9

**2009-11 General Fund Appropriations
Aids to Individuals and Organizations**



<u>Program</u>	<u>Amount</u>	<u>Percent of Total</u>
Medical Assistance	\$2,331,348,900	48.1%
Milw. Parental Choice & Charter School Programs	368,597,000	7.6
Public Assistance	327,979,200	6.8
Student Grants and Aids	318,697,400	6.6
Supplemental Security Income	282,440,700	5.8
Homestead Tax Credit	253,000,000	5.2
Earned Income Tax Credit	239,761,600	4.9
Foster Care and Adoptions Services	100,711,100	2.1
Prescription Drugs Assistance for Elderly	61,552,800	1.3
Milwaukee Child Welfare	37,519,700	0.8
Other	<u>525,706,600</u>	<u>10.8</u>
TOTAL	\$4,847,315,000	100.0%

TABLE 10
Distribution of 2009-11 General Fund Appropriations

	2009-10			2010-11			Total		
	Amount	% of Category	% of Total	Amount	% of Category	% of Total	Amount	% of Category	% of Total
LOCAL ASSISTANCE									
Elementary and Secondary School Aids	\$5,025,190,300	66.9%	37.3%	\$5,271,555,900	67.7%	37.1%	\$10,296,746,200	67.3%	37.2%
Shared Revenues	975,379,900	13.0	7.2	882,339,000	11.3	6.2	1,857,718,900	12.1	6.7
School Levy/First Dollar Tax Credits	820,075,200	10.9	6.1	877,550,000	11.3	6.2	1,697,625,200	11.1	6.2
Community and Juvenile Correctional Services	228,306,300	3.0	1.7	275,271,400	3.6	1.9	503,577,700	3.3	1.8
Technical College System Aids	136,971,900	1.8	1.0	136,971,900	1.8	1.0	273,943,800	1.8	1.0
Environmental Aids	101,258,100	1.4	0.8	95,244,000	1.2	0.7	196,502,100	1.3	0.7
Long-Term Care Programs	87,809,700	1.2	0.7	87,809,700	1.1	0.6	175,619,400	1.2	0.6
Other	136,599,500	1.8	1.0	157,715,400	2.0	1.1	294,314,900	1.9	1.1
TOTAL--LOCAL ASSISTANCE	\$7,511,590,900	100.0%	55.8%	\$7,784,457,300	100.0%	54.8%	\$15,296,048,200	100.0%	55.3%
STATE OPERATIONS									
UW System	\$1,107,090,200	29.8%	8.2%	\$1,129,566,600	29.6%	8.0%	\$2,236,656,800	29.7%	8.1%
Correctional Operations	991,792,500	26.7	7.4	996,243,300	26.1	7.0	1,988,035,800	26.4	7.2
Appropriation Obligation Bonds	361,366,000	9.8	2.7	367,349,000	9.6	2.6	728,715,000	9.7	2.6
Judicial and Legal Services	243,357,700	6.6	1.8	242,907,800	6.4	1.7	486,265,500	6.4	1.8
State Residential Institutions	187,773,500	5.1	1.4	190,712,200	5.0	1.3	378,485,700	5.0	1.4
Tax Administration	94,160,200	2.5	0.7	94,203,400	2.5	0.7	188,363,600	2.5	0.7
Natural Resources	80,264,600	2.2	0.6	89,672,900	2.3	0.6	169,937,500	2.3	0.6
DHS/Workforce Development	87,397,900	2.3	0.6	82,494,900	2.2	0.6	169,892,800	2.3	0.6
Legislature	71,905,600	1.9	0.5	71,894,600	1.9	0.5	143,800,200	1.9	0.5
Compensation Reserves	47,279,100	1.3	0.4	95,962,700	2.5	0.7	143,241,800	1.9	0.5
Other	438,887,900	11.8	3.3	456,005,400	11.9	3.2	894,893,300	11.9	3.2
TOTAL--STATE OPERATIONS	\$3,711,275,200	100.0%	27.5%	\$3,817,012,800	100.0%	26.9%	\$7,528,288,000	100.0%	27.2%
AIDS TO INDIVIDUALS AND ORGANIZATIONS									
Medical Assistance	\$1,015,880,300	45.2%	7.6%	\$1,315,468,600	50.6%	9.3%	\$2,331,348,900	48.1%	8.4%
Milw. Parental Choice and Charter School Programs	180,411,000	8.0	1.3	188,186,000	7.2	1.3	368,597,000	7.6	1.4
Public Assistance	181,013,800	8.1	1.4	146,965,400	5.6	1.0	327,979,200	6.8	1.2
Student Grants and Aids	132,446,900	5.9	1.0	186,250,500	7.2	1.3	318,697,400	6.6	1.2
Supplemental Security Income	139,933,700	6.2	1.0	142,507,000	5.5	1.0	282,440,700	5.8	1.0
Homestead Tax Credit	126,600,000	5.6	0.9	126,400,000	4.9	0.9	253,000,000	5.2	0.9
Earned Income Tax Credit	120,635,800	5.4	0.9	119,125,800	4.6	0.8	239,761,600	4.9	0.9
Foster Care and Adoption Assistance	49,547,100	2.2	0.4	51,164,000	2.0	0.4	100,711,100	2.1	0.4
Prescription Drugs Assistance for Elderly	28,427,000	1.3	0.2	33,125,800	1.3	0.2	61,552,800	1.3	0.2
Milwaukee Child Welfare	18,711,300	0.8	0.1	18,808,400	0.7	0.1	37,519,700	0.8	0.1
Other	254,397,900	11.3	1.9	271,308,700	10.4	1.9	525,706,600	10.8	1.9
TOTAL--AIDS	\$2,248,004,800	100.0%	16.7%	\$2,599,310,200	100.0%	18.3%	\$4,847,315,000	100.0%	17.5%
GRAND TOTAL	\$13,470,870,900		100.0%	\$14,200,780,300		100.0%	\$27,671,651,200		100.0%

TABLE 11**Ten Largest General Fund Programs for 2009-11**

	<u>2009-10</u>			<u>2010-11</u>			<u>Total</u>		
	<u>Amount</u>	<u>% of Total</u>	<u>Cumulative % of Total</u>	<u>Amount</u>	<u>% of Total</u>	<u>Cumulative % of Total</u>	<u>Amount</u>	<u>% of Total</u>	<u>Cumulative % of Total</u>
Elementary and Secondary School Aids	\$5,025,190,300	37.3%	37.3%	\$5,271,555,900	37.1%	37.1%	\$10,296,746,200	37.2%	37.2%
Medical Assistance	1,015,880,300	7.6	44.8	1,315,468,600	9.3	46.4	2,331,348,900	8.4	45.6
UW System	1,107,090,200	8.2	53.0	1,129,566,600	8.0	54.4	2,236,656,800	8.1	53.7
Correctional Operations	991,792,500	7.4	60.4	996,243,300	7.0	61.4	1,988,035,800	7.2	60.9
Shared Revenues	975,379,900	7.2	67.6	882,339,000	6.2	67.6	1,857,718,900	6.7	67.6
School Levy/First Dollar Tax Credits	820,075,200	6.1	73.7	877,550,000	6.2	73.8	1,697,625,200	6.2	73.7
Appropriation Obligation Bonds	361,366,000	2.7	76.4	367,349,000	2.6	76.4	728,715,000	2.6	76.3
Community & Juvenile Correctional Services	228,306,300	1.7	78.1	275,271,400	1.9	78.3	503,577,700	1.8	78.1
Judicial and Legal Services	243,357,700	1.8	79.9	242,907,800	1.7	80.0	486,265,500	1.8	79.9
State Residential Institutions	<u>187,773,500</u>	<u>1.4</u>	81.3	<u>190,712,200</u>	<u>1.3</u>	81.3	<u>378,485,700</u>	<u>1.4</u>	81.3
Subtotal	\$10,956,211,900	81.4%		\$11,548,963,800	81.3%		\$22,505,175,700	81.4%	
All Other Programs	<u>2,514,659,000</u>	<u>18.6</u>	100.0	<u>2,651,816,500</u>	<u>18.7</u>	100.0	<u>5,166,475,500</u>	<u>18.6</u>	100.0
GRAND TOTAL	\$13,470,870,900	100.0%		\$14,200,780,300	100.0%		\$27,671,651,200	100.0%	

TABLE 12**Summary of General Fund Full-Time Equivalent Positions by Agency**

	2008-09 <u>Base</u>	2010-11 <u>Governor</u>	2010-11 <u>Jt. Finance</u>	2010-11 <u>Assembly</u>	2010-11 <u>Senate</u>	2010-11 <u>Legislature</u>	2010-11 <u>Act 28</u>	Act 28 Change to Base
Administration	91.86	89.46	91.46	91.46	91.46	91.46	91.46	- 0.40
Agriculture, Trade and Consumer Protection	222.40	205.50	204.50	204.50	204.50	204.50	204.50	- 17.90
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	15.53	15.53	15.53	15.53	15.53	15.53	15.53	0.00
Child Abuse and Neglect Prevention Board	1.00	1.00	1.00	1.00	1.00	1.00	1.00	0.00
Children and Families	172.60	212.85	212.00	212.00	212.00	212.00	212.00	39.40
Circuit Courts	521.00	527.00	527.00	527.00	527.00	527.00	527.00	6.00
Commerce	61.80	57.40	59.15	59.15	59.15	59.15	58.15	- 3.65
Corrections	9,494.22	9,689.22	9,670.57	9,670.57	9,670.57	9,670.57	9,670.57	176.35
Court of Appeals	75.50	75.50	75.50	75.50	75.50	75.50	75.50	0.00
District Attorneys	380.90	380.90	380.90	380.90	380.90	380.90	380.90	0.00
Educational Communications Board	37.44	37.44	37.44	37.44	37.44	37.44	37.44	0.00
Employment Relations Commission	19.00	21.00	21.00	21.00	21.00	21.00	21.00	2.00
Government Accountability Board	14.30	14.30	14.30	14.30	14.30	14.30	14.30	0.00
Governor	37.25	37.25	37.25	37.25	37.25	37.25	37.25	0.00
Health Services	2,109.39	2,210.38	2,233.38	2,233.38	2,233.38	2,233.38	2,233.38	123.99
Higher Educational Aids Board	10.50	10.50	10.50	10.50	10.50	10.50	10.50	0.00
Historical Society	106.15	106.15	106.15	106.15	106.15	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	1.00	1.00	1.00	1.00	1.00	1.00	1.00	0.00
Justice	358.08	360.08	363.08	363.08	363.08	363.08	363.08	5.00
Legislature	758.17	758.17	758.17	758.17	758.17	758.17	758.17	0.00
Lieutenant Governor	4.00	4.00	5.00	5.00	5.00	5.00	4.00	0.00
Military Affairs	88.82	88.82	88.82	88.82	88.82	88.82	88.82	0.00
Natural Resources	296.85	288.95	288.95	335.26	288.95	300.69	300.69	3.84
Office of State Employment Relations	50.00	0.00	0.00	0.00	0.00	0.00	0.00	- 50.00
Public Defender	530.45	530.45	579.75	579.75	579.75	579.75	530.45	0.00
Public Instruction	261.46	261.46	261.46	261.46	261.46	261.46	261.46	0.00
Revenue	896.38	863.73	892.73	892.73	894.73	892.73	892.73	- 3.65
Supreme Court	115.50	115.50	115.50	115.50	115.50	115.50	115.50	0.00
Tourism	38.40	30.45	30.45	30.45	30.45	30.45	30.45	- 7.95
University of Wisconsin System	18,454.93	18,454.93	18,454.93	18,454.93	18,454.93	18,454.93	18,454.93	0.00
Wisconsin Technical College System	30.25	30.25	30.25	30.25	30.25	30.25	30.25	0.00
Workforce Development	<u>145.62</u>	<u>129.73</u>	<u>135.73</u>	<u>135.73</u>	<u>135.73</u>	<u>135.73</u>	<u>135.73</u>	<u>- 9.89</u>
TOTAL	35,406.75	35,614.90	35,709.45	35,755.76	35,711.45	35,721.19	35,669.89	263.14

OVERVIEW

TRANSPORTATION FUND BUDGET

TABLE 13

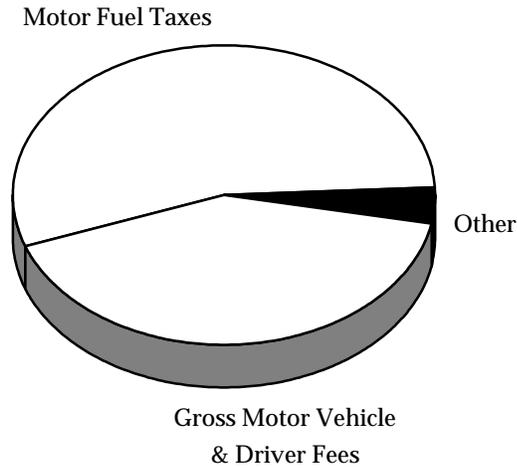
2009-11 Transportation Fund Condition Statement

	<u>2009-10</u>	<u>2010-11</u>
Unappropriated Balance, July 1	\$0	\$23,012,700
Revenues		
Motor Fuel Tax	\$958,251,900	\$960,235,900
Vehicle Registration Fees	652,079,000	657,312,400
Less Revenue Bond Debt Service	-178,274,300	-194,070,100
Driver's License Fees	44,756,100	45,031,100
Miscellaneous Motor Vehicle Fees	27,419,700	27,659,100
Aeronautical Fees and Taxes	9,846,900	10,208,800
Railroad Property Taxes	21,527,300	22,779,500
Investment Earnings	666,300	3,457,100
Miscellaneous Departmental Revenues	<u>30,001,800</u>	<u>37,958,400</u>
Total Annual Revenues	\$1,566,274,700	\$1,570,572,200
 Total Available	 \$1,566,274,700	 \$1,593,584,900
Appropriations and Reserves		
DOT Appropriations	\$1,490,821,000	\$1,533,706,600
Other Agency Appropriations*	27,271,500	27,521,000
Transfer to General Fund	32,914,800	32,914,800
Less Estimated Lapses	-12,902,600	-12,885,000
Compensation and Other Reserves	<u>5,157,300</u>	<u>9,089,200</u>
Net Appropriations and Reserves	\$1,543,262,000	\$1,590,346,600
 Unappropriated Balance, June 30	 \$23,012,700	 \$3,238,300

*Includes \$1,789,200 in 2009-10 and \$2,239,300 in 2010-11 that was placed in the Joint Committee on Finance's supplemental appropriation.

FIGURE 10

Estimated 2009-11 Transportation Fund Revenues



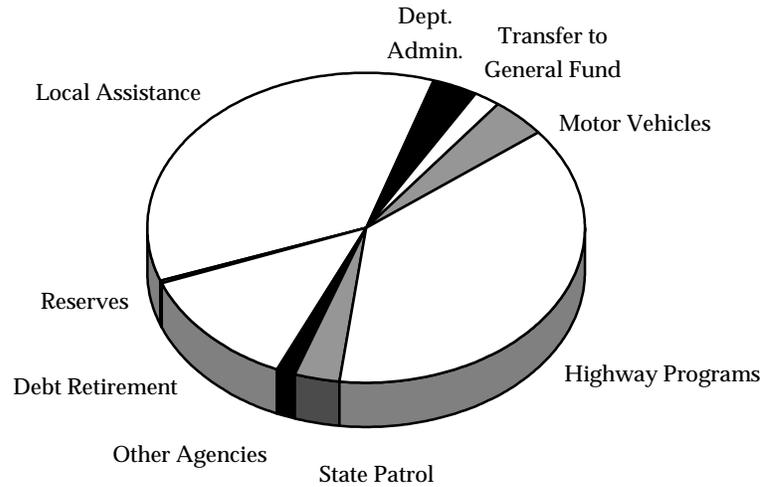
<u>Source</u>	<u>Amount</u>	<u>Percent of Total</u>
Motor Fuel Taxes	\$1,918,487,800	54.7%
Gross Motor Vehicle and Driver Fees*	1,454,257,400	41.4
Railroad Taxes	44,306,800	1.3
Aeronautics Taxes and Fees	20,055,700	0.6
Miscellaneous Revenues**	<u>72,083,600</u>	<u>2.0</u>
TOTAL	\$3,509,191,300	100.0%

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

**Includes \$40,317,000 transferred from the petroleum inspection fund.

FIGURE 11

**2009-11 Transportation Fund Appropriations
By Category**



<u>Category</u>	<u>Amount</u>	<u>Percent of Total</u>
Highway Programs	\$1,324,082,000	37.5%
Local Assistance	1,253,043,000	35.5
Debt Retirement*	440,913,500	12.5
Division of Motor Vehicles	147,751,600	4.2
Departmental Administration	118,018,200	3.3
Division of State Patrol	117,092,200	3.3
Transfer to the General Fund	65,829,600	1.9
Other Agencies**	50,764,000	1.4
Reserves	<u>14,246,500</u>	<u>0.4</u>
TOTAL	\$3,531,740,600	100.0%

*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 \$25,787,600 in 2009-11. Therefore, expenditures in the 2009-11 biennium are estimated to be \$3,505,953,000.

OVERVIEW

LOTTERY FUND BUDGET

TABLE 14

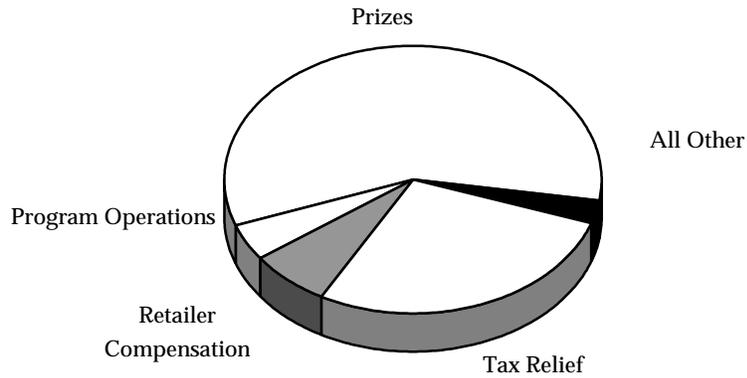
2009-11 Lottery Fund Condition Statement

	<u>2009-10</u>	<u>2010-11</u>
Fiscal Year Opening Balance	\$9,338,100	\$9,753,000
Operating Revenues		
Ticket Sales	\$487,164,700	\$478,672,600
Retailer Fees and Miscellaneous	<u>483,000</u>	<u>431,300</u>
Gross Revenues	\$487,647,700	\$479,103,900
Expenditures		
Prizes	\$283,978,400	\$279,692,400
Retailer Compensation	34,159,800	33,607,800
Vendor Payments	12,374,000	12,158,300
General Program Operations	21,679,400	21,679,400
Appropriation to DOJ	364,000	364,000
Appropriation to DOR	296,000	296,000
Miscellaneous Expenses	22,000	22,000
Program Reserves	<u>165,900</u>	<u>289,000</u>
Total Expenditures	\$353,039,500	\$348,108,900
Net Proceeds	\$134,608,200	\$130,995,000
Interest Earnings	\$531,500	\$1,694,500
Gaming-Related Revenue	\$306,600	\$306,600
Total Available for Tax Relief *	\$144,784,400	\$142,749,100
Appropriations for Tax Relief		
Lottery and Gaming Tax Credit	\$119,671,400	\$117,957,000
Farmland Tax Relief Credit	15,000,000	0
School Levy Tax Credit	0	14,850,000
Lottery and Gaming Credit: Late Applications	<u>360,000</u>	<u>360,000</u>
Total Appropriations for Tax Relief	\$135,031,400	\$133,167,000
Gross Closing Balance	\$9,753,000	\$9,582,100
Reserve (2% of Gross Revenues)	\$9,753,000	\$9,582,100
Net Closing Balance	\$0	\$0

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

FIGURE 12

2009-11 Lottery Fund Expenditures



	<u>Amount</u>	<u>Percent of Total</u>
Operating Expenditures	(\$701,148,400)	(72.3%)
Prizes	563,670,800	58.1
Retailer Compensation	67,767,600	7.0
General Program Operations	43,358,800	4.5
Vendor Payments	24,532,300	2.5
Appropriations to DOJ and DOR	1,320,000	0.1
Program Reserves and Miscellaneous	498,900	0.1
Appropriations for Tax Relief	(\$268,198,400)	(27.7%)
Lottery Property Tax Credit	238,348,400	24.6
Farmland and School Levy Credits	<u>29,850,000</u>	<u>3.1</u>
TOTAL	\$969,346,800	100.0%

STATE AGENCY BUDGET SUMMARIES

Administration Through Health Services

ADMINISTRATION

Budget Summary							
Fund	2008-09 Base Year Doubled	2009-11 Governor	2009-11 Jt. Finance	2009-11 Legislature	2009-11 Act 28	Act 28 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$772,366,600	\$803,325,500	\$765,856,900	\$765,906,900	\$765,906,900	-\$6,459,700	- 0.8%
FED	332,658,600	185,994,000	529,448,400	529,448,400	529,448,400	196,789,800	59.2
PR	697,276,600	700,702,100	654,262,200	654,262,200	653,993,900	- 43,282,700	- 6.2
SEG	<u>102,983,400</u>	<u>52,966,800</u>	<u>99,273,600</u>	<u>99,273,600</u>	<u>99,273,600</u>	<u>- 3,709,800</u>	<u>- 3.6</u>
TOTAL	\$1,905,285,200	\$1,742,988,400	\$2,048,841,100	\$2,048,891,100	\$2,048,622,800	\$143,337,600	7.5%

FTE Position Summary						
Fund	2008-09 Base	2010-11 Governor	2010-11 Jt. Finance	2010-11 Legislature	2010-11 Act 28	Act 28 Change
						Over 2008-09 Base
GPR	91.86	89.46	91.46	91.46	91.46	- 0.40
FED	83.01	43.61	67.41	67.41	67.41	- 15.60
PR	844.21	847.71	838.71	838.71	838.71	- 5.50
SEG	<u>13.60</u>	<u>7.60</u>	<u>11.60</u>	<u>11.60</u>	<u>11.60</u>	<u>- 2.00</u>
TOTAL	1,032.68	988.38	1,009.18	1,009.18	1,009.18	- 23.50

Budget Change Items

General Agency Provisions

1. STANDARD BUDGET ADJUSTMENTS

Governor/Legislature: Provide standard budget adjustments to the base totaling \$267,600 GPR, \$818,100 FED, \$2,499,100 PR and \$160,600 SEG and -4.0 FED positions in 2009-10 and \$271,100 GPR, \$504,000 FED, \$2,499,100 PR, and \$160,600 SEG and -7.0 FED positions in 2010-11. Adjustments are for: (a) turnover reduction

(-\$122,100 GPR and -\$1,137,500 PR annually); (b) removal of non-continuing elements from the

	Funding	Positions
GPR	\$538,700	0.00
FED	1,322,100	- 7.00
PR	4,998,200	0.00
SEG	<u>321,200</u>	<u>0.00</u>
Total	\$7,180,200	- 7.00

base (-\$1,123,700 FED and -\$300,000 PR and -4.0 FED positions in 2009-10 and -\$1,437,800 FED and -\$300,000 PR and -7.0 FED positions in 2010-11); (c) full funding of continuing salaries and fringe benefits (\$234,300 GPR, \$2,493,200 FED, \$2,378,000 PR, and \$108,100 SEG annually); (d) reclassifications (\$4,800 GPR and \$5,900 PR in 2009-10 and \$8,300 GPR and \$5,900 PR in 2010-11); (e) overtime (\$540,600 PR annually); (f) night and weekend differential (\$28,000 PR annually); (g) full funding of lease costs and directed moves (\$150,600 GPR, -\$551,400 FED, \$984,100 PR and \$52,500 SEG annually); and (h) minor offsetting transfers within the same appropriation.

The minor transfers within the same appropriation are listed as follows:

TEACH Program. Transfer \$12,384,000 PR annually from permanent property to supplies and services for payments to acquire telecommunications services as schools, libraries, and other local governmental units. Revenue is from the universal service fund.

Wisconsin Retirement System. Transfer \$9,796,200 GPR annually from supplies and services to debt services for unfunded liabilities under the Wisconsin Retirement System.

Homeland Security. Transfer \$2,636,400 FED annually from local assistance to supplies and services for funding of Homeland Security state administration.

Transportation Services. Transfer \$1,000,000 PR annually from permanent property to supplies and services to pay for fuel, maintenance, and other operating costs.

Gaming Operations. Transfer \$40,000 PR from unallotted reserves and \$15,600 from permanent property to supplies and services annually for general program operations of racing.

Van Pool. Transfer \$24,000 PR from LTE salaries and \$1,800 PR from fringe benefits to supplies and services annually to fund van pool costs.

Financial Services. Transfer \$20,000 PR annually from permanent property to supplies and services for accounting, auditing, payroll, and other financial services for state agencies.

Grants for Substance Abuse. Transfer \$7,500 PR annually in the Office of Justice Assistance from special purpose authority to supplies and services for payments to the Department of Corrections for the evaluation of substance abuse treatment grants.

State Use Board. Transfer \$6,000 PR annually from permanent property to supplies and services for general program operations of the State Use Board.

Environment Funds. Transfer \$6,000 SEG annually from permanent property to supplies and services for general program operations of the clean water fund, the environmental improvement fund, the land recycling loan fund and the safe drinking water fund.

Plat Review. Transfer \$5,000 PR annually from permanent property to supplies and services for plat review, incorporation and annexation reviews.

Adjudication of Tax Appeals. Transfer \$3,000 GPR annually from permanent property to supplies and services for adjudication of tax appeals.

2. ACROSS-THE-BOARD 1% REDUCTIONS

GPR	- \$265,800
PR	- 6,334,000
SEG	- 367,400
Total	- \$6,967,200

Governor/Legislature: Delete \$132,900 GPR, \$3,167,000 PR and \$183,700 SEG annually, as part of an across-the-board 1% reduction in most non-federal appropriations. The reductions, by appropriation, are shown below:

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
GPR	General Program Operations	\$7,388,700	-\$73,900
GPR	Resource Acquisition Grants	109,500	- 1,100
GPR	Adjudication of Tax Appeals	566,300	- 5,700
GPR	Aid to Wisconsin Covenant	184,500	- 1,800*
GPR	Women's Council	147,200	- 1,500
GPR	Service Awards Administration	20,300	- 200
GPR	Hearings and Appeals	2,552,400	- 25,500
GPR	Justice Assistance Administration	245,400	- 2,500*
GPR	Law Enforcement Grants	1,450,000	- 14,500
GPR	Youth Diversion	380,000	- 3,800
GPR	Child Advocacy Centers	240,000	- 2,400
PR	Low-Level Radioactive Waste Compact	5,000	- 100
PR	Comprehensive Planning	3,001,600	- 30,000*
PR	Services to Non-State Governmental Units	1,403,200	-14,000*
PR	Relay Service	4,736,400	- 47,400*
PR	Non-State Information Technology	19,043,000	- 190,400*
PR	Plat Review and Annexations	620,800	- 6,200*
PR	Justice Information System	3,767,000	- 37,700*
PR	Materials and Services to State Agencies	7,650,700	- 76,500*
PR	Transportation, Records, and Documents	20,545,100	- 205,500
PR	Capital Planning	12,598,700	- 126,000*
PR	Integrated Business Information System	10,611,000	- 106,100
PR	Telecommunications	21,699,500	- 217,000*
PR	Procurement	3,729,300	- 37,300*
PR	Financial Services	9,945,300	- 99,500*
PR	Printing, Mail, Information Technology	111,459,500	- 1,114,600
PR	UW-Green Bay Programming	250,000	- 2,500
PR	Justice Information Systems	732,500	- 7,300
PR	Management Assistance	600,000	- 6,000
PR	Risk Management	25,695,000	- 257,000*
PR	Risk Management Administration	7,278,700	- 72,800*
PR	Attached Boards Administration	32,100	- 300*
PR	Educational Technology Conference	180,000	- 1,800
PR	Waste Facility Siting Board	53,900	- 500*
PR	State Use Board	128,500	- 1,300
PR	National Community Service Board	243,500	- 2,400*
PR	Hearings and Appeals	3,227,400	- 32,300*
PR	Facility Operations & Police Services	40,479,400	- 404,800*
PR	Parking	954,100	- 9,500*
PR	Law Enforcement and Youth Diversion	208,200	- 2,100*
PR	Youth Diversion	794,900	- 7,900
PR	Justice Assistance Aids	300,000	- 3,000
PR	Substance Abuse Treatment	755,000	- 7,600
PR	Program Operations; Racing	1,614,400	- 16,100*

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
PR	Program Operations; Indian Gaming	\$1,845,900	- \$18,500*
PR	Program Operations; Raffles & Crane	216,600	- 2,200*
PR	Program Operations; Bingo	277,100	-2,800*
SEG	Vendornet Administration	90,200	- 900
SEG	Environmental Improvement Operations	997,200	- 10,000*
SEG	Telecommunications; Schools	11,344,000	- 113,400
SEG	Telecommunications; Technical Colleges	5,066,000	- 50,700
SEG	Telecommunications; Private Schools	701,300	- 7,000
SEG	Telecommunications; State Schools	68,200	- 700*
SEG	Telecommunications; Juvenile Corrections	102,300	- 1,000

*Due to other budget items, the final funding level for this appropriation does not represent a 1% reduction.

3. ELIMINATE 2% GENERAL WAGE ADJUSTMENT

Joint Finance/Legislature: Delete \$1,479,100 (all funds) annually relating to the roll-back of 2% general wage adjustments that were scheduled to take effect on June 7, 2009. The reductions include \$148,800 GPR, \$102,300 FED, \$1,207,700 PR, and \$20,300 SEG.

GPR	- \$297,600
FED	- 204,600
PR	- 2,415,400
SEG	- 40,600
Total	- \$2,958,200

4. STATE EMPLOYEE FURLOUGH

Joint Finance/Legislature: Delete \$2,266,300 (all funds) annually relating to the requirement that state employees take eight days of unpaid annual leave (furlough) in each year of the 2009-11 biennium. The reductions include \$228,000 GPR, \$156,700 FED, \$1,850,600 PR, and \$31,000 SEG.

GPR	- \$456,000
FED	- 313,400
PR	- 3,701,200
SEG	- 62,000
Total	- \$4,532,600

5. AGENCY 5.135% BUDGET REDUCTIONS

Joint Finance/Legislature: Delete \$18,472,300 (all funds) annually relating to increased agency across-the-board reductions. The reductions are generally equivalent to 5.135% of base level funding. The reductions include \$775,700 GPR, \$15,991,100 PR, and \$1,705,500 SEG. Annual reductions amounts would be as follows:

GPR	- \$1,551,400
PR	- 31,982,200
SEG	- 3,411,000
Total	- \$36,944,600

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
GPR	General program operations	\$7,388,700	-\$379,400
GPR	Federal resource acquisition support grants	109,500	-5,600
PR	Midwest interstate low-level radioactive waste compact; membership & costs	5,000	-300
PR	Land	3,001,600	-154,100
PR	Services to nonstate governmental units; entity contract	1,403,200	-72,100
PR	Relay service	4,736,400	-243,200
PR	Information technology and communications services; nonstate entities	19,043,000	-977,900
PR	Plat and proposed incorporation and annexation review	620,800	-31,900
PR	Justice information systems	3,767,000	-193,400
PR	Indigent civil legal services	1,000,000	-51,400

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
PR	Materials and services to state agencies and certain districts	\$7,650,700	-\$392,900
PR	Transportation, records, and document services	20,545,100	-1,055,000
PR	Capital planning and building construction services	12,598,700	-646,900
PR	Integrated business information system	10,611,000	-544,900
PR	Telecommunications services; state agencies; veterans services	21,699,500	-1,114,300
PR	Procurement services	3,729,300	-191,500
PR	Financial services	9,945,300	-510,700
PR	Printing, mail, communication and information technology services; agencies	111,459,500	-5,723,400
PR	Management assistance grants to counties	600,000	-30,800
SEG	VendorNet fund administration	90,200	-4,600
PR	Risk management costs	25,695,000	-1,319,400
PR	Risk management administration	7,278,700	-373,800
SEG	General program operations; utility public benefits	12,622,500	-648,200
SEG	Low-income assistance grants	20,500,000	-1,052,700
GPR	Adjudication of tax appeals	566,300	-29,100
GPR	Aid to the Wisconsin covenant foundation, inc.	184,500	-9,500
GPR	Claims awards	23,700	-1,200
GPR	Women's council operations	147,200	-7,600
GPR	Service award program; general program operations	20,300	-1,000
GPR	Service award program; state matching awards	1,785,000	-91,700
GPR	Hearings and appeals operations	2,552,400	-131,100
PR	Program services	32,100	-1,600
PR	Administration of Governor's Wisconsin Educational Technology Conference	180,000	-9,200
PR	Waste facility siting board; general program operations	53,900	-2,800
PR	State use board -- general program operations	128,500	-6,600
PR	National and community service board; administrative support	243,500	-12,500
PR	Hearings and appeals fees	3,227,400	-165,700
PR	Facility operations and maintenance; police and protection functions	40,479,400	-2,078,600
PR	Parking	954,100	-49,000
GPR	General program operations	245,400	-12,600
GPR	Law enforcement officer supplement grants	1,450,000	-74,500
GPR	Youth diversion	380,000	-19,500
GPR	Child advocacy centers	240,000	-12,300
PR	Law enforcement programs and youth diversion - administration	208,200	-10,700
PR	Interagency and intra-agency aids	300,000	-15,400
GPR	Interest on racing and bingo moneys	12,300	-600
PR	General program operations; raffles and crane games	216,600	-11,100

6. ACROSS-THE-BOARD 1% REDUCTIONS TO SELECTED DOA APPROPRIATIONS [LFB Papers 120 thru 123 and 516]

GPR	- \$17,600
PR	- 51,500
Total	- \$69,100

Governor/Legislature: Delete \$8,800 GPR and \$24,500 PR in 2009-10, and \$8,800 GPR and \$27,000 PR in 2010-11, as part of an across-the-board 1% reduction in most non-federal appropriations. These 1% reductions are made to appropriations that have no adjusted base, either because they were budgeted no funding during 2007-09, or because they are newly-created appropriations. The reductions are as follows: (a) -\$8,800 GPR annually for newly-provided GPR funding to DOA's Office of Justice Assistance (OJA) to provide grants to Milwaukee County for its Treatment Alternatives and Diversion (TAD) program and for its Assess, Inform and Measure (AIM) program; (b) -\$10,000 PR in 2009-10 and -\$12,500 PR in 2010-11 for grant funding for indigent civil legal services; (c) -\$7,000 PR annually in funding for

a series of recommended data gathering and analysis initiatives under OJA; and (d) -\$7,500 PR annually in penalty surcharge funding for grants for county TAD programs.

7. ADDITIONAL CUTS TO GENERAL PURPOSE REVENUE APPROPRIATIONS [LFB Paper 175]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	-\$1,183,400	\$1,183,400	\$0

Governor: Reduce amounts provided to general purpose revenue appropriations by \$591,700 annually as follows: (a) general program operations (-\$369,400); (b) federal resource acquisition support grants (-\$5,500); (c) adjudication of tax appeals (-\$28,300); (d) Aid to Wisconsin Covenant (-\$9,200); (e) Women's Council (-\$7,400); (f) Service Awards administration (-\$1,000); (g) Division of Hearings and Appeals administration (-\$127,600); (h) Justice Assistance administration (-\$12,300); (i) youth diversion (-\$19,000); and (j) child advocacy centers (-\$12,000).

Joint Finance/Legislature: Delete provision.

8. APPROPRIATION OBLIGATION BOND DEBT SERVICE REESTIMATE -- PENSION BONDS

GPR-REV	\$34,318,000
GPR-Lapse	101,738,400
GPR	<u>136,056,400</u>
Net GPR	\$0

Governor/Legislature: Provide \$61,936,700 in 2009-10 and \$74,119,700 in 2010-11 over base level funding of \$200,629,300 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. The increase in actual debt service amounts reflect the changes in the debt service schedule on the obligations primarily associated with the required refinancing of the variable rate portion of this debt.

The 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 related ancillary agreements. The funding level would be \$262,566,000 in 2009-10 and \$274,749,000 in 2010-11. Actual debt service is expected to be \$117,182,000 in 2009-10 and \$122,916,000 in 2010-11.

Estimate lapses to the general fund of \$145,383,100 in 2009-10 and \$151,831,500 in 2010-11 associated with lapses from the required debt service amounts on the appropriation obligation bonds. Estimate GPR-Earned estimates under DOA at \$117,182,900 in 2009-10 and \$122,917,500 in 2010-11 attributable to payments by GPR, SEG, and PR state agencies to offset a portion of this debt service. The funding adjustments associated with these bonds are shown in the following table:

	<u>2009-10</u>	<u>2010-11</u>	
Required Appropriation for Debt Service	\$262,566,000	\$274,749,000	GPR
GPR-Lapses from Debt Service Approp.	<u>-145,383,100</u>	<u>-151,831,500</u>	GPR- Lapse
Net GPR Appropriation	\$117,182,900	\$122,917,500	
Related Payments to General Fund			
From GPR, PR, and SEG Appropriations	\$117,182,900	\$122,917,500	GPR-REV

**9. APPROPRIATION OBLIGATION BOND DEBT SERVICE REESTIMATE --
TOBACCO BONDS [LFB Paper 181]**

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR-REV	\$225,957,000	-\$30,782,600	\$195,174,400
GPR-Lapse	- 330,000,000	0	- 330,000,000
GPR	<u>- 104,043,000</u>	<u>- 34,557,000</u>	<u>- 138,600,000</u>
Net GPR	\$0	\$3,774,400	\$3,774,400

Governor: Decrease funding by \$50,604,000 in 2009-10 and \$53,439,000 in 2010-11 from the base level of \$165,000,000 in 2008-09. Reduce estimated GPR-Lapses by \$165,000,000 annually from the level included in the 2008-09 base year. These reductions would be made to reestimate the amounts needed to pay debt service on appropriation obligation bonds issued to refinance the outstanding bonds of the Badger Tobacco Asset Securitization Corporation (BTASC) and carry out a second securitization transaction. BTASC issued the original bonds in 2003 as part of the state's securitization of its tobacco settlement revenues. DOA has not yet issued the appropriation bonds to carry out this second securitization transaction.

Debt service on these bonds will be paid from this appropriation, and funding in the bill would be \$114,396,000 in 2009-10 and \$111,561,000 in 2010-11. Increase GPR-Earned estimates by \$114,396,000 in 2009-10 and \$111,561,000 in 2010-11 associated with tobacco settlement revenues that will be reacquired under the second securitization transaction and that would be deposited to the general fund after \$50,000,000 annually is transferred to the medical assistance trust fund.

Joint Finance/Legislature: Reduce GPR-Earned amounts by \$13,634,400 in 2009-10 and \$17,148,200 in 2010-11 to reflect reestimated revenues associated with the reacquired tobacco settlement revenues. Reduce expenditures by \$15,596,000 GPR in 2009-10 and \$18,961,000 GPR in 2010-11 to reflect expected debt service on the recently-issued appropriation bonds.

Under the Governor's recommendations, the estimated tobacco settlement revenues, net of the \$50,000,000 annual transfer to the MA trust fund, were expected result in \$114,396,000 GPR-Earned in 2009-10 and \$111,561,000 GPR-Earned in 2010-11. Based on more recent information, GPR-Earned associated with the reacquired tobacco settlement revenues, after the MA trust fund transfer, are reestimated at \$100,761,600 and \$94,412,800, which would represent a reduction of -\$13,634,400 in 2009-10 and -\$17,148,200 in 2010-11.

These lower GPR-Earned amounts are more than offset by lower GPR debt service on the appropriation bonds in each year. Under the bill, estimated debt service on the appropriation obligation bonds issued relative to the state's tobacco securitization refinancing is \$114,396,000 GPR in 2009-10 and \$111,561,000 GPR in 2010-11. Based on the repayment structure of the recently issued appropriation bonds, annual debt service on the bonds is reestimated at \$98,800,000 GPR in 2009-10 and \$92,600,000 GPR in 2010-11, which would represent reductions of -\$15,596,000 GPR in 2009-10 and -\$18,961,000 GPR in 2010-11 compared to the bill. The combined effect of these reestimates would be an increase to the general fund balance of \$1,961,600 in 2009-10 and \$1,812,800 in 2010-11.

10. DEBT SERVICE REESTIMATE

GPR	\$19,700
PR	<u>8,959,900</u>
Total	\$8,979,600

Governor/Legislature: Reestimate the agency's debt service costs by \$7,200 GPR and \$2,832,300 PR in 2009-10 and \$12,500 GPR and \$6,127,600 PR in 2010-11 for the following programs: (a) general fund supported principal and interest for educational technology infrastructure in schools (-\$7,400 GPR in 2010-11); (b) general fund supported principal and interest for educational technology infrastructure in libraries (\$2,900 GPR in 2009-10 and \$2,500 GPR in 2010-11); (c) general fund supported principal and interest for the Black Point Estate in Lake Geneva (\$4,300 GPR in 2009-10 and \$17,400 GPR in 2010-11); (d) program revenue supported principal and interest for educational technology infrastructure for schools (-\$204,200 PR in 2009-10 and -\$227,800 PR in 2010-11); (e) program revenue supported principal and interest for educational technology infrastructure for public library boards (-\$6,300 PR annually); (f) principal repayment and interest for parking in Madison (-\$27,600 PR in 2009-10 and -\$20,400 PR in 2010-11); (g) principal repayment and interest for buildings used to house state agencies (\$2,179,000 PR in 2009-10 and \$4,263,700 PR in 2010-11); and (h) principal repayment and interest on energy conservation projects (\$891,400 PR in 2009-10 and \$2,118,400 PR in 2010-11).

11. ENERGY CONSERVATION PROGRAM MODIFICATIONS

PR	- \$3,009,800
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Joint Finance/Legislature: Specify that DOA may assess for energy cost savings in an amount not exceeding the difference between the actual savings generated, if any, as determined by DOA, and the amount of the debt service costs. Agencies would pay their assessments for debt service costs to the Building Commission and their assessments for cost savings to DOA. These modifications were adopted by the Building Commission, but were not included in the Commission's 2009-11 state building program recommendations. Modify the existing agency energy costs appropriations to allow for payment of the assessments.

Delete the existing Department of Administration energy conservation construction projects PR debt service appropriation and create a similar Building Commission PR debt service appropriation for this purpose. Reduce the DOA appropriation \$891,400 PR in 2009-10 and \$2,118,400 PR in 2010-11, associated with the deletion of the appropriation, and make a corresponding increase under the Building Commissions appropriation schedule to reflect the

conversion of the appropriation to the Building Commission. [For additional information on this item see "Building Commission."]

12. RISK MANAGEMENT PROGRAMS -- CLAIMS PAYMENTS ESTIMATE

PR	\$6,589,100
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Governor/Legislature: Provide adjustments for risk management claims payment costs of \$2,773,200 in 2009-10 and \$3,815,900 in 2010-11. The adjustments reflect the following risk management program changes: (a) \$35,000 in 2009-10 and \$135,000 in 2010-11 to increase total estimated property claims payments to \$4,315,000 in 2009-10 and \$4,415,000 in 2010-11; (b) -\$350,000 annually to decrease total estimated liability claims payments to \$5,300,000 annually; and (c) \$3,088,200 in 2009-10 and \$4,030,900 in 2010-11 to increase total estimated worker's compensation claims payments to \$18,853,200 in 2009-10 and \$19,795,900 in 2010-11. The funding modifications associated with these provisions would be reflected in charges assessed to state agencies for the operation of the state's self-funded risk management program.

13. FACILITY OPERATIONS [LFB Paper 100]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
PR	\$4,455,000	-\$4,455,000	\$0

Governor: Reestimate maintenance and fuel and utility costs by \$1,728,000 in 2009-10 and \$2,727,000 in 2010-11. Funding would be provided for unspecified small projects and fuel and utility increases in state facilities. Under current law, this appropriation is PR-annual. As part of the transfer of maintenance staff to DOA, the bill would convert the appropriation to a PR-continuing appropriation.

Joint Finance/Legislature: Delete provision.

14. DISTRICT ATTORNEY INFORMATION TECHNOLOGY [LFB Paper 124]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
PR	\$2,104,400	-\$724,400	\$1,380,000

Governor: Provide \$1,052,200 annually from amounts received from the justice information surcharge to fund the following: (a) replacement of federal Justice Assistance Grants (\$362,200); (b) increasing bandwidth (\$100,000); (c) providing on-line research tools (\$170,000); (d) providing remote access for computers (\$200,000); (e) increased electronic storage (\$100,000); and (f) business analysis of statewide information technology needs for district attorney offices (\$120,000).

Increase the justice information system surcharge by \$6 to \$18. Provide that DOA receive an additional \$2.50, or \$7.50 in total, from each assessed surcharge for justice information systems (instead of \$5 from each assessed surcharge under current law). [See "Administration -- Office of Justice Assistance" for additional information.]

Under current law, the \$12 justice information system surcharge is generally assessed with a court fee for the commencement or filing of certain court proceedings, including civil, small claims, forfeiture, wage earner, or garnishment actions, an appeal from municipal court, third party complaint in a civil action, or for filing a counterclaim or cross complaint in a small claims action. Of the \$12 surcharge, \$5 (five-twelfths) is allocated to DOA for justice information systems, \$6 (one-half) is allocated for CCAP, and \$1 is credited to the general fund.

Joint Finance/Legislature: Delete \$362,200 annually from the Byrne-funded justice information system appropriation to offset increased funding of the same amount from justice information fees under the Governor's recommendation.

[Act 28 Section: 555]

15. PENALTY SURCHARGE REVENUES -- JUSTICE INFORMATION SYSTEMS [LFB Paper 516]

Governor: Require that at the end of each fiscal year, any unencumbered balance in the justice information systems appropriation that is supported from penalty surcharges to revert to the "criminal justice program support" appropriation under the Department of Justice. No base level funding is currently authorized under this appropriation, nor is any funding provided under the bill.

Joint Finance/Legislature: Delete provision.

16. VAN POOL

PR	\$717,900
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Governor/Legislature: Provide \$375,300 in 2009-10 and \$342,600 in 2010-11 for the state van pool, including: (a) \$100,000 in 2009-10 and \$113,100 in 2010-11 for fuel, maintenance and increased capital costs of the current van pool fleet; and (b) \$275,300 in 2009-10 and \$229,500 in 2010-11 for the creation of eight new van pool in 2009-10 and four new van pools in 2010-11 (costs include on-going fuel, maintenance, and insurance costs for these new van pools).

17. TRANSPORTATION RECORDS AND DOCUMENT SERVICES

PR	- \$717,900
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Governor/Legislature: Delete \$375,300 in 2009-10 and \$342,600 in 2010-11 for unspecified reduced costs in the transportation, records, and document services appropriation. The appropriation is used to support the state aircraft and vehicle fleet, mail services, records management services, and sales of state documents.

18. TEACH APPROPRIATIONS [LFB Paper 101]

Governor: Reduce the amount provided for telecommunications systems at juvenile correctional facilities and increase the amount provided for schools for the deaf and blind by \$15,000 SEG annually. Specify that the Department may transfer funds between any of the telecommunications access appropriations that are funded under DOA from the universal service fund. Specify that all amounts transferred would be included under the revenues received under that appropriation and added in the appropriation schedule for the fiscal year in which the transfer is made.

Under current law, there are five SEG-biennial appropriations under DOA for telecommunications access as follows: (a) school districts, and cooperative educational service agencies (base funding of \$11,344,000 SEG); (b) private colleges, technical school districts, public library boards, public library systems, and public museums (base funding of \$5,066,000 SEG); (c) private schools (base funding of \$701,300 SEG); (d) state schools for the blind and visually impaired and deaf and hard of hearing (base funding of \$68,200 SEG); and (e) juvenile correctional facilities (base funding of \$102,300).

Joint Finance/Legislature: Delete provision.

19. TEACH DATA LINE ACCESS FOR BUSINESSES [LFB Paper 102]

Governor: Specify that an educational agency could provide access to a data line funded through the Educational Telecommunications Access Program (TEACH) to a business entity if the business is broadcasting an event sponsored by the educational agency, the business has the permission of the educational agency to record and broadcast the event, and the business entity reimburses DOA for its proportional share of the cost of the data line used to broadcast the event.

Under current law, certain educational agencies, such as school districts, private schools, technical college districts, private colleges, and public library systems, may participate in the Educational Telecommunications Access Program, under which DOA provides, or contracts for the provision of, internet access to the educational agencies. Currently, an educational agency that is provided with a data line for Internet access under the program may not provide access to the data line to any business entity that is operated for profit.

Joint Finance: Specify that business access to TEACH data lines would be limited to businesses for "transmitting" events, rather than broadcasting. Specify that access to the data lines would be limited to connectivity through the Internet and that the transmission over the data lines is limited to transmissions that originate or terminate at the site of an educational agency or governmental entity that is authorized to use the data line.

Senate/Legislature: Delete reference to data line access *between educational agencies and business entities* to clarify that business access to data lines would be limited to connectivity through the Internet and that the transmission over data lines is limited to transmissions that

originate or terminate at the site of an educational agency or governmental entity that is authorized to use the data line.

[Act 28 Sections: 159, 160, and 554]

20. WISCONSIN COVENANT ADMINISTRATION

GPR	\$54,900
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Governor/Legislature: Provide \$24,200 in 2009-10 and \$30,700 in 2010-11 for the Office of Wisconsin Covenant Scholars for additional administrative support; including (a) limited-term employees (\$6,500 of salary and fringe annually); and (b) mailing and printing supplies (\$17,700 in 2009-10 and \$24,200 in 2010-11). Base level funding under this appropriation is \$184,500. Under the bill, this appropriation would also be reduced by \$11,000 annually as part of across-the-board reductions and additional cuts to GPR appropriations.

21. NATIONAL AND COMMUNITY SERVICE BOARD APPROPRIATION [LFB Paper 103]

Governor: Modify the current appropriation for the National and Community Service Board; administrative support to specify that the Department could expend all moneys received. Under current law, the Department may only expend the amounts in the Chapter 20 appropriations schedule on an annual basis. Base level funding for this appropriation is \$243,500 annually.

Under current law, the Department must annually determine the amount of funding for administrative support that is required for the state to qualify for federal assistance to be provided to the National and Community Service Board. These costs are apportioned and assessed among the Departments of Administration, Health Services, Public Instruction, and Workforce Development.

Joint Finance/Legislature: Delete provision.

22. MANAGEMENT ASSISTANCE GRANTS

Governor: Specify that a county with a geographic area of less than 400 square miles that contains no incorporated municipal territory (Menominee County) may receive an annual grant of \$600,000 PR from tribal gaming revenues for management assistance. Under current law, Menominee County is the only eligible recipient. While 2007 Wisconsin Act 20 increased the appropriation authority to \$600,000 in order to increase payments to Menominee County, the act did not modify the statutory maximum allowed (currently \$500,000 annually). Under current law, the grants may be used for one of the following: (a) public security; (b) public health; (c) public infrastructure; (d) public employee training; or (e) economic development.

Senate/Legislature: Specify that management assistance grants may also be used for

"general operations."

[Act 28 Sections: 53n and 54]

23. AUTHORITY TO ELIMINATE VACANT POSITIONS [LFB Paper 104]

Governor: Provide that the Secretary of DOA may abolish any full-time equivalent position or portion thereof in any executive branch state agency if that position has been vacant for more than 12 months. Define an executive branch state agency as any office, department, or independent agency in the executive branch of state government, including the University of Wisconsin System. Require the Secretary of DOA to lapse from each sum certain appropriation made to an executive branch state agency, from any revenue source, the amount expended for the annual salary and fringe benefit costs of any abolished vacant position, unless the appropriation is credited with program revenue, federal revenue, or segregated revenue derived from specific program receipts. These amounts would lapse to the underlying fund. Require the Secretary of DOA to subtract from the expenditure estimate for each appropriation other than a sum certain appropriation, as specified above, the amount expended for the annual salary and fringe benefit costs of any abolished vacant position.

The provision would allow the elimination of certain vacant positions without Legislative approval. Under current law, with certain exceptions, no position, regardless of funding source or type, may be created or abolished unless authorized by the Legislature by law or in budget determinations, by the Joint committee on Finance under s. 13.10 of the statutes, or by the Governor with respect to federally funded positions. The exceptions include changes in the authorized level of program revenue positions approved through a 14-day passive review process and the creation and abolition of certain positions by the Board of Regents of the University of Wisconsin System and the University of Wisconsin Hospitals and Clinics Board.

Joint Finance/Legislature: Delete provision.

24. REASSIGNMENT OF EXECUTIVE BRANCH EMPLOYEES

Governor: Provide that, if the Secretary of DOA determines that state operations may be performed more efficiently and effectively by the reassignment of employees among state agencies, the Secretary would be authorized to reassign employees from one state agency to another state agency. Define state agency as any office, department, or independent agency in the executive branch of state government, including the Building Commission. Employees who are reassigned from one state agency to another state agency would, for the duration of the reassignment, perform any work assignment of the state agency to which they are reassigned. Provide that employees who are reassigned from one state agency to another state agency are entitled to the same salary and fringe benefits to which they would otherwise be entitled and would remain employees of the state agency from which they were reassigned for all purposes, including the payment of their salaries and fringe benefits, and any continuous service benefits.

Under current law, state agencies are required to cooperate in the performance and execution of state work and to interchange data, reports and other information, and, by proper arrangements between the state agencies directly interested, interchange the services of employees, or jointly employ or make assignments of employees as the best interests of the public service require. All interchanges of services and joint employments and assignments of employees for particular work must be consistent with the qualifications and principal duties of such employees, except that, in the case of an emergency which is the result of natural or human causes, state agencies may cooperate to maintain required state services through the temporary interchange of employees. An employee who is assigned temporary interchange duties may be required to perform work which is not normally performed by the employee or described in his or her position classification.

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

25. COST-BENEFIT ANALYSIS

Governor: Delete the current law requirement that the Department must promulgate rules for the procurement of contractual services by DOA or other designated agents requiring agencies to: (a) conduct uniform cost-benefit analysis of each proposed new contractual service procurement involving a contractual service that would cost at least \$25,000, (b) periodically review the contractual costs; and (c) review the appropriateness of continuing the contract before a contractual service costing at least \$25,000 is renewed.

Delete language that specifies that the Department of Transportation must conduct a uniform cost-benefit analysis for engineering, consulting, surveying or other specialized service contracts that would cost at least \$25,000, requiring DOT to periodically review these contractual costs, and requiring DOT to review the appropriateness of continuing these contracts before such a contractual service, costing at least \$25,000, is renewed.

Delete the requirement that DOA submit a report, by October 15 of each year, to the Governor, the Joint Committee on Finance, the Joint Legislative Audit Committee, and the Chief Clerk of each house of the Legislature detailing the cost-benefit analysis conducted by agencies in the preceding fiscal year.

Delete the current law definition of a cost-benefit analysis. Under current law, a cost-benefit analysis is defined as a comprehensive study to identify and compare the total cost, quality, technical expertise, and timeliness of a service performed by state employees compared with obtaining those services through contractual services (private vendors).

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

26. PROHIBIT USE OF PRIVATE AIRCRAFT FOR OUT-OF-STATE TRAVEL

Governor: Specify that state employees may not use a privately owned aircraft to travel outside this state for the conduct of state business. Specify that the Department must establish

state agency guidelines that prohibit an employee of an agency from using a private aircraft to travel outside of this state for the conduct of state business.

Under current law, state employees may use a privately owned or chartered aircraft if it is more efficient and economical, for the conduct of state business, than the use of commercial transportation.

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

27. ELECTRONIC COMPLIANCE OF AUDIT

Governor/Legislature: Specify that the Secretary of the Department may develop procedures to permit electronic compliance with any audit claim.

Under current law, the Department must review claims based on specific procedures that vary based on the type of claim. The order of the Secretary of DOA to audit any claim must be endorsed on or attached to the claim, specify the amount allowed, the fund from which the claim is payable, and the law that authorizes payment of the claim from the State Treasury. This information must be preserved in the Secretary's office. The bill would authorize DOA to comply with the filing requirement by electronic means, in procedures developed by the DOA Secretary.

[Act 28 Section: 96]

28. 1% REDUCTION TO CONTRACTUAL SERVICES

Joint Finance/Legislature: Require all state executive branch agencies to review their service contract practices for private contractual services and consultants for the purpose of reducing spending for contractual services by 1% for the 2009-11 biennium. Specify, that executive branch agencies must submit a report to the Joint Committee on Finance by January 1, 2010, specifying either how contractual services spending can be reduced to achieve 1% expenditure reductions or why the agency was unable to reduce its contractual services expenditures. Allow the Joint Committee on Finance to reduce executive branch agency appropriations by 1% of the amounts spent for contractual services.

Veto by Governor [C-3]: Delete provision.

[Act 28 Vetoed Section: 9157(2L)]

29. CONTRACTUAL SERVICES DURING A HIRING FREEZE OR FURLOUGHED PERIOD

Joint Finance: Specify that, if in any fiscal year an agency in the executive branch is prohibited from hiring employees to fill vacant positions or its employees are required to serve

an unpaid leave of absence, the agency may not enter into, renew, or extend any contractual services contracts with private contractors or consultants for the remainder of that fiscal year, except when funding for private contractors or consultants is authorized under the federal American Recovery and Reinvestment Act [federal moneys received by the state beginning on the effective date of the bill and ending on June 30, 2011, pursuant to federal legislation enacted during the 111th Congress for the purpose of reviving the economy of the United States] and the DOA Secretary determines that federal deadlines could not be achieved without the use of private contractors or consultants or a cost benefit analysis is completed that shows that private contractors or consultants would be both more cost effective and more efficient. Allow an executive branch agency to directly submit a request under a 14-day passive review process, which would allow the agency to hire a private contractor or consultant if the agency submits information to the Joint Committee on Finance stating why they cannot comply with this provision and the Committee approves the request.

Assembly: Specify that private contractors or consultants could not be used to fill duties that would have been performed by state employees in the absence of a hiring freeze or unpaid leave of absence (furlough).

This modification would allow executive branch agencies to enter into, renew, or extend contractual services contracts with private contractors or consultants, in years of hiring freezes or furloughs, only if the duty was not otherwise performed by a state employee whose position was frozen or furloughed.

Senate/Legislature: Adopt Assembly provision, but specify that notwithstanding this provision, the Office of the State Public Defender could continue to assign indigent legal defense cases to private bar attorneys.

Veto by Governor [C-3]: Delete provision.

[Act 28 Vetoed Section: 104L]

30. PUBLIC BENEFIT FEES FOR WISCONSIN WORKS

SEG-REV \$18,279,400

Joint Finance: Require the Department of Administration to ensure that electric utilities charge customers an additional \$9,139,700 annually for deposit into the public benefits fund for maintenance of effort in the Wisconsin Works program. Require DOA to include in its calculation of low-income assistance fees the collection of this additional amount. Specify that these additional fees would not be subject to the current caps, which specify that a customer may not be assessed more than the lesser of 3% or \$750 per monthly bill. Specify that this fee applies only for the 2009-11 biennium.

Senate/Legislature: Specify that this additional fee would be used to support salaries and fringe benefits for district attorney offices rather than the Wisconsin Works program.

[Act 28 Sections: 64m, 542p, 542s, 9101(1f), 9113(6x), and 9413(2x)]

31. LIABILITY AND LEGAL PROTECTIONS FOR EMPLOYEES EXCHANGED AS PART OF EXECUTIVE ORDER 272

Joint Finance/Legislature: Specify that Minnesota employees performing work in Wisconsin would be agents of the state of Wisconsin and would be provided all the liability protections provided for Wisconsin employees. Provide the following would be provided legal representation by the Wisconsin Department of Justice: (a) Wisconsin employees named as a defendant as a result of performing work for the State of Minnesota who are sued under Wisconsin law; and (b) Minnesota employees named as a defendant as a result of performing work for the State of Wisconsin who are sued under Wisconsin law.

Specify that Minnesota employees named as a defendant and found liable as a result of performing work for the State of Wisconsin would be indemnified by the State of Wisconsin. These provisions would only be subject to employees exchanged in an agreement between Wisconsin and Minnesota under Executive Order 272, dated January 13, 2009. These provisions would sunset on January 3, 2011.

[Act 28 Section: 9157(2f)]

32. ACCESS TO SURPLUS PROPERTY

Joint Finance/Legislature: Require the Department of Administration, or any other agency allowed to purchase property by DOA, to grant to any entity or group that is entitled to participate in federal surplus property sales or auctions or is entitled to special purchasing rights or preference in sales or auctions of federal surplus property administered by the U.S. General Services Administration the same purchasing rights and preference in any sale or auction of state surplus property as are available to agencies, unless participation in a sale or auction is available only to state or local units of government or other tax-supported agencies. Allow DOA or other designated purchasing agencies, to restrict the resale of any surplus property. For access to state surplus property, allow DOA or other designated purchasing agencies, to require proof of eligibility for purchasing rights or participation in sales or auctions administered by the U.S. General Services Administration.

Veto by Governor [C-2]: Delete provision.

[Act 28 Vetoed Sections: 104n, 104p, and 680n]

33. NOTICES IN THE OFFICIAL STATE NEWSPAPER

Joint Finance: Delete the current law requirements that state agencies or constitutionally recognized offices provide legal notices in the official state newspaper and instead specify that these agencies and or constitutionally recognized offices must post this information on their website under the existing statutory timeline.

Assembly: Delete provision, but request that Joint Legislative Council form a study committee on legal posting on the internet. Specify that if the Joint Legislative Council forms a study committee that it must report the findings to the Legislature by June 30, 2011.

Senate/Legislature: Delete provision.

34. LEGAL NOTICES IN A COUNTY WITH A POPULATION OF 500,000 OR MORE

Joint Finance: Specify that in addition to the current newspapers that may be compensated for printing legal notices, a newspaper in a county with a population of over 500,000 may be compensated for publishing legal notices if it meets the following qualifications: (a) the newspaper is a daily or weekly publication containing reports of happenings of recent occurrence of a varied character, such as political, social, moral and religious subjects, designed to inform the general reader; (b) the newspaper has been published for the past 10 years; (c) for the previous 10 years, a nationally recognized auditing company has documented that the newspaper has had a continuous circulation of at least 40,000 copies within the county; and (d) a majority of the newspaper's distribution is within the county for which the legal notice is to be distributed. Define "weekly" publication as production of a newspaper in at least 50 weeks of the year.

Conference Committee/Legislature: Modify Joint Finance provision related to which newspapers may be compensated for printing legal notices in a county of more than 500,000, to state that the continuous circulation of at least 40,000 copies so that it would apply to "regional" circulation rather than "county" circulation. Specify that such a paper would not have to meet current law requirements for the following: (a) at least 50% of its circulation is paid; and (b) that there are a minimum number of active paid subscribers to the paper.

Under current law, a newspaper may not be reimbursed for postings of legal notices unless for at least two of the previous five years the paper has published regularly in the city, village or town. These newspapers must have paid subscriptions: (a) of 50% or more of its circulation; and (b) of actual subscribers of not less than 1,000 in a 1st or 2nd class city, or 300 copies if in a village, town, or smaller city.

Veto by Governor [C-1]: Delete provision.

[Act 28 Vetoed Sections: 3405a and 3405b]

35. ANNEXATION FOR THE CITY OF KAUKAUNA

Joint Finance: Specify that the City of Kaukauna may annex territory outside of Outagamie County without the following: (a) a resolution adopted by the town board from the town in which territory would be annexed from; and (b) a resolution passed by the county board in which the territory is located.

Conference Committee/Legislature: Delete provision.

36. MEDAL FOR FIREFIGHTERS

Joint Finance/Legislature: Specify that if the board of directors of the State Firefighters Memorial submits a design for a medal honoring the service of firefighters in this state to the DOA Secretary, the Secretary is required to review and may approve the design. If the Secretary approves the design, the medal must become the only state-sanctioned fire fighter service medal. Specify that the board of directors of the State Firefighters Memorial have the exclusive right to sell or authorize the sale of the state-sanctioned fire fighter medal.

[Act 28 Section: 2476m]

Transfers from the Department

1. DIVISION OF ENERGY TRANSFER AND ACCEPTANCE OF FEDERAL STIMULUS FUNDS [LFB Paper 110]

	<u>Governor (Chg. to Base)</u>		<u>Jt. Finance/Leg. (Chg. to Gov)</u>		<u>Net Change</u>	
	Funding	Positions	Funding	Positions	Funding	Positions
SEG-REV	\$18,464,000		-\$18,464,000		\$0	
FED	-\$140,591,300	- 28.80	\$139,706,600	20.80	-\$884,700	- 8.00
SEG	<u>- 49,970,400</u>	<u>- 6.00</u>	<u>49,820,400</u>	<u>4.00</u>	<u>- 150,000</u>	<u>- 2.00</u>
Total	-\$190,561,700	- 34.80	\$189,527,000	24.80	-\$1,034,700	- 10.00

Governor: Delete \$46,863,800 FED and \$16,656,800 SEG in 2009-10 and \$93,727,500 FED and \$33,313,600 SEG and 28.8 FED and 6.0 SEG positions annually for transfer of Division of Energy functions to the Public Service Commission (PSC), effective January 1, 2010. Make other changes described below for the recalculation of amounts provided and collected for low-income weatherization and low-income home energy assistance (LIHEAP). Provisions of the bill become effective at various times as identified below.

Effective on Enactment

Specify that DOA may transfer funds from the *federal aid* appropriation to the *federal aid; local assistance* appropriation. Specify that the DOA may, after deducting the costs of administering the weatherization program, transfer up to 15% of federal LIHEAP funds to the state's low-income weatherization program. Under current law, the Department must transfer 15% of federal LIHEAP funds to the state's low-income weatherization program.

Specify that not less than \$75,000,000 million in 2009-10 is spent on weatherization and other energy conservation services. Specify that this amount would increase by the cost of living, as determined by DOA (by PSC after January 1, 2010) in 2010-11 and 2011-12, then repeal

this change effective June 30, 2012, and return to current law requirements for the distribution of funds (but under PSC rather than DOA). Under current law, DOA must ensure that 47% of the following is provided for weatherization and other energy conservation programs: (a) federal LIHEAP funds; (b) low-income programs that were established by public utilities as of 1998; (c) low-income assistance funds received from public benefits fees from public utilities; and (d) low-income assistance fees paid to the state from municipal utilities and retail electric cooperatives. Under the bill, the current law requirement would be suspended for three years under DOA then PSC and would be restored under PSC on June 30, 2012.

Specify that public benefits low-income assistance fees on utility bills may not exceed \$750 or the sum of the following, whichever is less: (a) 3% of the total of every other charge for which the customer is billed for that month; plus (b) as determined by the DOA, then by PSC effective January 1, 2010, the percentage of the total of every other charge for which the customer is billed for that month that is sufficient to generate the amount shown in the Chapter 20 appropriations schedule for the Department of Children and Families for maintenance of effort of Wisconsin Works (W2). Under current law, the public benefits fee (including amounts for W-2) may not exceed the lesser of \$750 or 3% of every other charge for which a customer is billed. The bill would specify that the amounts assessed on customer bills for W2 (\$9,232,000 SEG annually under current law), would be included in the total bill calculation and not be included under the 3% limitation. [The intent of the Governor was to allow DOA (then PSC) to assess public utility customers a fee sufficient to recover the amounts in the schedule for W-2 (currently \$9,232,000 SEG annually). The bill would need to be amended to allow this additional fee to be collected.]

Specify that funding received as part of the federal economic stimulus for LIHEAP would not be included in calculations for the public benefits fee for low-income heating assistance in 2009-10 and 2010-11. Require DOA to promulgate emergency rules by December 31, 2009, establishing the public benefits fee for 2009-10 and 2010-11. Specify that the Department could promulgate emergency rules without showing that it is necessary for the preservation of public peace, health, safety, or welfare. Under current law, DOA is required to calculate the low-income need target based on the estimated heating assistance need for low-income households. The Department must determine the amounts that will be collected from public utility fees based on the estimated need minus expected federal revenues and amounts collected by municipal utilities and retail electric cooperatives. This provision would require DOA to deduct funds approved under the federal stimulus from the calculation to determine how much will be assessed through public benefits fees.

Effective January 1, 2010

Transfer the administration of the federal weatherization assistance program to the PSC. Under current law, DOA must administer federal funds made available for low-income weatherization (programs under 42 US Code 6861 to 6873). The Department must administer these funds in accordance with federal laws and regulations regarding low-income weatherization.

Transfer LIHEAP, including the crisis assistance program, to PSC. Recodify the current statutes to place the current law definitions under Chapter 196 of the statutes (the PSC statutes). Specify that the Commission rather than DOA would do the following: (a) assist eligible low-income households in obtaining assistance under 42 US Code 8621 to 8629, which specifies the availability and eligibility of federal LIHEAP funds; (b) administer a low-income warm room program; (c) determine the total amount available for heating assistance payments; (d) submit expenditure plans to the Joint Committee on Finance when federal LIHEAP revenues are less than 90% of the amount received in the previous year; (e) by October 1 of each year, allocate funds made available in that fiscal year as well as remaining funds from prior fiscal years based on household income, family size, and household energy costs; (f) receive applications and determine eligibility for heating assistance; (g) adjust payments if applications substantially exceed the number anticipated; (h) transfer up to 15% of federal LIHEAP funds to low-income weatherization programs as modified above; (i) determine what constitutes a "crisis" for which LIHEAP crisis assistance funds may be provided; (j) provide information, upon request, to residential fuel providers about the availability of federal, state, or local programs that assist customers with paying heating bills; (k) promulgate rules for eligibility, application procedures, and method of estimating total low-income energy bills, average annual income of low-income households, and number of low-income households; (l) determine the low-income need target; (m) based on competitive bids, contract with community action agencies, non-stock and nonprofit corporations, and local units of government for providing LIHEAP services; and (n) in consultation with the Council on Public Benefits, establish by rule, the public benefits fee.

Create a FED-continuing appropriation in the PSC entitled *federal aid*, for all money received from the federal government not otherwise appropriated, as authorized by the Governor under state statutes governing the acceptance of federal funds, to carry out purposes for which they are received. Provide an estimated \$1,568,900 in 2009-10 and \$3,137,700 in 2010-11 under this appropriation. The estimate is a reduction of \$294,900 FED in 2009-10 and \$589,800 FED in 2010-11 compared to DOA deletions related to this transfer. Reduce the number of positions assigned to PSC from federal funds from 28.8 classified positions under DOA to 20.8 classified positions under PSC.

Transfer the federal aid for low-income assistance (FED-continuing) appropriation to PSC and provide an estimated \$45,000,000 in 2009-10 and \$90,000,000 in 2010-11. In 2007-08, \$106,712,000 was expended from the DOA appropriation.

Transfer to the PSC the general program operations, for low-income assistance from utility public benefits appropriation (SEG-annual). Provide a total of \$6,356,800 SEG in 2009-10 and \$12,713,600 SEG in 2010-11. This would reduce the amounts provided under the appropriation for PSC by \$50,000 SEG and 1.0 classified and 1.0 unclassified positions in 2009-10 and \$100,000 SEG and 1.0 classified and 1.0 unclassified positions in 2010-11 compared to amounts that would be deleted in DOA.

Transfer to the PSC the low-income assistance grants appropriation (SEG-sum sufficient) for the payment of low-income assistance funds from public benefits revenues. Provide an

estimated \$10,250,000 in 2009-10 and \$20,500,000 in 2010-11. In 2007-08, \$89,632,400 was expended under the DOA appropriation.

Re-title the general program operations and grants under the PSC to "Wireless 911 Program Operations and Grants."

As currently under DOA, specify that PSC could expend \$1.1 million of federal LIHEAP receipts on state administration and provide \$2.9 million for expenses of local administering units. Transfer the current law defined terms relating to low-income assistance and low-income energy assistance from Chapter 16 to Chapter 196 of the statutes. Also transfer current law requirements for utilities to assess customers for the public benefits fee and to remit those fees to the state.

Specify that municipal utilities and retail electric cooperatives would have to inform PSC rather than DOA on whether they will participate in the state low-income assistance program. Specify that reports and audits of programs operated by municipal utilities and retail electric cooperatives would be forwarded to PSC rather than DOA. Under current law, municipal utilities and retail electric cooperatives must collect fees for low-income assistance, but have the option of running their own program, operating a program in conjunction with other municipal utilities and retail electric cooperatives, or forwarding these collections to the state, making their customers eligible for state public benefits funding.

Specify that county social service offices must collect and transmit information and receive applications for weatherization and LIHEAP and provide that data to PSC rather than DOA.

Transfer all of the following, relating to the Division of Energy, from DOA to PSC: (a) the assets and liabilities of DOA, as determined by the DOA Secretary; (b) except for the division administrator, any number of positions in DOA, as determined by the DOA Secretary, and all incumbent employees holding those positions for the performance of LIHEAP and weatherization programs; (c) tangible personal property, including records, as determined by the DOA Secretary; (d) all contracts, as determined by the DOA Secretary; (e) all rules and orders; and (f) all pending matters, as determined by the DOA Secretary. Specify that transferred employees would maintain the employment rights, that they had immediately prior to being transferred. Specify that no employee transferred that had attained permanent status, would be required to serve a probationary period. Specify that PSC would be required to carry out the contractual obligations under any contract entered into by DOA, until the contract is modified or rescinded to the extent allowed under the contract. Specify that rules and orders that are transferred would remain in effect until the rules or orders expire or are rescinded or modified by PSC. Specify that all materials submitted to or actions taken by DOA, with respect to pending matters, would be considered as having been submitted to or taken by PSC.

Effective June 30, 2012

Specify that PSC must ensure that 47% of the following is provided for weatherization and other energy conservation programs: (a) federal LIHEAP funds; (b) low-income programs

that were established by public utilities as of 1998; (c) low-income assistance funds received from public benefits fees from public utilities; and (d) low-income assistance fees paid to the state from municipal utilities and retail electric cooperatives. Delete requirements created under the bill specifying that \$75,000,000 annually, along with cost of living increases in 2010-11 and 2011-12 would be provided for weatherization and energy conservation services.

Joint Finance: Delete provision. In addition, delete \$294,900 FED and \$50,000 SEG and 8.0 FED and 2.0 SEG positions in 2009-10 and \$589,800 FED and \$100,000 SEG and 8.0 FED and 2.0 SEG positions in 2010-11. Position reductions would become effective January 1, 2010.

Assembly: Specify that not less than \$75 million in 2009-10 be spent by DOA on weatherization and other energy conservation services. Specify that this amount could increase by the cost of living, as determined by DOA in 2010-11 and 2011-12. Under current law, DOA must ensure that 47% of the following is provided for weatherization and other energy conservation programs: (a) federal LIHEAP funds; (b) low-income programs that were established by public utilities as of 1998; (c) low-income assistance funds received from public benefits fees from public utilities; and (d) low-income assistance fees paid to the state from municipal utilities and retail electric cooperatives. The remaining funds are used for low-income heating assistance.

Specify that the Department may transfer up to an additional \$10 million annually from the public benefits fund-supported low-income weatherization program to the low-income heating assistance program in 2009-10 through 2011-12.

Specify that funding received as part of the federal economic stimulus for LIHEAP would not be included in calculations for the public benefits fee for low-income heating assistance in 2009-10 and 2010-11. Specify that funding received from the federal stimulus funding would not be included when considering whether at least \$75 million, plus cost of living increases, is spent on weatherization and other energy conservation programs.

Repeal these changes effective June 30, 2012, and return to the current law requirements for the distribution of funds.

Senate/Legislature: Delete Assembly provisions that would have specified that not less than \$75 million in 2009-10 could be spent by DOA on weatherization and other energy conservation services and increase that amount by the cost of living, as determined by DOA in 2010-11 and 2011-12. Specify that the transfer of up to \$10 million from the public benefits fund-supported low-income weatherization program to the low-income heating assistance program could occur only in the 2009-11 biennium.

[Act 28 Sections: 120b, 120w, 120y, 9101(1f), and 9401(1f)]

2. **FEDERAL STIMULUS FUNDS FOR LOW-INCOME WEATHERIZATION** [LFB Paper 610]

FED	\$141,502,200
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Joint Finance/Legislature: Provide \$141,502,200 in 2009-10 from federal stimulus funds for low-income weatherization.

3. **FEDERAL STIMULUS FUNDS FOR STATE ENERGY PROGRAM** [LFB Paper 610]

FED	\$55,500,000
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Joint Finance/Legislature: Provide \$55,500,000 in 2009-10 from federal stimulus funds for the state energy program.

4. **ELIGIBILITY FOR LOW-INCOME HEATING ASSISTANCE AND FOODSHARE**

Governor/Legislature: Specify that households that contain at least one person eligible for FoodShare under 7 US Code 2011 to 2036 would be eligible for low-income heating assistance, but if everyone in that household was not eligible that household could receive no more than \$1 in assistance.

Under current law, households with an income of less than 150% of the federal poverty level are eligible for low-income heating assistance; however, households are categorically eligible if the entire household is composed of persons receiving aid to families with dependent children, FoodShare, or supplemental security income. Under federal law, households that are eligible for FoodShare may be eligible for greater benefits if they also receive low-income heating assistance. The bill would expand the categorically eligible low-income assistance recipients to include households that would otherwise be ineligible for low-income heating assistance so that their household could receive greater federal benefits.

[Act 28 Sections: 68 and 69]

5. **WEATHERIZATION APPROPRIATION**

PR	-\$20,000,000
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Governor/Legislature: Delete \$10,000,000 annually and delete a program revenue appropriation for low-income weatherization assistance receipts. The Department currently receives federal funding for low-income weatherization, and deposits and then transfers those funds from a federal aid appropriation to a program revenue account. The bill would eliminate the program revenue appropriation. As a result, federal weatherization assistance would be funded directly through the federal aid appropriation.

[Act 28 Sections: 64m and 558]

6. TRANSFER COASTAL ZONE MANAGEMENT TO DNR [LFB Paper 111]

	<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>
FED	-\$7,263,600	- 3.00	\$7,263,600	3.00	\$0	0.00

Governor: Delete \$3,631,800 and 3.0 classified positions annually from the federal aid FED-continuing appropriation related to administration of coastal zone management.

Specify that the Department of Natural Resources (DNR), in consultation with the coastal management council created under executive order would administer the state’s coastal zone management program authorized under 16 US Code 1455, which specifies that the Secretary of the U.S. Department of Commerce may provide grants to coastal states for administration of a state’s management program.

Specify that all of the following, that are primarily related to coastal zone management functions as determined by the Secretary of DOA, would be transferred from the DOA to DNR on the effective date of the bill: (a) the assets and liabilities; (b) tangible personal property, including records; (c) all contracts that are entered into by DOA; (d) all rules promulgated by DOA; and (e) all pending matters.

Specify that DNR would be required to carry out the contractual obligations under any contract entered into by DOA, until the contract is modified or rescinded to the extent allowed under the contract. Specify that rules and orders that are transferred would remain in effect until the rules or orders expire or are rescinded or modified by DNR. Specify that all materials submitted to or actions taken by DOA, with respect to pending matters, would be considered as having been submitted to or taken by DNR.

Joint Finance/Legislature: Delete provision.

7. HELP DESK AND DESKTOP SUPPORT

	<u>Funding</u>	<u>Positions</u>
PR	-\$2,599,000	- 15.00

Governor/Legislature: Transfer 15.0 positions from DOA to the Department of Children and Families (DCF) and Department of Health Services (DHS). The transfers would result in following changes within each agency: (a) -\$1,299,500 PR and -15.0 PR positions annually in DOA; (b) \$0 PR and 13.0 PR positions annually in DHS; and (c) \$209,100 PR and 2.0 PR positions in 2009-10 and \$213,100 PR and 2.0 PR positions in 2010-11 in DCF. As a result of the transfer, DHS and DCF would provide IT support within each of the respective agencies, rather than having such services provided by DOA.

8. INTERGOVERNMENTAL RELATIONS AND DEMOGRAPHIC SERVICES CENTER
[LFB Paper 111]

	<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	-\$87,800	- 2.90	\$0	2.50	-\$87,800	- 0.40
FED	<u>- 131,800</u>	<u>- 0.60</u>	<u>0</u>	<u>0.00</u>	<u>- 131,800</u>	<u>- 0.60</u>
Total	-\$219,600	- 3.50	\$0	2.50	-\$219,600	- 1.00

Governor: Delete \$43,900 GPR and \$65,900 FED and 2.9 GPR and 0.6 FED positions in the Demographic Services Center annually. The bill would delete \$313,600 (\$247,700 GPR and \$65,900 PR) annually in salary and fringe benefits and provide an additional \$203,800 (GPR) annually for supplies and services. The Executive Budget Book indicates that the DOA would contract with the Applied Population Lab at the University of Wisconsin-Madison for demographic services. Under the bill, no additional appropriation authority would be provided to the UW System.

Joint Finance/Legislature: Remove the provision to delete 2.5 GPR positions in the demographic services center and transfer the duties to the Applied Population Lab at the University of Wisconsin Madison. As a result, \$203,800 GPR annually would be retained in salary and fringe benefits to support 2.5 GPR positions.

9. TRANSFER ADMINISTRATION OF PAYMENTS FOR MUNICIPAL SERVICES TO DOR [LFB Paper 112]

	<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>
PR	-\$86,400	- 0.50	\$86,400	0.50	\$0	0.00

Governor: Delete \$43,200 and 0.50 position annually and transfer the administration of the payments for municipal service program from DOA to the Department of Revenue. The transfer would first apply to the payments made in 2009. However, DOA indicates that because the 2009 payments have already been made, the transfer should be made effective with the 2010 payments.

Under the payments for municipal services program, the state provides annual payments to reimburse municipalities for all or a portion of property tax supported expenses incurred in providing services to state facilities, which are exempt from property taxation.

Joint Finance/Legislature: Delete provision.

Transfers to the Department

1. DIVISION OF LEGAL SERVICES [LFB Paper 115]

	Governor (Chg. to Base)		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
PR	\$2,852,800	12.00	-\$1,278,800	- 4.00	\$1,574,000	8.00

Governor: Provide \$1,426,400 and 10.0 classified and 2.0 unclassified attorney positions annually for the creation of a Division of Legal Services within the Department.

Specify that the following Departments could create 1.0 unclassified chief legal advisor position: (a) Administration; (b) Agriculture, Trade and Consumer Protection; (c) Children and Families; (d) Corrections; (e) Health Services; (f) Natural Resources; (g) Transportation; and (h) Workforce Development.

Delete 1.0 classified attorney position (a total of 5.0 positions) in each of the following agencies: (a) Department of Revenue; (b) Department of Financial Institutions; (c) Public Service Commission; (d) Regulation and Licensing; and (e) Department of Transportation.

Modify the current law requirement which deletes 13.0 attorney positions on June 30, 2009, to instead specify that the DOA Secretary eliminate up to 13.0 attorney positions that are vacant on June 30, 2011. Specify that the modification become effective on the day after publication of the bill. Under current law, 13.0 vacant attorney positions must be deleted as of June 30, 2009. Current law further requires that if fewer than 13.0 attorney positions are vacant in state agencies, the DOA secretary must delete additional attorney positions so that a total of 13.0 positions are eliminated.

Create a Division of Legal Services within DOA. Specify that DOA may provide legal services to state agencies and is required to assess agencies for services. Specify that "state agencies" would include an office, commission, department, independent agency, or board in the executive branch including the Building Commission but excluding the Department of Justice and the Department of Public Instruction. The definition would include the University of Wisconsin System.

Create a PR-continuing appropriation within the Department for the receipt of revenues and specifying that the Division of Legal Services may expend all monies received from agency assessments for costs associated with providing legal services.

In addition to the 12.0 DOA positions identified above, specify that, in 2010-11, the Secretary of the Department of Administration be allowed to transfer 3.0 vacant attorney positions to the Division from any state agency as defined above. Specify that the position authority under the newly created Division would increase by the number of positions

transferred under the provision and the authorized position count of the agency transferred from would decrease by a corresponding amount. Further, the Administration indicates that 7.0 positions will be transferred from within DOA to the new division. Thus, in total, the new division in DOA would have 22.0 positions.

The following table summarizes the annual attorney position adjustments recommended by the Governor in all state agencies other than the 12.0 new and 3.0 transferred positions in DOA's Division of Legal Services. Modifications are identified separately under each affected agency.

<u>Agencies by Fund</u>	<u>Positions</u>		<u>Annual Funding</u>		
	<u>Classified</u>	<u>Unclassified</u>	<u>Salary and Fringe</u>	<u>Supplies and Services</u>	<u>Total</u>
GPR					
Agriculture, Trade and Consumer Protection	0.00	1.00	\$171,200	\$0	\$171,200
Corrections	0.00	1.00	179,300	0	179,300
Health Services	0.00	1.00	170,400	0	170,400
Children and Families	0.00	0.85	129,600	0	129,600
Administration	0.00	0.50	-206,400	274,800	68,400
Revenue	<u>-1.00</u>	<u>0.00</u>	<u>-64,800</u>	<u>64,800</u>	<u>0</u>
GPR Total	-1.00	4.35	\$379,300	\$339,600	\$718,900
FED					
Children and Families	0.00	0.15	\$22,800	\$0	\$22,800
PR					
Financial Institutions	-1.00	0.00	-\$68,100	\$68,100	\$0
Public Service Commission	-1.00	0.00	-67,300	67,300	0
Regulation and Licensing	-1.00	0.00	-48,700	48,700	0
Workforce Development	0.00	1.00	177,800	0	177,800
Administration	<u>0.00</u>	<u>0.50</u>	<u>-166,900</u>	<u>235,300</u>	<u>68,400</u>
PR Total	-3.00	1.50	-\$173,200	\$419,400	\$246,200
SEG					
Natural Resources	0.00	1.00	\$179,500	\$0	\$179,500
Transportation	-1.00	1.00	108,000	70,500	178,500
Administration	<u>0.00</u>	<u>0.00</u>	<u>-160,700</u>	<u>160,700</u>	<u>0</u>
SEG Total	-1.00	2.00	\$126,800	\$231,200	\$358,000
All Fund Total	-5.0	8.0	\$355,700	\$990,200	\$1,345,900

In net, this provision would increase the number of attorneys for all state agencies by 28.0 positions in 2009-11 as follows: (a) the creation of 8.0 chief legal advisor positions; (b) the creation of 12.0 attorney positions in DOA; (c) the deletion of 5.0 attorney positions at PSC, R&L, DFI, DOT, and DOR; and (d) the extension of 13.0 attorney positions that are currently scheduled to be deleted on June 30, 2009. The number of additional attorneys authorized after June 30, 2011, would include 15.0 positions authorized under items (a) through (c) and an unknown number of the 13.0 positions (item (d)), depending on the number that were deleted by the DOA Secretary.

The additional costs to state agencies would be at least \$2,452,900 (all funds) annually based on estimated assessments of \$1,426,400 annually for the Division of Legal Services costs plus \$1,345,900 annually for salary and fringe benefits for 8.0 chief legal advisor positions minus \$319,400 annually that would be made available for legal service assessments through the deletion of 5.0 attorney positions at PSC, R&L, DFI, DOT, and DOR. The following table shows these amounts by fund source. In addition to these costs, an unknown amount related to retaining 13.0 attorney positions would be extended through at least June 30, 2011.

Annual Amount of Funds Transferred to Supplies and Services for
Attorney Charges Relating to Position Deletions

GPR	\$64,800
PR	184,100
SEG	<u>70,500</u>
Total (All funds)	\$319,400

Annual Amount of Additional Assessments from Office of Legal Services*

PR	\$1,426,400
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Annual Additional Costs for Chief Legal Advisors

GPR	\$718,900
FED	22,800
PR	246,200
SEG	<u>358,000</u>
Total (All funds)	\$1,345,900

All Fund Additional Agency Costs (Net of New Supplies and Services Funds) \$2,452,900

* Since the appropriation would be PR-continuing, this is an estimate of assessments.

Joint Finance: Modify the provision to delete \$639,400 PR and 4.0 PR positions annually and, as a result, provide a total of \$787,000 PR and 6.0 PR classified attorney positions, and 2.0 PR classified support staff annually for the creation of a Division of Legal Services within DOA. Transfer a total of \$114,600 GPR, \$320,500 PR, \$70,500 SEG annually from salaries and fringe benefits to supplies and services and delete 2.0 GPR, 5.0 PR and 1.0 SEG classified positions in state agencies as follows: (a) 1.0 PR attorney position in the Public Service Commission; (b) 1.0 SEG attorney position in the Department of Transportation; (c) 1.0 PR attorney position in the Department of Financial Institutions; (d) 1.0 GPR attorney position and 1.0 GPR support staff position in the Department of Revenue; and (e) 2.0 PR attorney positions and 1.0 PR support staff position in the Department of Regulation and Licensing.

Specify that DOA may provide legal services to agencies in which the Governor appoints the departmental secretary (executive cabinet agencies) and must assess these agencies for services.

Specify that the Division must perform legal services on behalf of executive cabinet agencies, including reducing the use of contracted employees. Specify that the Division must include, in the

annual October report on contracting, the Division's progress in reducing the utilization of contracted employees.

Create a PR-annual appropriation within the Department for the receipt of revenues and specifying that the Division of Legal Services may expend the amounts in the schedule from agency assessments for costs associated with providing legal services. The following table summarizes the annual attorney position adjustments:

<u>Agencies by Fund</u>	<u>Classified Positions</u>	<u>Annual Funding</u>		<u>Total</u>
		<u>Salary and Fringe</u>	<u>Supplies and Services</u>	
GPR				
Revenue	-2.00	-\$114,600	\$114,600	\$0
PR				
Financial Institutions	-1.00	-\$68,100	\$68,100	\$0
Public Service Commission	-1.00	-67,300	67,300	0
Regulation and Licensing	-3.00	-185,100	185,100	0
DOA - Legal Services	<u>8.00</u>	<u>707,000</u>	<u>80,000</u>	<u>787,000</u>
PR Total	3.00	\$386,500	\$400,500	\$787,000
SEG				
Transportation	-1.00	-\$70,500	\$70,500	\$0
All Fund Total	0.00	\$201,400	\$585,600	\$787,000

Senate: Delete all provisions, except for the extension of the deletion of up to 13.0 attorney positions through June 30, 2011 and making the deletion permissive rather than required.

Conference Committee/Legislature: Include Joint Committee on Finance provision.

[Act 28 Sections: 31, 48, 560, 3408, and 9457(1)]

2. CHIEF LEGAL ADVISOR AND PAYMENTS FOR STATE LEGAL SERVICES [LFB Paper 115]

	<u>Governor (Chg. to Base)</u>		<u>Jt. Finance/Leg. (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	\$136,800	0.50	-\$136,800	- 0.50	\$0	0.00
PR	<u>136,800</u>	<u>0.50</u>	<u>- 136,800</u>	<u>- 0.50</u>	<u>0</u>	<u>0.00</u>
Total	\$273,600	1.00	-\$273,600	- 1.00	\$0	0.00

Governor: Provide \$68,400 GPR, \$68,400 PR and 0.5 GPR and 0.5 PR attorney position annually in the Department. Specify that the Department Secretary may appoint a chief legal

advisor from the unclassified service. On an annual basis funding would include the deletion of \$206,400 GPR, \$166,600 PR, and \$160,700 SEG from salaries and fringe benefits and the addition of \$274,800 GPR, \$235,300 PR, and \$160,700 SEG to supplies and services to fund both the creation of the chief legal counsel and the direct payment of assessments from a new Division of Legal Services.

Joint Finance/Legislature: Delete provision.

3. TRANSFER MAINTENANCE STAFF TO DOA [LFB Paper 116]

Governor: Specify that the DOA Secretary could abolish any position in any executive branch state agency that is responsible for the performance of building maintenance functions for that agency. Define "executive branch state agency" as an office, department, or independent agency in the executive branch (including the University of Wisconsin System) other than the Department of Administration.

Specify that the DOA Secretary, with the assistance of the chief administrative officer of each executive branch state agency, would identify employees of the executive branch state agencies whose positions would be deleted under this provision. Specify that the DOA Secretary could transfer any employee so identified. If employees are transferred, specify that they would maintain the employment rights, as defined under Subchapter V of Chapter 111 and Chapter 230 (describing state employment relations), that they had immediately prior to being transferred. Specify that no employee transferred under this provision, that had attained permanent status, would be required to serve a probationary period.

Modify the current program revenue supported facility and operations; police management functions appropriation to specify that DOA could expend all monies received for the purpose of financing the costs of operation of state-owned or operated facilities that are not funded from other appropriations, including custodial and maintenance services, minor projects, utilities, fuel, heat, and air conditioning, energy efficiency assessments for debt service costs, energy conservation and construction projects, supplements for child care facilities for the children of state employees, and police and protection functions. Under current law, the Department may only expend the amounts annually shown in the appropriation schedule for those purposes. Specify that any position transferred to DOA under this provision would be funded under this appropriation and be added to the appropriation for the purpose of providing maintenance to state agencies.

Joint Finance/Legislature: Delete provision.

4. ADMINISTRATIVE LAW JUDGE POSITIONS [LFB Paper 117]

	Governor (Chg. to Base)		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
PR	\$406,800	1.50	-\$135,000	0.00	\$271,800	1.50

Governor: Provide \$205,900 in 2009-10 and \$200,900 in 2010-11 and 1.5 classified positions for hearings and appeals services. The Executive Budget Book indicates that the deletion of 1.0 position at the Department of Regulation and Licensing (R&L) and 0.5 position at the Department of Agriculture Trade and Consumer Protection (DATCP) would correspond with the creation of 1.5 positions at the Department of Administration. The positions at DOA would have a salary and fringe benefit increase of \$34,300 increase over the current salary and fringe authority at R&L and DATCP.

The table below identifies the funding levels that would be provided to DOA and the amounts that would be transferred from salary and fringe benefits in R&L and DATCP, under the bill.

	Salary and <u>Fringe</u>	Supplies and <u>Services</u>	<u>Total</u>
Agriculture Trade and Consumer Protection	-\$68,700	\$68,700	\$0
Regulation and Licensing	<u>-68,200</u>	<u>68,200</u>	<u>0</u>
Total	-\$136,900	\$136,900	\$0
Administration*	\$171,200	\$29,700	\$200,900

*There is an additional \$5,000 of one-time funding in 2009-10 under DOA.

Joint Finance/Legislature: Reduce the amount provided for the administrative law judge position in DOA by \$67,500 annually to a total of \$138,400 in 2009-10 and \$133,400 in 2010-11.

Office of Justice Assistance

1. ASSESS, INFORM, AND MEASURE GRANT TO MILWAUKEE COUNTY [LFB Paper 120]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$1,000,000	-\$990,000	\$10,000

Governor: Provide \$500,000 annually to Milwaukee County for calendar years 2010 and

2011 if the County submits to OJA by December 1 of the preceding year a plan that provides for 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.

Specify that at least 50% of the performed assessments must be of persons subject to sentencing in connection with a felony.

[A 1% across-the-board reduction was subsequently applied to this allocation, reducing the total to \$495,000 annually.]

Joint Finance/Legislature: Delete the Governor's recommendation to provide a net \$495,000 GPR annually. Instead, direct OJA to provide Milwaukee County \$495,000 FED annually in federal Byrne Justice Assistance Grant funds received under the federal American Recovery and Reinvestment Act for the County's AIM program. [The remaining \$10,000 is deleted as a part of the 1% across-the-board reduction to DOA appropriations.]

[Act 28 Section: 9101(4)]

2. TREATMENT ALTERNATIVES AND DIVERSION GRANT TO MILWAUKEE COUNTY [LFB Paper 121]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$750,000	- \$742,400	\$7,600

Governor: Provide \$375,000 annually to Milwaukee County for calendar years 2010 and 2011 if the County submits to OJA by December 1 of the preceding year an application that demonstrates that the County would use the grant funds to implement a program that satisfies the conditions of the treatment alternatives and diversion (TAD) program. [A 1% across-the-

board reduction was subsequently applied to this allocation, reducing it to \$371,200 annually.]

For Milwaukee County to be eligible for the TAD 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 the Department of Health Services (DHS), 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 DHS-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 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/Legislature: Delete the Governor's recommendation to provide a net \$371,200 GPR annually. Instead, direct OJA to provide Milwaukee County \$371,200 FED annually during each year of the 2009-11 biennium in federal Byrne Justice Assistance Grant funds received under the federal American Recovery and Reinvestment Act for the County's TAD program. [The remaining \$7,600 is deleted as a part of the 1% across-the-board reduction to DOA appropriations.]

[Act 28 Sections: 572 and 9101(3)]

3. JUSTICE INFORMATION SYSTEM SURCHARGE [LFB Papers 122 thru 124]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
PR-REV	\$7,140,000	\$4,165,000	\$11,305,000

Governor: Increase the justice information system surcharge by \$6 to \$18. Provide that: (a) DOA receive an additional \$2.50, or \$7.50 total, from each assessed surcharge for justice information systems (instead of \$5 from each assessed surcharge); (b) \$2 from each assessed surcharge be allocated for grants for indigent civil legal services; and (c) \$1.50 from each assessed surcharge be allocated to OJA to fund the gathering and analyzing of statistics on the justice system, including racial disparity, uniform crime reporting, and incident-based reporting. [See Items #4, #5, and #6 below.] The increased fee is estimated to generate additional program revenue of \$3,060,000 in 2009-10 and \$4,080,000 in 2010-11.

The justice information system surcharge is generally assessed with a court fee for the commencement or filing of certain court proceedings, including civil, small claims, forfeiture, wage earner, or garnishment actions, an appeal from municipal court, third party complaint in a civil action, or for filing a counterclaim or cross complaint in a small claims action. Under prior law, of the \$12 surcharge, \$5 was allocated to DOA for justice information systems, \$6 was allocated to the court system for the circuit court automation program (CCAP), and \$1 was

credited to the general fund.

Joint Finance/Legislature: Increase the justice information system surcharge by an additional \$3.50 to \$21.50. Provide that: (a) an additional \$2 from each assessed surcharge be allocated for grants for indigent civil legal services; and (b) \$1.50 from each assessed surcharge be allocated to OJA for the treatment, alternatives, and diversion grant program. [See Items #4 and #9 below.] Increasing the surcharge by an additional \$3.50 is estimated to generate additional program revenue of \$1,785,000 in 2009-10 and \$2,380,000 in 2010-11.

[Act 28 Sections: 555, 614, and 3240]

4. CIVIL LEGAL SERVICES FOR THE INDIGENT [LFB Paper 122]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	-\$2,000,000	\$0	-\$2,000,000
PR	<u>2,250,000</u>	<u>2,380,000</u>	<u>4,630,000</u>
Total	\$250,000	\$2,380,000	\$2,630,000

Governor: Delete the GPR annual indigent civil legal services appropriation in DOA, and its associated funding of \$1,000,000 GPR annually. Create a PR annual indigent civil legal services appropriation under DOA to provide grants for indigent civil legal services. Provide \$1,000,000 PR in 2009-10 and \$1,250,000 PR in 2010-11 to the new appropriation. [A 1% across-the-board reduction was subsequently applied to the appropriation reducing the total to \$990,000 in 2009-10 and \$1,237,500 in 2010-11.] Funding would come from a \$6 increase to the \$12 justice information system surcharge. For each assessed surcharge, \$2 would be allocated for grants for indigent civil legal services. [See Item #3 above.]

Under prior law, DOA annually paid the appropriated GPR amounts to the Wisconsin Trust Account Foundation, Inc. The Foundation is required to distribute the moneys received as grants to programs that provide civil legal services to indigent persons. Programs receiving this grant funding may utilize the grant funds to match other federal and private grants. The grants may only be used for the purposes for which the funding is provided. These provisions would alter the source of funding for the grants and provide increased grant funding of \$237,500 PR in 2010-11.

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/Legislature: Provide an additional \$1,020,000 in 2009-10 and \$1,360,000 in 2010-11 in grants for indigent civil legal services. Funding derives from an additional \$2 increase to the justice information system surcharge.

[Act 28 Sections: 55, 553, and 556]

5. **CRIME DATA COLLECTION AND ANALYSIS** [LFB Paper 123]

	<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>
PR	\$1,100,000	4.00	-\$1,089,000	- 4.00	\$11,000	0.00

Governor: Provide \$550,000 and 4.0 positions annually for the following three crime data collection and analysis efforts: (a) \$250,000 and 2.0 positions annually to analyze data on racial disparity in the criminal justice system; (b) \$150,000 and 1.0 position annually to the Statistical Analysis Center (SAC); and (c) \$150,000 and 1.0 position annually for crime data collection. Provide funding through a new PR annual, data gathering and analysis appropriation under OJA. The appropriation would authorize OJA to expend appropriated amounts to gather and analyze statistics on the justice system, including racial disparity, uniform crime reporting, and incident-based reporting. Funding to the appropriation would come from a \$6 increase to the \$12 justice information system surcharge. For each assessed surcharge, \$1.50 would be allocated to this appropriation. [See Item #3 above.]

Under current law, the SAC is responsible for: (a) serving as a clearinghouse of justice system data and information; (b) conducting justice system research and data analysis; (c) collecting and publishing statewide crime and arrest data from all participating law enforcement agencies (primarily local law enforcement agencies); and (d) forwarding statewide crime and arrest data to the FBI and participating in the FBI's Uniform Crime Reporting program. No state funding is budgeted to specifically carry out these functions. As a result, the work of the SAC is completed under the restrictions of utilized federal funding.

Joint Finance/Legislature: Delete \$544,500 and 4.0 positions annually for these crime data collection and analysis efforts. [The remaining \$11,000 is deleted as a part of the 1% across-the-board reduction to DOA appropriations.] Amend the PR annual, data gathering and analysis appropriation under OJA to permit justice information system surcharge revenues received by this appropriation to be transferred to two new PR traffic stop data collection appropriations under OJA. [See Item #14 below.]

[Act 28 Section: 577]

6. **WISCONSIN JUSTICE INFORMATION SHARING** [LFB Paper 123]

	<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>
PR	\$300,000	1.00	-\$297,000	- 1.00	\$3,000	0.00

Governor: Provide \$150,000 and 1.0 position annually to OJA for its Wisconsin Justice Information Sharing (WIJIS) program. Funding would be authorized in the newly created PR annual, data gathering and analysis appropriation under OJA. [See Item #5 above.]

The WIJS program is an information technology initiative. The two primary initiatives under WIJS are the Justice Gateway and the WIJS Workflow Engine. The Justice Gateway provides read-only access to information stored in separate justice-related state, local, and tribal databases from communities across Wisconsin. The Gateway permits authorized users to do a name search of law enforcement contact, arrest, and investigation records. [In addition to formal arrest records, law enforcement agencies often make records of non-arrest contacts that their personnel have with individuals.]

The Workflow Engine is designed to support many different types of information exchange securely over authenticated Internet connections. The intent of the Workflow Engine is to streamline the processing of criminal justice records across multiple agencies.

Joint Finance/Legislature: Delete \$148,500 and 1.0 position annually to OJA for its WIJS program. [The remaining \$3,000 is deleted as a part of the 1% across-the-board reduction to DOA appropriations.] Amend the PR annual, data gathering and analysis appropriation under OJA to permit justice information system surcharge revenues received by this appropriation to be transferred to two new PR traffic stop data collection appropriations under OJA. [See Item #14 below.]

[Act 28 Section: 577]

7. TREATMENT ALTERNATIVES AND DIVERSION PROGRAM
[LFB Paper 516]

PR	- \$1,479,800
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Governor: Delete \$739,900 annually in expenditure authority under the grants for substance abuse treatment programs for criminal offenders PR appropriation which: (a) funds grants to counties under the treatment alternatives and diversion (TAD) grant program; and (b) allocates funding to the Department of Corrections to conduct evaluations of the program. Funding for the appropriation comes from the drug abuse program improvement surcharge (DAPIS) and from the \$10 drug offender diversion surcharge. The appropriation has base expenditure authority of \$755,000 annually. Following this reduction and a \$7,600 annual 1% across-the-board reduction, \$7,500 annually in expenditure authority would remain in the appropriation.

The provisions of 2005 Wisconsin Act 25 created the TAD grant program under OJA. The program is intended to provide grants to counties to establish and operate programs, including suspended and deferred programs and programs based on principles of restorative justice, which provide alternatives to prosecution and incarceration for criminal offenders who abuse alcohol or other drugs.

Program expenditures for TAD have exceeded program revenues leading the program to operate in deficit. The Department of Administration estimates that the program will conclude the 2007-09 biennium with a deficit of \$2,116,000.

The TAD program would now receive a second source of PR funding, the penalty surcharge. [See Item #8 below.] The following table identifies the recommended changes to

TAD funding.

<u>Item</u>	<u>Annual Funding</u>
TAD Appropriation -- DAPIS & \$10 Drug Offender Diversion Surcharge	
Base Funding	\$755,000
Programmatic Reduction	-739,900
1% Across-the Board Reduction	<u>-7,600</u>
Subtotal	\$7,500
TAD Appropriation -- Penalty Surcharge	
Base Funding	\$0
Initial Increase Under AB 75	750,000
5% Penalty Surcharge Reduction	-37,500
1% Across-the-Board Reduction	<u>-7,500</u>
Subtotal	\$705,000
Total Annual TAD Funding Under AB 75	\$712,500

Joint Finance/Legislature: Transfer funding of the TAD program from the penalty surcharge to the justice information system surcharge. [See Item #9, below.]

8. PENALTY SURCHARGE FUNDING FOR THE TREATMENT ALTERNATIVES AND DIVERSION PROGRAM [LFB Paper 516]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
PR	\$1,500,000	-\$1,410,000	\$90,000

Governor: Provide \$750,000 annually in penalty surcharge funding to provide additional resources for the treatment alternatives and diversion (TAD) grant program. Create a PR annual "alternatives to prosecution and incarceration for persons who use alcohol or other drugs; penalty surcharge" appropriation to receive and expend penalty surcharge funds for grants to counties under the TAD program. [An annual 5% penalty surcharge reduction and 1% across-the-board reduction were subsequently applied to reduce funding under this appropriation to \$705,000 annually.]

Joint Finance/Legislature: Delete provision and reduce funding for the TAD program by \$705,000 annually. [The remaining \$90,000 is deleted as a part of the 1% across-the-board reduction and the additional 5% reduction to penalty surcharge supported appropriations.]

9. JUSTICE INFORMATION SYSTEM SURCHARGE FUNDING FOR THE TREATMENT ALTERNATIVES AND DIVERSION PROGRAM

PR	\$1,410,000
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Joint Finance/Legislature: Provide \$705,000 annually in funding to provide additional resources for the treatment alternatives and diversion (TAD) grant program. Create a PR

annual "alternatives to prosecution and incarceration for person who use alcohol or other drugs; justice information surcharge" appropriation to receive and expend justice information system surcharge funds for grants to counties under the TAD program. [See Items #3 above.] Funding derives from an additional \$1.50 increase to the justice information system surcharge.

[Act 28 Sections: 156, 528d, and 572j]

10. PENALTY SURCHARGE FUNDING FOR THE DIGITAL RECORDING OF CUSTODIAL INTERROGATIONS BY LAW ENFORCEMENT GRANT PROGRAM PR - \$1,500,000

Governor/Legislature: Eliminate the digital recording of custodial interrogations by law enforcement grant program. Delete \$750,000 annually in base grant funding for the program and delete the statutory language governing the administration of the program. The program was 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 digital recording of custodial interrogations by law enforcement grant program. The program provided grants to law enforcement agencies for equipment or training used to digitally record custodial interrogations of suspects.

[Act 28 Sections: 155 and 575]

11. PENALTY SURCHARGE APPROPRIATION MODIFICATIONS PR - \$176,800
[LFB Paper 516]

Governor: Reduce expenditure authority under the following agency appropriations by \$88,400 annually (5% annually after any standard budget adjustments).

<u>Appropriation</u>	<u>Annual Reduction</u>
Youth Diversion Grants	-\$39,900
Treatment Alternatives and Diversion Program	-37,500
Law Enforcement and Youth Diversion Administrative Funding	<u>-11,000</u>
Total	-\$88,400

Under current law, OJA is required to utilize \$1,200,000 annually (\$380,000 GPR and \$820,000 PR) to enter into contracts with organizations for the diversion of youths from gang activities into productive activities, including placement in appropriate educational, recreational, and employment programs. The statutes specifically direct OJA to enter into the following contracts for the following amounts: (a) \$500,000 to an organization in Milwaukee County; (b) \$150,000 to an organization in Racine County; (c) \$150,000 to an organization in

Kenosha County; (d) \$150,000 to an organization located in Ward 2 in the City of Racine; (e) \$150,000 to an organization in Brown County; and (f) \$100,000 to an unspecified organization (which OJA has awarded to the City of Racine).

Youth Diversion Provisions. Reduce the statutorily directed funding to the following youth diversion programs as follows: (a) -\$20,400 annually to an organization in Milwaukee County; (b) -\$11,800 annually to an organization in Racine County; (c) -\$11,800 annually to an organization in Kenosha County; (d) -\$11,800 annually to an organization located in Ward 2 in the City of Racine; (e) -\$11,800 annually to an organization in Brown County; and (f) -\$9,000 annually to an unspecified organization (which OJA has awarded to the City of Racine). These annual reductions of \$76,600 reflect: (a) that base funding for the youth diversion grants PR appropriation was already reduced by \$25,100 annually compared to the funding needed to fully fund the statutory grant amounts; (b) additional reductions of \$39,900 PR annually based on penalty surcharge revenue estimates; (c) a 1% across-the-board annual reduction of \$7,900 PR to the youth diversion grants appropriation; and (d) a 1% across-the-board annual reduction of \$3,800 GPR to the GPR-funded youth diversion appropriation.

Unencumbered Balances. For the youth diversion PR appropriations, require that all unencumbered balances at the end of each fiscal year revert to the "criminal justice program support" appropriation under the Department of Justice. The newly-created treatment alternatives and diversion appropriation would not be subject to this requirement. [See "Justice."]

Joint Finance/Legislature: Delete the requirement that all unencumbered balances at the end of each fiscal year revert to the "criminal justice program support" appropriation under the Department of Justice.

[Act 28 Section: 9101(6)]

12. CHILD ADVOCACY CENTERS

GPR	\$79,200
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Governor: In implementing the 1% across-the-board reduction to the child advocacy centers GPR appropriation under OJA, provide that the \$20,000 annual grant provided to each of 12 child advocacy centers across the state will each be reduced by \$200 annually. The appropriation has base expenditure authority of \$240,000 annually. The \$2,400 annual reduction to this appropriation is equally allocated to the 12 grant recipients.

The appropriation is also subject to an additional GPR reduction of \$12,000 annually. There is no statutory language requiring that this latter reduction be equally allocated to the 12 grant recipients.

Further, provide that in addition to state GPR funding, federal stimulus funding may be utilized to fund the grants to the child advocacy centers.

Under 2007 Wisconsin Act 20, \$240,000 GPR annually was provided, beginning in

2008-09, to fund a new child advocacy centers grant program. The statutes direct OJA to provide 12 annual grants of \$20,000 each to the following child advocacy centers for education, training, medical advice, and quality assurance activities: (a) Chippewa County -- Chippewa County Child Advocacy Center; (b) Dane County -- Safe Harbor; (c) Kenosha County -- Kenosha Child Advocacy Center; (d) La Crosse County -- Stepping Stones; (e) Marathon County -- Child Advocacy Center of Northeastern Wisconsin; (f) Milwaukee County -- Child Protection Center; (g) Rock County -- Care House; (h) Waukesha County -- CARE Center; (i) Winnebago County -- Fox Valley Child Advocacy Center; (j) Brown County -- Sexual Assault Center of Family Services of Northeast Wisconsin; (k) Racine County -- Children's Service Society of Wisconsin; and (L) Walworth County -- Children's Hospital of Wisconsin (Kenosha). 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.

Joint Finance/Legislature: Provide \$19,800 GPR annually to each of the following two additional child advocacy centers for education, training, medical advice, and quality assurance activities: (a) the CHAT Room in Green County; and (b) the Marshfield Child Advocacy Center in Wood County. Delete the permissibility of utilizing federal stimulus funding to fund the grants to the centers.

[Act 28 Sections: 157d, 157s, and 9101(10)]

13. INTEROPERABLE COMMUNICATIONS FEES AND APPROPRIATION

Governor/Legislature: Authorize OJA to charge a public safety agency that is a state agency a fee for the use of the statewide public safety interoperable communication system. Create a PR annual "public safety interoperable communication system; state fees" appropriation to receive and expend these fees to operate the communication system. A "public safety agency" is defined as a functional division of a public agency which provides fire fighting, law enforcement, medical, or other emergency services. Examples of state public safety agencies to which the provision would apply include the Department of Justice, the State Patrol, and the Capitol Police.

[Act 28 Sections: 149 thru 151, 152, 158, and 574]

14. TRAFFIC STOP DATA COLLECTION [LFB Paper 123]

Joint Finance/Legislature: For each motor vehicle stop made on or after January 1, 2011, require the law enforcement officer to obtain all information relating to the traffic stop that is required to be collected under administrative rules developed by OJA and approved by the Legislature. Require law enforcement agencies statewide (both state and local law enforcement agencies) to submit this information to OJA using the process and in the format prescribed by OJA under administrative rule.

Require OJA to analyze the information submitted by law enforcement agencies to determine whether the number of motor vehicle stops and searches involving motor vehicles operated or occupied by members of a racial minority is disproportionate to the number of motor vehicle stops and searches involving motor vehicles operated or occupied solely by persons who are not members of a racial minority. Direct the Office to promulgate administrative rules relating to: (a) the types of information that law enforcement agencies must collect relating to traffic stops and the circumstances under which this information must be collected; (b) the process and format that law enforcement agencies must use to submit to OJA the collected information; (c) the types of analyses that the Office will perform in fulfilling its statutory analysis obligation; and (d) requirements for making reports to the Legislature, the Governor, and the Director of State Courts. Require OJA to submit these administrative rules in proposed form to the Legislative Council no later than February 1, 2010.

Provide that the Secretary of DOA submit a report to the Joint Committee on Finance addressing all of the following: (a) the feasibility of developing an information technology system to implement the traffic stop data collection required under this provision; (b) the estimated initial development costs for the system and how the cost estimates were derived; (c) the estimated ongoing costs for the system and how the cost estimates were derived; (d) timelines for development of the system; (e) the estimated costs to each participating state and local law enforcement agency, on a one-time and on an ongoing basis, to acquire any necessary system hardware and software, for any necessary communication lines, and for program costs; (f) the estimated costs to OJA, on a one-time and on an ongoing basis, to acquire any necessary system hardware and software, for system maintenance, for any necessary communication lines, for staffing to compile and analyze the traffic stop information and produce any required reports, for staffing to administer the Office's other program responsibilities, and for any other program costs; and (g) funding sources for the system and program costs sufficient to cover estimated system and program costs.

If the Co-Chairs of the Joint Committee on Finance do not notify the Secretary of DOA that the Committee has scheduled a meeting for the purpose of reviewing the report within 14 working days after the date that the report is submitted, the report is approved. If, within 14 working days after the date that the report is submitted, the Co-Chairs of the Joint Committee on Finance notify the Secretary that the Committee has scheduled a meeting for the purpose of reviewing the report, the report is not approved. System development may not begin prior to the approval of the report, as originally submitted, or as modified by the Joint Committee on Finance.

Create a PR annual "traffic stop data collection; state" appropriation funded from justice information system surcharge revenues, but provide no expenditure or position authority to the appropriation. Authorize the appropriation to fund state information technology and administrative costs associated with traffic stop data collection. Depending upon any accepted report filed by the Secretary of DOA, expenditure and position authority could be provided to the appropriation to implement the initiative.

Create a PR annual "traffic stop data collection; local" appropriation funded from justice

information system surcharge revenues, but provide no expenditure authority to the appropriation. Authorize the appropriation to fund local information technology and administrative costs associated with traffic stop data collection. Depending upon any accepted report filed by the Secretary of DOA, expenditure authority could be provided to the appropriation to implement the initiative.

[Act 28 Sections: 158m, 577, 577d, 577s, 2993t, and 9101(11y)&(12x)]

15. AMERICAN INDIAN TRIBAL COMMUNITY REINTEGRATION PROGRAM

	Jt. Finance/Leg. (Chg. to Base)	Veto (Chg. to Leg)	Net Change
PR	\$318,300	-\$268,300	\$50,000

Joint Finance/Legislature: Require OJA to establish a program to facilitate the reintegration of American Indians who have been incarcerated in a state prison into their American Indian tribal communities. Further, require the Office to ensure that the program incorporates tribal practices and traditions that meet the participant’s community reintegration needs. Under the program, each participant would be provided: (a) an integration plan that addresses the participant’s needs; and (b) customized services. The program would be required to encourage confidence, responsibility, and independence among participants.

Create a PR annual "American Indian reintegration program" appropriation funded with tribal gaming revenues and provide \$318,300 in expenditure authority to the appropriation in 2010-11. The Office would be authorized to utilize amounts appropriated to this appropriation for the program.

Provide that the program takes effect July 1, 2010.

Veto by Governor [A-10]: Delete \$268,300 in expenditure authority in 2010-11. As a result, \$50,000 in 2010-11 is appropriated for the program.

[Act 28 Sections: 158t, 174 (as it relates to 20.505(6)(kf)), 575f, 579, 587b, and 9401(3q)]

16. DRUG TESTING RESTRICTIONS FOR TREATMENT, ALTERNATIVES, AND DIVERSION PROGRAMS

Joint Finance/Legislature: In collecting urine for the purposes of a drug test, if a program participant’s genitals, pubic area, buttock, or anus are exposed, TAD programs funded by OJA must abide by all of the following requirements: (a) the person conducting the urine collection must be of the same sex as the program participant; (b) during the urine collection, the program participant must not be exposed to the view of any person not conducting the urine collection; (c) the urine collection must not be reproduced through a visual or sound recording; (d) the program participant’s genitals, pubic area, buttock, and anus must not be subject to any

physical inspection beyond observation of the urine collection; and (e) all staff of the program must strive to preserve the dignity of all program participants subject to urine collection.

[Act 28 Section: 156n]

17. GRANT FOR WISCONSIN CASA ASSOCIATION

Joint Finance/Legislature: Direct OJA in statute to provide a grant of \$150,000 FED annually 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.

[Act 28 Section: 151k]

18. GRANTS FOR COPS-N-KIDS READING PROGRAM

Joint Finance/Legislature: Direct OJA to provide a three year grant totaling \$112,500 FED, effective, January 1, 2011, to the Cops-n-Kids Reading Program in the City of Racine. Direct OJA to fund the grant from amounts received under the federal Byrne Justice Assistance Grant Program. The current three year grant from OJA to the program will expire December 31, 2010.

[Act 28 Section: 9101(6f)]

19. EMERGENCY GENERATOR FOR THE TOWN OF OAKLAND IN JEFFERSON COUNTY

Joint Finance/Legislature: Direct OJA to provide a grant of \$10,000 FED in 2009-10, funded with federal homeland security grant dollars, to purchase an emergency generator for the Town of Oakland in Jefferson County.

[Act 28 Section: 9101(11x)]

20. GRANT TO RESTORATIVE JUSTICE PROGRAMS, INC.

GPR	\$50,000
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Assembly/Legislature: Direct OJA to provide a grant of \$50,000 in 2009-10 only to the Restorative Justice Programs, Inc., in Barron County for restorative justice programming. Create a GPR annual "restorative justice" appropriation under OJA to make the grant. Repeal the appropriation effective July 1, 2010.

[Act 28 Sections: 572g, 572h, 9101(13f), and 9401(4g)]

Division of Gaming

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

	Governor (Chg. to Base)	Jt. Finance /Leg. (Chg. to Gov)	Veto (Chg. to Leg)	Net Change
GPR-REV	\$58,202,300	-\$16,413,700	\$268,300	\$42,056,900

Governor: Appropriate \$27,900,200 in 2009-10 and \$27,874,900 in 2010-11 in tribal gaming revenue paid to the state under the tribal gaming compacts. The appropriations include: (a) allocations totaling \$25,871,000 in 2009-10 and \$25,845,700 in 2010-11 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 [\$1,884,700 annually], and tribal gaming law enforcement in the Department of Justice (DOJ) [\$144,500 annually].

Tribal revenue paid to the state is based on provisions under the current state-tribal gaming compacts. Under the compacts, tribes are scheduled to make payments to the state based on a percentage of net revenue (gross revenue minus winnings) in the 2009-11 biennium. The percentages used to calculate state payments vary by tribe and, in some cases, may 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 2009-11 biennium are projected to total \$54,671,300 in 2009-10 and \$59,306,100 in 2010-11. The general fund condition statement included in AB 75 shows tribal gaming general fund revenue totaling \$26,574,100 in 2009-10 and \$31,293,600 in 2010-11. 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 \$26,771,100 in 2009-10 and \$31,431,200 in 2010-11. These amounts are \$197,000 in 2009-10 and \$137,600 in 2010-11 higher than the amounts in the general fund condition statement. The corrected amounts are summarized in Table 1.

TABLE 1
2009-11 Tribal Gaming General Fund Revenue
Governor

	<u>2009-10</u>	<u>2010-11</u>
Estimated Tribal Payments in 2009-11	\$54,671,300	\$59,306,100
Tribal Gaming Appropriations under AB 75	\$27,900,200	\$27,874,900
General Fund Revenue under AB 75 (Corrected)	\$26,771,100	\$31,431,200

Under the bill, the Governor recommends the appropriation of tribal gaming revenue to 17 state agencies, in 44 program areas, including the DOA regulation and DOJ enforcement appropriations. Of these 44 programs areas, 42 appropriation accounts are authorized under current law. The two new appropriations from tribal gaming revenue, under the Governor's provisions, are allocations to the Department of Public Instruction (Item #29 in Table 2, at \$247,500 annually) for tribal language revitalization grants, and the Department of Transportation (Item #34, at \$247,500 annually) for elderly transportation grants. Three program areas identified in Table 2 [#30, 31, and 35] are not appropriated funding in the 2009-11 biennium, but are existing appropriation accounts under current law that can only be funded with tribal gaming revenue.

Of the 42 current law programs funded with tribal gaming revenue, 22 were affected, under the Governor's recommendations, solely by a 1% across-the-board reduction applied to most non-federal appropriations under the budget. Generally, the remaining tribal gaming appropriations under current law also received the 1% reduction, but, in addition, were affected by other modifications, such as standard budget adjustments, or funding changes to address program services.

TABLE 2
2009-11 Tribal Gaming Revenue Appropriations
Governor

<u>Agency</u>	<u>Program Revenue</u>		<u>Purpose</u>
	<u>2009-10</u>	<u>2010-11</u>	
1 Administration	\$594,000	\$594,000	County management assistance grant program.
2 Administration	247,500	247,500	UW-Green Bay and Oneida Tribe programs.
3 Arts Board	24,900	24,900	State aid for American Indian arts.
4 Children and Families	495,000	495,000	Indian child high-cost out-of-home care placements.
5 Commerce	110,100	110,100	American Indian economic liaison and gaming grants specialist and program marketing.
6 Commerce	93,100	93,100	American Indian economic development technical assistance grants.

<u>Agency</u>	<u>Program Revenue</u>		<u>Purpose</u>
	<u>2009-10</u>	<u>2010-11</u>	
7 Commerce	\$1,191,800	\$1,191,800	Gaming economic development and diversification grants and loans.
8 Health Services	495,000	495,000	Elderly nutrition; home-delivered and congregate meals.
9 Health Services	118,800	118,800	American Indian health projects.
10 Health Services	268,900	268,900	Indian aids for social and mental hygiene services.
11 Health Services	495,000	495,000	Indian substance abuse prevention education.
12 Health Services	1,059,300	1,059,300	Medical assistance matching funds for tribal outreach positions and federally qualified health centers (FQHC).
13 Health Services	792,000	792,000	Health services: tribal medical relief block grants.
14 Health Services	148,500	148,500	Minority health program and public information campaign grants.
15 Higher Education Aids Board	779,700	779,700	Indian student assistance grant program for American Indian undergraduate or graduate students.
16 Higher Education Aids Board	428,300	437,000	Wisconsin Higher Education Grant (WHEG) program for tribal college students.
17 Historical Society	259,300	259,300	Northern Great Lakes Center operations funding.
18 Historical Society	248,800	213,900	Collection preservation storage facility.
19 Justice	701,300	701,300	County-tribal law enforcement programs: local assistance.
20 Justice	94,400	94,400	County-tribal law enforcement programs: state operations.
21 Justice	544,500	544,500	County law enforcement grant program.
22 Justice	772,200	772,200	Tribal law enforcement grant program.
23 Natural Resources	3,000,000	3,000,000	Transfer to the fish and wildlife account of the conservation fund.
24 Natural Resources	104,800	104,800	Management of an elk reintroduction program.
25 Natural Resources	170,900	170,900	Management of state fishery resources in off-reservation areas where tribes have treaty-based rights to fish.
26 Natural Resources	99,000	99,000	Payment to the Lac du Flambeau Band relating to certain fishing and sports licenses.
27 Natural Resources	1,276,300	1,276,300	State snowmobile enforcement program, safety training and fatality reporting.
28 Natural Resources	64,900	64,900	Reintroduction of whooping cranes.

<u>Agency</u>	<u>Program Revenue</u>		<u>Purpose</u>
	<u>2009-10</u>	<u>2010-11</u>	
29 Public Instruction	\$247,500	\$247,500	Tribal language revitalization grants.
30 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 2009-11 biennium.)
31 Tourism	0	0	Limited-term employees to operate or staff Wisconsin travel information centers. (No allocations are made in the 2009-11 biennium.)
32 Tourism	8,683,400	8,683,400	General tourism marketing, including grants to nonprofit tourism promotion organizations and specific earmarks.
33 Tourism	32,000	32,000	Law enforcement services at the Kickapoo Valley Reserve.
34 Transportation	247,500	247,500	Elderly transportation grants.
35 University of Wisconsin System	0	0	Ashland full-scale aquaculture demonstration facility debt service payments. (No allocations are made in the 2009-11 biennium.)
36 University of Wisconsin System	404,500	404,500	Ashland full-scale aquaculture demonstration facility operational costs.
37 University of Wisconsin System	483,800	483,800	Physician and health care provider loan assistance.
38 Veterans Affairs	67,400	67,400	Grants to assist American Indians in obtaining federal and state veterans benefits.
39 Veterans Affairs	86,100	87,000	American Indian services veterans benefits coordinator position.
40 Veterans Affairs	0	0	Operation of Wisconsin Veterans Museum. (No allocations are made in the 2009-11 biennium.)
41 Wisconsin Technical College System Board	594,000	594,000	Grants for work-based learning programs.
42 Workforce Development	<u>346,500</u>	<u>346,500</u>	Vocational rehabilitation services for Native American individuals and American Indian tribes or bands.
Subtotal (Non-Regulatory Items)	\$25,871,000	\$25,845,700	
43 Administration	\$1,884,700	\$1,884,700	General program operations for Indian gaming regulation under the compacts.
44 Justice	<u>144,500</u>	<u>144,500</u>	Investigative services for Indian gaming law enforcement.
Subtotal (Regulation/Enforcement)	\$2,029,200	\$2,029,200	
Total Appropriations	\$27,900,200	\$27,874,900	

Joint Finance: Appropriate \$27,091,200 in 2009-10 and \$27,550,900 in 2010-11 in tribal gaming revenue, including: (a) allocations totaling \$25,122,700 in 2009-10 and \$25,582,400 in 2010-11 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 [\$1,829,600 annually], and (c) tribal gaming law enforcement in the Department of Justice (DOJ) [\$138,900 annually].

All the programs funded by tribal gaming revenue under the Governor's bill continue to be funded following the Committee's actions. However, many of the allocations were affected by one or more of the following: (a) the roll-back of 2% general wage adjustments for state employees that were scheduled to take effect in June, 2009; (b) the requirement that state employees take eight days of unpaid annual leave (furlough) in each year of the 2009-11 biennium; and (c) across-the-board reductions of approximately 5.135% of base level funding. These adjustments are described in the summaries for individual state agencies.

In addition, the Committee funded a new program, by providing \$318,300 in 2010-11 to the Office of Justice Assistance (OJA) for a Wisconsin American Indian Tribal Community Reintegration Program (#3 in Table 5). The Committee also restored funding (\$160,000 in 2010-11) to a Department of Tourism appropriation account for grants to local organizations and governments for regional tourist information centers (#34). An appropriation for the Wisconsin Higher Education Grant (WHEG) program for tribal college students was also increased by \$10,500 in 2009-10 and \$27,700 in 2010-11 (#19). Finally, the Committee restored 1% across-the-board reductions under AB 75 for the following programs: (a) \$4,900 annually for the UW System physician and health care provider loan assistance program (#40); (b) \$600 annually for a Veterans Affairs American Indian grant program (#41); and (c) \$800 annually for a Veterans Affairs appropriation for American Indian services veterans benefits coordinator (#42). These adjustments are also described in the summaries for individual state agencies.

The Committee's actions reduce general fund revenue from tribal gaming payments by \$7,294,500 in 2009-10 and \$9,119,200 in 2010-11. Under LFB Paper 135, general fund revenue under AB 75 was reduced by \$7,277,700 in 2009-10 and \$8,617,400 in 2010-11, based on reestimated tribal gaming payments to the state. General fund revenue was further modified by the Committee actions on program funding described above. Table 3 summarizes projected revenues and expenditures and estimated general fund revenue:

TABLE 3
2009-11 Tribal Gaming General Fund Revenue
Joint Finance

	<u>2009-10</u>	<u>2010-11</u>
Reestimated Tribal Payments (LFB Paper 135)	\$46,704,800	\$50,030,600
Appropriations of Tribal Revenue	\$27,091,200	\$27,550,900
Revenue and Expense Adjustments	-\$137,000	-\$167,700
Reestimated General Fund Revenue*	\$19,476,600	\$22,312,000
General Fund Revenue under Governor (Corrected)	\$26,771,100	\$31,431,200
Change to Governor	-\$7,294,500	-\$9,119,200

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

Senate: Reduce tribal gaming funding for out-of-home care placements for American Indian tribes in the Department of Children and Families (DCF) interagency and intra-agency local assistance appropriation by \$25,000 annually. Instead, appropriate \$25,000 in the Department of Health Services (DHS) to the Wisconsin diabetes prevention and control program for American Indian populations. Modify the DCF interagency and intra-agency local assistance appropriation to authorize DCF to transfer up to \$50,000 annually to the Department of Corrections (Corrections) to place American Indian juveniles in out-of-home care. Create a PR continuing appropriation in Corrections for receipt of transferred funding. The exact amount transferred in each fiscal year would be determined by the Secretary of the Department of Administration. The Senate provisions would not modify the overall expenditure of tribal gaming revenue or the amount of general fund revenue projected under the Joint Finance Committee actions.

Conference Committee/Legislature: Reduce tribal gaming funding for out-of-home care placements for American Indian tribes in the DCF interagency and intra-agency local assistance appropriation by \$100,000 annually (#5 in Table 5). Instead: (a) adopt the Senate provision to provide \$25,000 annually in DHS to the Wisconsin diabetes prevention and control program for American Indian populations (#17); and (b) provide \$75,000 annually in Corrections for high-cost out-of-home care placements for American Indian juveniles (#9). Under the provision, funding for high-cost out-of-home care placements for American Indian children in DCF would total \$395,000 annually, rather than \$495,000 annually. These provisions would not modify the overall expenditure of tribal gaming revenue or the amount of general fund revenue projected under the Joint Finance Committee actions.

Veto by Governor [A-10]: Delete \$268,300 in expenditure authority in 2010-11 from the Office of Justice Assistance for the establishment of a program to facilitate the reintegration of American Indians who have been incarcerated in a state prison into their American Indian tribal communities (#3). As a result of the partial veto, \$50,000 in 2010-11 is appropriated for the program. In addition, the spending reduction increases general fund revenue under the act by

\$268,300.

As a result of these modifications, Act 28 appropriates \$27,091,200 in 2009-10 and \$27,282,600 in 2010-11 in tribal gaming revenue, including: (a) allocations totaling \$25,122,700 in 2009-10 and \$25,314,100 in 2010-11 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 [\$1,829,600 annually]; and (c) tribal gaming law enforcement in the Department of Justice (DOJ) [\$138,900 annually].

The general fund summary for Act 28 shows tribal gaming general fund revenue totaling \$19,476,600 in 2009-10 and \$22,580,300 in 2010-11. Table 4 summarizes projected revenues and expenditures and estimated general fund revenue under Act 28:

TABLE 4
2009-11 Tribal Gaming General Fund Revenue
2009 Act 28

	<u>2009-10</u>	<u>2010-11</u>
Reestimated Tribal Payments (LFB Paper 135)	\$46,704,800	\$50,030,600
Appropriations of Tribal Revenue	\$27,091,200	\$27,282,600
Revenue and Expense Adjustments	-\$137,000	-\$167,700
Reestimated General Fund Revenue*	\$19,476,600	\$22,580,300
General Fund Revenue under Governor (Corrected)	\$26,771,100	\$31,431,200
Change to Governor	-\$7,294,500	-\$8,850,900

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

Under Act 28, tribal gaming revenue is appropriated to 16 state agencies, in 44 program areas, including the DOA regulation and DOJ enforcement appropriations. An additional three program areas are not appropriated funding in the 2009-11 biennium, but are existing appropriation accounts under current law that can only be funded with tribal gaming revenue. Funding levels for agency programs authorized to receive tribal gaming revenue under Act 28 are listed and briefly described in Table 5.

TABLE 5**2009-11 Tribal Gaming Revenue Appropriations
2009 Act 28**

<u>Agency</u>	<u>Program Revenue</u>		<u>Purpose</u>
	<u>2009-10</u>	<u>2010-11</u>	
1 Administration	\$563,200	\$563,200	County management assistance grant program.
2 Administration	247,500	247,500	UW-Green Bay and Oneida Tribe programs.
3 Administration	0	50,000	American Indian tribal community reintegration program
4 Arts Board	24,900	24,900	State aid for American Indian arts.
5 Children and Families	395,000	395,000	Indian child high-cost out-of-home care placements.
6 Commerce	104,200	104,200	American Indian economic liaison and gaming grants specialist and program marketing.
7 Commerce	88,300	88,300	American Indian economic development technical assistance grants.
8 Commerce	1,079,400	1,079,400	Gaming economic development and diversification grants and loans.
9. Corrections	75,000	75,000	Indian juvenile out-of-home care placements.
10 Health Services	495,000	495,000	Elderly nutrition; home-delivered and congregate meals.
11 Health Services	118,800	118,800	American Indian health projects.
12 Health Services	268,900	268,900	Indian aids for social and mental hygiene services.
13 Health Services	495,000	495,000	Indian substance abuse prevention education.
14 Health Services	1,059,300	1,059,300	Medical assistance matching funds for tribal outreach positions and federally qualified health centers (FQHC).
15 Health Services	792,000	792,000	Health services: tribal medical relief block grants.
16 Health Services	148,500	148,500	Minority health program and public information campaign grants.
17 Health Services	25,000	25,000	American Indian diabetes prevention and control.
18 Higher Education Aids Board	779,700	779,700	Indian student assistance grant program for American Indian undergraduate or graduate students.
19 Higher Education Aids Board	438,800	454,200	Wisconsin Higher Education Grant (WHEG) program for tribal college students.
20 Historical Society	259,300	259,300	Northern Great Lakes Center operations funding.
21 Historical Society	248,800	213,900	Collection preservation storage facility.

<u>Agency</u>	<u>Program Revenue</u>		<u>Purpose</u>
	<u>2009-10</u>	<u>2010-11</u>	
22 Justice	\$701,300	\$701,300	County-tribal law enforcement programs: local assistance.
23 Justice	90,600	90,600	County-tribal law enforcement programs: state operations.
24 Justice	544,500	544,500	County law enforcement grant program.
25 Justice	772,200	772,200	Tribal law enforcement grant program.
26 Natural Resources	3,000,000	3,000,000	Transfer to the fish and wildlife account of the conservation fund.
27 Natural Resources	98,200	98,200	Management of an elk reintroduction program.
28 Natural Resources	156,000	156,000	Management of state fishery resources in off-reservation areas where tribes have treaty-based rights to fish.
29 Natural Resources	93,900	93,900	Payment to the Lac du Flambeau Band relating to certain fishing and sports licenses.
30 Natural Resources	1,184,800	1,184,800	State snowmobile enforcement program, safety training and fatality reporting.
31 Natural Resources	59,800	59,800	Reintroduction of whooping cranes.
32 Public Instruction	247,500	247,500	Tribal language revitalization grants.
33 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 2009-11 biennium.)
34 Tourism	0	160,000	Grants to local organizations and governments to operate regional tourist information centers.
35 Tourism	8,213,600	8,213,600	General tourism marketing, including grants to nonprofit tourism promotion organizations and specific earmarks.
36 Tourism	30,300	30,300	Law enforcement services at the Kickapoo Valley Reserve.
37 Transportation	247,500	247,500	Elderly transportation grants.
38 University of Wisconsin System	0	0	Ashland full-scale aquaculture demonstration facility debt service payments. (No allocations are made in the 2009-11 biennium.)
39 University of Wisconsin System	394,500	394,500	Ashland full-scale aquaculture demonstration facility operational costs.
40 University of Wisconsin System	488,700	488,700	Physician and health care provider loan assistance.
41 Veterans Affairs	68,000	68,000	Grants to assist American Indians in obtaining federal and state veterans benefits.
42 Veterans Affairs	84,200	85,100	American Indian services veterans benefits coordinator position.
43 Veterans Affairs	0	0	Operation of Wisconsin Veterans Museum. (No allocations are made in the 2009-11 biennium.)

<u>Agency</u>	<u>Program Revenue</u>		<u>Purpose</u>
	<u>2009-10</u>	<u>2010-11</u>	
44 Wisconsin Technical College System Board	\$594,000	\$594,000	Grants for work-based learning programs.
45 Workforce Development	<u>346,500</u>	<u>346,500</u>	Vocational rehabilitation services for Native American individuals and American Indian tribes or bands.
Subtotal (Non-Regulatory Items)	\$25,122,700	\$25,314,100	
46 Administration	\$1,829,600	\$1,829,600	General program operations for Indian gaming regulation under the compacts.
47 Justice	<u>138,900</u>	<u>138,900</u>	Investigative services for Indian gaming law enforcement.
Subtotal (Regulation/Enforcement)	\$1,968,500	\$1,968,500	
Total Appropriations	\$27,091,200	\$27,282,600	

[Act 28 Section: 174]

AGRICULTURE, TRADE AND CONSUMER PROTECTION

Budget Summary							
Fund	2008-09 Base Year Doubled	2009-11 Governor	2009-11 Jt. Finance	2009-11 Legislature	2009-11 Act 28	Act 28 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$61,452,400	\$57,451,500	\$55,538,500	\$55,538,500	\$55,538,500	-\$5,913,900	- 9.6%
FED	38,069,200	41,294,300	40,665,900	40,665,900	40,665,900	2,596,700	6.8
PR	41,465,000	46,358,100	43,265,200	43,265,200	43,265,200	1,800,200	4.3
SEG	<u>60,958,200</u>	<u>61,677,100</u>	<u>59,131,300</u>	<u>60,785,700</u>	<u>60,785,700</u>	<u>- 172,500</u>	- 0.3
TOTAL	\$201,944,800	\$206,781,000	\$198,600,900	\$200,255,300	\$200,255,300	-\$1,689,500	- 0.8%
BR		\$7,000,000	\$7,000,000	\$7,000,000	\$7,000,000	\$0	

FTE Position Summary						
Fund	2008-09 Base	2010-11 Governor	2010-11 Jt. Finance	2010-11 Legislature	2010-11 Act 28	Act 28 Change Over 2008-09 Base
FED	76.95	77.47	77.47	77.47	77.47	0.52
PR	185.90	196.88	197.08	197.08	197.08	11.18
SEG	<u>97.12</u>	<u>94.02</u>	<u>98.02</u>	<u>98.77</u>	<u>98.77</u>	<u>1.65</u>
TOTAL	582.37	573.87	577.07	577.82	577.82	- 4.55

Budget Change Items

1. STANDARD BUDGET ADJUSTMENTS

Governor/Legislature: Provide adjustments to the department's base budget for: (a) turnover reduction (-\$171,000 GPR and -\$79,100 PR annually); (b) removal of non-continuing items from the base (-\$94,700 FED in 2009-10 and -\$283,600 FED in 2010-11 with -4.0 positions annually, -\$20,000 PR in 2009-10 and -\$80,500 PR in 2010-11 with -2.0 positions annually, and -\$71,000 SEG annually); (c) full funding of continuing salaries and fringe benefits (\$1,092,000 GPR, -\$1,434,800 FED, \$737,800 PR and \$172,100 SEG annually); (d) reclassifications (\$31,500 GPR in 2009-10 and \$32,200 GPR in 2010-11, \$31,200 FED in 2009-10 and \$38,300 FED in 2010-11, \$33,000 PR in 2009-10 and \$41,400 PR in 2010-11, and \$35,000 SEG in 2009-10 and \$38,600 SEG in 2010-11); (e) full funding of lease costs and directed moves

	Funding	Positions
GPR	\$2,036,500	0.00
FED	- 2,961,000	- 4.00
PR	1,471,300	- 2.00
SEG	<u>564,600</u>	<u>0.00</u>
Total	\$1,111,400	- 6.00

(\$65,400 GPR, \$108,700 FED, \$90,000 PR and \$144,400 SEG annually); and (f) minor transfers within the same alphabetic appropriation (within the appropriation for sale of supplies, transfer \$23,000 PR annually to consumer protection, which would come from \$18,000 in food inspection and \$5,000 in trade regulation).

2. ACROSS-THE-BOARD 1% REDUCTIONS [LFB Paper 174]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	- \$564,200	\$0	- \$564,200
PR	- 415,000	15,200	- 399,800
SEG	<u>- 524,400</u>	<u>0</u>	<u>- 524,400</u>
Total	- \$1,503,600	\$15,200	- \$1,488,400

Governor: Delete \$751,800 annually as part of an across-the-board 1% reduction in most non-federal appropriations. The reductions, by appropriation, are shown below:

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
	Food Safety and Consumer Protection		
GPR	General operations	\$10,011,400	-\$104,300
PR	Food inspection and regulation	5,077,100	-50,800*
PR	Fruit and vegetable inspection	1,002,500	-10,000*
PR	Food regulation special services	50,500	-500
PR	Grain inspection and certification	1,390,900	-13,900*
PR	Consumer protection, information and education	175,000	-1,800
PR	Ozone-depleting products regulation	501,800	-5,000*
PR	Informational publications	30,000	-300
PR	Weights and measures inspection	1,296,400	-13,000*
PR	Dairy trade practices regulation	195,300	-2,000
PR	Public warehouse regulation	111,100	-1,100*
SEG	Producer security program administration	1,299,700	-13,000
SEG	Unfair sales act enforcement	228,600	-2,300*
SEG	Petroleum and gas systems inspection	655,800	<u>-6,600*</u>
	Subtotal		-\$224,600
	Animal Health Services		
GPR	General program operations	\$2,680,200	-\$26,800*
GPR	Financial assistance for paratuberculosis testing	250,000	-2,500
PR	Publications; livestock equipment	30,300	-300
PR	Dog licenses and rabies control	169,800	-1,700*
PR	Inspection, testing and enforcement	676,900	<u>-6,800*</u>
	Subtotal		-\$38,100
	Agricultural Development Services		
GPR	General program operations	\$2,319,900	-\$23,200
PR	Agricultural Education and Workforce Council	102,000	-1,000
PR	Loans for rural development	62,500	-600
PR	Marketing orders and agreements	90,400	-900*
PR	Stray voltage program	531,800	-5,300*
PR	Something Special from Wisconsin	30,500	-300*
PR	Agricultural development services and materials	152,000	-1,500*
PR	Stray voltage – rural electric cooperatives	25,700	<u>-300</u>
	Subtotal		-\$33,100

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
	Agricultural Assistance		
GPR	County and district fair aids	\$400,000	-\$4,000
GPR	Agricultural development aids and grants	380,000	-3,800
GPR	Aids to World Dairy Expo	23,700	-200
GPR	Dane County Expo Center payments	216,300	-2,200
SEG	Agriculture in the classroom program	100,000	-1,000
SEG	Grazing lands conservation initiative	400,000	<u>-4,000</u>
	Subtotal		-\$15,200
	Agricultural Resource Management		
GPR	General program operations	815,000	-8,200
GPR	Soil and water resource management	5,081,900	-50,800
PR	Plant protection	206,700	-2,100*
PR	Contract services – nonpoint and gypsy moth	601,800	-6,000*
PR	Seed testing and labeling	80,600	-800*
PR	Publications; phytosanitary certificates	139,900	-1,400*
PR	Fertilizer research assessments	160,500	-1,600
PR	Agricultural impact statements	260,600	-2,600*
PR	Liming material research	25,000	-300
SEG	Soil and water management – nonpoint	12,955,500	-129,600
SEG	Agrichemical management operations	5,993,900	-59,900
SEG	Agrichemical cleanup reimbursements	3,000,000	-30,000
SEG	Plant protection – conservation fund	1,576,900	<u>-15,800*</u>
	Subtotal		-\$309,100
	Central Administrative Services		
GPR	General program operations	\$5,609,700	-\$56,100*
PR	Enforcement cost recovery	5,000	-100
PR	Computer systems staff and services	2,119,100	-21,200*
PR	No-call list administration	735,300	-7,400*
PR	Contract services to state agencies	144,600	-1,400*
PR	Gifts and grants – gypsy moth spraying	764,200	-7,600*
PR	Sale of material and supplies	11,400	-100
PR	General laboratory services	2,833,300	-28,300*
PR	Laboratory-related services	50,200	-500*
PR	Agricultural statistics and surveys	100,000	-1,000
PR	Central services	791,800	<u>-8,000*</u>
	Subtotal		-\$131,700

*Due to other budget items, the final funding level for this appropriation does not represent a 1% reduction.

Joint Finance/Legislature: Adopt the Governor's recommendation, but restore \$7,600 PR annually associated with gifts and grants – gypsy moth spraying under central administrative services.

3. AGENCY 5.135% BUDGET REDUCTIONS

GPR	- \$2,540,600
PR	- 1,897,600
SEG	- 1,199,200
Total	- \$5,637,400

Joint Finance/Legislature: Delete \$2,818,700 annually relating to increased agency across-the-board reductions. The reductions are generally equivalent to 5.135% of base level funding. The annual reductions include \$1,270,300 GPR, \$948,800 PR, and \$599,600 SEG. Reductions would be as follows:

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
Food Safety and Consumer Protection			
GPR	Food and meat safety operations	\$7,361,400	-\$378,000
PR	Food regulation special services	50,500	-2,600
PR	Food inspection and regulation	5,077,100	-260,700
PR	Fruit and vegetable inspection	1,002,500	-51,500
PR	Public warehouse regulation	111,100	-5,700
PR	Dairy trade practices regulation	195,300	-10,000
PR	Ozone-depleting products regulation	501,800	-25,800
PR	Informational publications	30,000	-1,500
PR	Weights and measures inspection	1,296,400	-66,600
PR	Consumer protection, information, and education	175,000	-9,000
SEG	Producer security program administration	1,299,700	-66,700
SEG	Unfair sales act enforcement	228,600	-11,700
SEG	Petroleum and gas systems inspection	655,800	-33,700
	Subtotal		-\$923,500
Animal Health Services			
GPR	General program operations	\$2,680,200	-\$137,600
GPR	Financial assistance for paratuberculosis testing	250,000	-12,800
PR	Publications; livestock equipment	30,300	-1,600
PR	Inspection, testing and enforcement	676,900	-34,800
PR	Dog licenses and rabies control	169,800	-8,700
	Subtotal		-\$195,500
Agricultural Development Services			
GPR	General program operations	\$2,319,900	-\$119,100
PR	Loans for rural development	62,500	-3,200
PR	Marketing orders and agreements	90,400	-4,600
PR	Stray voltage program	531,800	-27,300
PR	Agricultural development services and materials	152,000	-7,800
PR	Stray voltage program - rural electric cooperatives	25,700	-1,300
PR	Something Special from Wisconsin	30,500	-1,600
	Subtotal		-\$164,900
Agricultural Assistance			
GPR	Agricultural development aids and grants	\$380,000	-\$19,500
GPR	Aids to World Dairy Expo	23,700	-1,200
GPR	Dane County Expo Center payments	216,300	-11,100
SEG	Agriculture in the classroom program	100,000	-5,100
SEG	Grazing lands conservation initiative	400,000	-20,500
	Subtotal		-\$57,400

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
Agricultural Resource Management			
GPR	General program operations	\$815,000	-\$41,900
GPR	Soil and water resource management	5,081,900	-261,000
PR	Agricultural impact statements	260,600	-13,400
PR	Publications; phytosanitary certificates	139,900	-7,200
PR	Seed testing and labeling	80,600	-4,100
PR	Fertilizer research assessments	160,500	-8,200
PR	Liming material research	25,000	-1,300
PR	Plant protection	206,700	-10,600
PR	Contract services - nonpoint and gypsy moth	601,800	-30,900
SEG	Agrichemical management operations	5,993,900	-307,800
SEG	Agrichemical cleanup reimbursements	3,000,000	<u>-154,100</u>
	Subtotal		<u>-\$840,500</u>
Central Administrative Services			
GPR	General program operations	\$5,609,700	-\$288,100
PR	Enforcement cost recovery	5,000	-300
PR	Sale of material and supplies	11,400	-600
PR	Laboratory-related services	50,200	-2,600
PR	Agricultural statistics and surveys	100,000	-5,100
PR	No-call list administration	735,300	-37,800
PR	Computer systems staff and services	2,119,100	-108,800
PR	Central services	791,800	-40,700
PR	General laboratory services	2,833,300	-145,500
PR	Contract services to state agencies	144,600	<u>-7,400</u>
	Subtotal		<u>-\$636,900</u>

4. STATE EMPLOYEE FURLOUGH

Joint Finance/Legislature: Delete \$1,023,300 annually relating to the requirement that state employees take eight days of unpaid annual leave (furlough) in each year of the 2009-11 biennium. The reductions include \$427,100 GPR, \$134,500 FED, \$281,400 PR, and \$180,300 SEG annually.

GPR	- \$854,200
FED	- 269,000
PR	- 562,800
SEG	<u>- 360,600</u>
Total	<u>- \$2,046,600</u>

5. ELIMINATE 2% GENERAL WAGE ADJUSTMENT

Joint Finance/Legislature: Delete \$667,600 annually relating to the roll-back of 2% general wage adjustments that were scheduled to take effect on June 7, 2009. The reductions include \$278,600 GPR, \$87,700 FED, \$183,600 PR, and \$117,700 SEG annually.

GPR	- \$557,200
FED	- 175,400
PR	- 367,200
SEG	<u>- 235,400</u>
Total	<u>- \$1,335,200</u>

6. PROGRAM OPERATIONS REDUCTIONS [LFB Paper 175]

	Governor (Chg. to Base)		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	-\$3,878,200	-2.00	\$2,474,000	0.00	-\$1,404,200	-2.00
SEG	<u>-257,400</u>	<u>-1.00</u>	<u>0</u>	<u>0.00</u>	<u>-257,400</u>	<u>-1.00</u>
Total	-\$4,135,600	-3.00	\$2,474,000	0.00	-\$1,661,600	-3.00

Governor: Reduce funding and positions authority from GPR and SEG appropriations as follows: (a) -\$1,939,100 GPR annually with -2.0 positions; and (b) -\$128,700 SEG annually with -1.0 positions. The affected appropriations are shown in the table and described below.

<u>Fund</u>	<u>Appropriation</u>	<u>Reduction</u>	<u>Positions</u>
GPR	Food safety general operations	- \$195,400	0.0
GPR	Meat and poultry inspections	-172,700	0.0
GPR	Animal health operations	-134,000	0.0
GPR	Paratuberculosis testing assistance	-12,500	0.0
GPR	Agricultural development operations	-298,100	-2.0
GPR	County and district fair aids	-20,000	0.0
GPR	Agricultural investment aids	-19,000	0.0
GPR	World Dairy Expo aids	-1,200	0.0
GPR	Dane County Expo Center payments	-10,800	0.0
GPR	Agricultural resource operations	-40,800	0.0
GPR	Soil and water management grants	-754,100	0.0
GPR	Central administrative services	<u>-280,500</u>	<u>0.0</u>
	GPR Reductions	-\$1,939,100	-2.0
SEG	Soil and water administration	-\$32,900	0.0
SEG	Agrichemical management	<u>-95,800</u>	<u>-1.0</u>
	SEG Reductions	-\$128,700	-1.0

Food, Meat, and Poultry Inspections. Reduce funding as follows: (a) -\$195,400 GPR annually for general food safety inspections and other program operations; and (b) -\$172,700 GPR annually for meat and poultry inspections. Under the act, DATCP has expenditure authority of \$3,341,900 GPR for general food safety and program operations, and \$3,224,300 GPR annually for meat and poultry inspections. These inspections are also supported by program revenue and federal appropriations.

Animal Health Services. Reduce funding for general program operations in the animal health services division by \$134,000 GPR annually. Under the act, DATCP has expenditure authority of \$2,565,600 GPR annually for animal health operations. Further, reduce financial assistance for paratuberculosis testing by \$12,500 GPR annually. This appropriation funds testing of paratuberculosis, or Johnne's disease, a contagious bacterial intestinal disorder that affects cattle and other ruminants. Funding is \$234,700 GPR annually under the act.

Agricultural Development Services. Reduce funding by \$298,100 GPR annually with 2.0

positions from general program operations in the agricultural development services division. The funding and positions are associated with the market news program, which collects and reports economic information on agricultural commodities in partnership with the U.S. Department of Agriculture. The program is eliminated under the act. DATCP has \$2,164,500 GPR annually with 16.6 positions for agricultural development program operations under the act.

Agricultural Aids. Reduce funding aids to county and district fairs by \$20,000 GPR annually, and reduce agricultural investment aids by \$19,000 GPR annually. County and district fair aids provide funding for prize payments for animals shown at fairs throughout the state. Per-county funding is based on a formula set in the statutes. Agricultural investment aids are awarded under the agricultural development and diversification (ADD) grant program, which promotes development of technologies or products that improve agriculture or the use of agricultural products. Agricultural investment aids are authorized \$356,700 GPR annually. Funding for fair aids is discussed in greater detail in a separate item.

Further, reduce aids to the World Dairy Expo (WDE) by \$1,200 GPR annually, and reduce grants to the Dane County Exposition Center by \$10,800 GPR annually. Aids for the WDE help that organization fund activities that expand business opportunities for persons in the Wisconsin dairy industry. WDE is required to secure a match from a county, city, village or town. Grants to the Dane County Exposition Center help Dane County pay for the costs of expanding the Expo Center and hosting the annual World Dairy Expo. Under the act, WDE aids are appropriated \$22,300 GPR annually, and Expo Center grants are appropriated \$203,000 GPR annually.

Agricultural Resource Management. Reduce expenditure authority by \$40,800 GPR annually for program operations in the agricultural resource management division. This division provides regulation and services to the plant industry, including areas such as control of pests and agricultural commodity movement. It also contains other land and water conservation programs. Program operations are appropriated \$745,800 GPR annually.

Soil and Water Resource Management. Reduce funding for soil and water resource management (SWRM) by \$754,100 GPR annually and reduce DATCP administrative funding for SWRM by \$32,900 SEG annually. SEG funding comes from the nonpoint account of the environmental fund. This reduction is associated with the proposed repeal of the Land and Water Conservation Board, which is addressed in a separate item. The GPR appropriation funds grants to counties for land and water conservation staff. Nonpoint account funds support: (a) DATCP administrative staff; (b) grants to counties for conservation staff; and (c) cost-share grants for development of nutrient management plans by farmers who apply manure or nutrients to cropland, and cost-share grants for non-structural practices that limit nonpoint source water pollution. DATCP's GPR allocation for SWRM is \$4,270,100 annually. Other nonpoint account appropriations are discussed in greater detail in a separate item.

Agrichemical Management. Reduce funding by \$95,800 SEG with 1.0 position annually from the agrichemical management (ACM) fund. The ACM fund supports: (a) administration of the

agricultural cleanup program (ACCP); (b) regulation of businesses and individuals that use or store feed, fertilizer and pesticides; (c) administration of DATCP groundwater management programs; and (d) other agriculture-related grant programs. DATCP retains \$5,488,900 SEG in 2009-10 and \$5,492,500 SEG in 2010-11 with 42.25 positions under the act. A portion of funding and positions is associated with the clean sweep program, which is discussed in greater detail in a separate item.

Central Administration. Reduce expenditure authority by \$280,500 GPR annually for central administrative services operations throughout the Department. The appropriation is \$5,640,500 GPR annually under the act.

Joint Finance/Legislature: Restore \$1,237,000 GPR annually associated with a 5% reduction in various GPR appropriations recommended by the Governor. The restorations are listed by appropriation below, and are included in the program authorizations discussed above.

<u>Fund</u>	<u>Appropriation</u>	<u>Annual Amount Restored</u>
GPR	Food safety general operations	\$195,400
GPR	Meat and poultry inspections	172,700
GPR	Animal health operations	134,000
GPR	Paratuberculosis testing assistance	12,500
GPR	Agricultural development operations	116,000
GPR	Agricultural investment aids	19,000
GPR	World Dairy Expo aids	1,200
GPR	Dane County Expo Center payments	10,800
GPR	Agricultural resource operations	40,800
GPR	Soil and water management grants	254,100
GPR	Central administrative services	<u>280,500</u>
	Totals	\$1,237,000

7. WORKING LANDS INITIATIVE -- AGRICULTURAL CONSERVATION EASEMENTS [LFB Paper 140] BR \$12,000,000

Governor: Create a program for the purchase of agricultural conservation easements (PACE). An agricultural conservation easement is a permanent, perpetual agreement entered into by the landowner, under which the cooperating entity and DATCP purchase certain specifically identified rights from the landowner. The easement may specify certain management criteria, such as requiring certain agricultural practices or prohibiting certain practices inconsistent with agricultural uses, or contain certain development restrictions. The landowner continues to pay property taxes under an easement. The land may be sold or passed on to the owner's heirs, but the conditions of the easement are part of the deed and binding on future owners. Agricultural conservation easements are intended to assure the long-term availability of land for agricultural use.

To purchase easements, DATCP may award grants to cooperating entities, defined as a

city, village, town or county, or a nonprofit conservation organization (NCO). Define agricultural use as any of the following: (a) crop or forage production; (b) keeping livestock; (c) beekeeping; (d) nursery, sod or Christmas tree production; (e) floriculture; (f) aquaculture; (g) fur farming; (h) forest management; (i) enrollment of land in a federal or state conservation payment program; or (j) other uses as defined by DATCP in administrative rule.

Additionally, specify the following legislative findings: (a) that farmland preservation is important for current and future agricultural production in the state, including production of food and other products for the life, health and welfare of the state's people; (b) that farmland preservation is important for the state's current and future economy and environment; and (c) that agricultural conservation easements are important public purposes of statewide significance.

Appropriations and Funding. Provide \$12 million in general obligation bonding authority to DATCP for the purchase of agricultural conservation easements. Create the following appropriations: (a) a sum-sufficient GPR appropriation for the repayment of principal and interest on bonds issued for the purchase of agricultural conservation easements; and (b) a program revenue, continuing appropriation for gifts and grants received, including court-ordered payments as authorized under the bill and described below. No expenditures are expected in 2009-11 in either appropriation.

Further, create the following sum-certain annual appropriations from the segregated working lands fund, which is created under the act: (a) purchases of agricultural conservation easements; and (b) principal and interest payments for bonds issued to fund the purchase of agricultural conservation easements. No SEG expenditures are authorized under the act in the 2009-11 biennium.

General Provisions. Require DATCP to administer a program under which it purchases agricultural conservation easements from willing landowners, with cooperation from local governments or NCOs. Specify DATCP may pay the following sum as its share of the cost of an easement: (a) 50% of the fair market value of the easement, as determined by a DATCP-approved appraisal; and (b) reasonable transaction costs related to the easement's purchase. Specify that transaction costs may include out-of-pocket expenses incurred in the acquisition, processing, recording and documentation of an agricultural conservation easement, including out-of-pocket expenses for land surveys, land descriptions, real estate appraisals, title verification, preparation of legal documents, reconciliation of conflicting property interests, documentation of existing land uses, and closing costs. Prohibit transaction costs from including costs incurred by local governments or NCOs for staffing, overhead or operations. Specify that if a landowner sells an easement for less than full market value, such a reduction does not reduce the amount DATCP may pay as its portion of costs.

Require DATCP to annually solicit, in writing, applications for participation in the program and to publish a notice announcing the solicitation. Authorize DATCP in its solicitations to publish total funds available for purchases, application deadlines, application requirements and procedures, preliminary criteria for evaluating applications and other

relevant information.

Applications. Require that applications must contain the following: (a) identifying information of the applying cooperating entity, including proof that the entity is a county, city, village, town or nonprofit conservation organization; (b) a description of the land proposed for an easement, including its location, acreage and current use; (c) the name and address of each landowner that would be subject to the easement; (d) evidence of the landowners' willingness to convey the easement; (e) evidence the cooperating entity is willing to arrange the easement's purchase and share in costs; (f) the purpose and rationale of the proposed easement; and (g) information needed to evaluate the application as required by statutes and by criteria set by DATCP in its solicitation for applications.

Specify that applications are evaluated by at least all of the following criteria: (a) the value of the easement in preserving or enhancing agricultural production capacity; (b) the importance of the easement in protecting or enhancing waters of the state or other public assets; (c) the easement's effect on conservation of important or unique agricultural resources such as prime soils; (d) the consistency of the easement with local land use plans and zoning ordinances; (e) the easement's effect on enhancing agricultural enterprise areas, which are created by the act; (f) the availability, practicality and effectiveness of alternative methods to preserve the land that would be under the easement; (g) the proximity between land that would be subject to the easement and other land protected for agricultural or conservation use, and the degree to which the easement would enhance that protection; (h) the likely cost-effectiveness of the easement in preserving the land for agricultural use; (i) the likelihood that the land would be converted to non-agricultural use if not protected by the easement; and (j) the apparent willingness of each landowner to convey the easement. Require DATCP to also find that an easement serves a public purpose.

Approval and Purchase. Authorize DATCP to preliminarily approve an application in writing after considering the application with respect to the required criteria. Require that a cooperating entity receiving preliminary approval must submit to DATCP: (a) a copy of the proposed instrument for conveying the easement; (b) an appraisal of the proposed easement by a certified appraiser; (c) a statement of the easement's purchase cost; (d) an estimate of transaction costs; (e) the record of a complete title search that verifies ownership of the land and identifies any potential conflicting property interests, including any liens, mortgages, easements or reserved mineral rights; and (f) documentation showing to DATCP's satisfaction that material title defects will be eliminated and material property conflicts will be either eliminated or subordinated to the proposed easement.

Authorize DATCP to enter into written contracts that specify the Department's terms of participation in the easement, including reimbursement of costs, after the cooperating entity makes required submissions. Specify that the cooperating entity pays full purchase and transaction costs of the easement, subject to later reimbursement as agreed upon with the Department. Authorize cooperating entities to purchase an easement if the easement: (a) provides that the cooperating entity and DATCP, on the state's behalf, are both holders of the easement; (b) prohibits land under the easement from being developed for a use that would

make the land unavailable or unsuitable for agricultural use; (c) prohibits any holder, except DATCP, from transferring or relinquishing an interest without 60 days' notice to DATCP; (d) continues in perpetuity, except if a court terminates the easement or orders the property owner to compensate the easement holders, including the state, if the court finds that the easement can no longer serve its original purpose due to unforeseen circumstances; and (e) complies with any other requirements as specified in the written contract between DATCP and the local government or NCO.

Acceptance, Recording and Payment. Require a cooperating entity to submit an easement to DATCP for acceptance following the easement's purchase. Require the entity to promptly file the easement with the appropriate county register of deeds following DATCP's acceptance, and return to DATCP a copy of the instrument conveying the easement as certified by the register of deeds.

Require DATCP to reimburse the cooperating entity according to the reimbursement agreement after the entity: (a) complies with approval and certification requirements as described above; (b) submits documentation showing that any material title defects have been eliminated and any materially conflicting property interests have been eliminated or subordinated to the easement, as required by the contract; and (c) submits proof of the purchase and transaction costs paid, consistent with the contract.

Other Provisions. Specify that DATCP's interest in an easement is not affected by transfer or relinquishment of another holder's interest. Authorize DATCP or any other holder of an easement to enforce and defend the easement. Require DATCP to maintain a record of all easements purchased. Require DATCP to appoint a council to give advice on the administration of the program for agricultural conservation easements.

Joint Finance/Legislature: Adopt the Governor's recommendation, with the following changes:

a. Specify that DATCP may enter into easements only if the land covered by the easement is located entirely in a farmland preservation area designated in the applicable certified county farmland preservation plan.

b. Retain the definition in the bill for eligible transaction costs for purchasing an agricultural conservation easement. Further, require DATCP to specify allowable transaction costs, consistent with eligible costs enumerated in the bill, by administrative rule. Grant emergency rule-making authority for this purpose without the finding of an emergency.

c. Require that DATCP submit to the Joint Committee on Finance under a 14-day passive review process any easement purchases under which DATCP's share of the purchase costs and transaction costs would be more than \$750,000. Specify that the purchase is approved if the Committee co-chairs do not inform the Department that the Committee will meet to review the purchase. If the co-chairs convene a meeting, the purchase is approved unless a majority of the Committee members in attendance at the meeting vote to modify or deny the purchase.

d. In addition to appraisal requirements recommended by the Governor, require DATCP to commission a second professional appraisal of the property for which an easement application has been preliminarily approved if the easement is estimated by DATCP to have a fair market value more than \$350,000.

e. Specify that an appraisal submitted by a cooperating entity could not be accepted if commissioned by an owner of the land that would be subject to the proposed easement.

f. Delete the provision authorizing a court to terminate an agricultural conservation easement and to order the property owner to pay compensation to holders of the easement under terms deemed appropriate by the court. The state's uniform conservation easement act applies to the sale or termination of agricultural conservation easements.

g. Specify that payments from the sale, modification or termination of an easement be deposited to the working lands fund.

[Act 28 Sections: 181, 185, 187, 188, 192, 655, 1977, and 9103(2f)]

**8. CONSERVATION RESERVE ENHANCEMENT PROGRAM
BONDING AUTHORITY [LFB Paper 140]**

BR	- \$12,000,000
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Governor/Legislature: Delete \$12 million in general obligation bonding authority for DATCP's participation in the federal Conservation Reserve Enhancement Program (CREP), which would reduce bonding authority for CREP from \$40 million to \$28 million. This reduction is intended to offset the bonding authority created for the purchase of agricultural conservation easements.

Under current law, the state of Wisconsin participates in CREP under an agreement with the U.S. Department of Agriculture (USDA). CREP allows the state and federal governments to make joint payments to landowners who agree under 15-year or perpetual agreements to keep land out of agricultural production to achieve objectives related to erosion control, ground and surface water quality, and wildlife habitat preservation. The \$40 million previously authorized in state bonding is intended to fulfill a 20% cost-share agreement with the USDA, which has pledged up to \$200 million in funding for CREP. Under the federal agreement, landowners may sign up for CREP through December 31, 2012. As of June 30, 2009, DATCP had committed approximately \$11.6 million of state bonding for the program.

[Act 28 Section: 654]

9. **WORKING LANDS INITIATIVE -- FARMLAND PRESERVATION PROGRAM** [LFB Paper 141]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$394,800	\$21,000	\$415,800

Governor: Create a segregated working lands fund to receive deposits of: (a) conversion fees for land zoned out of a farmland preservation zoning district; and (b) conversion fees for land released or terminated from a farmland preservation agreement. Provide the State of Wisconsin Investment Board exclusive control of the investment and collection of the principal and interest of all monies loaned or invested from the working lands fund.

Create two annual appropriations from the working lands fund for the following purposes: (a) farmland preservation planning grants; and (b) administration of the farmland preservation program and the agricultural conservation easement purchase program. No amounts are provided in these appropriations in 2009-11. Additionally, provide \$394,800 GPR beginning in 2010-11 for farmland preservation planning grants, and specify that no funds may be encumbered under the annual appropriation after June 30, 2016.

Repeal and recreate Chapter 91 of the statutes as follows:

Farmland Preservation Plans

Requirements. Require counties to adopt farmland preservation plans by January 1, 2015. The plan must fulfill the following requirements: (a) it states the county policy of farmland preservation and agricultural development, including agriculturally related enterprises; (b) it identifies, describes, and documents the following: (1) development trends, plans or needs that may affect farmland preservation and agricultural development in the county, including population and economic growth, housing, transportation, utilities, communications, business development, community facilities and services, energy, waste management, municipal expansion and environmental preservation; (2) agricultural uses of land, including key agriculture specialties at the time of plan adoption; (3) key agricultural resources; (4) key agricultural infrastructure and facilities; (5) significant trends in the county related to agricultural land use, production, agricultural enterprises and conversion of land out of agricultural use; (6) anticipated changes to agricultural production, processing, supply and distribution; (7) goals for agricultural development in the county; (8) actions the county will take to preserve farmland and promote agricultural development; and (9) key land-use issues related to farmland preservation and promotion of agricultural development, as well as county plans to address those issues; (d) it clearly identifies areas the county plans to preserve for agricultural and agricultural-related uses, not including areas planned for nonagricultural development within 15 years; (e) it includes maps that clearly identify areas targeted for preservation; (f) it correlates maps with descriptions of land uses planned for each area; and (g) it identifies actions and programs the county and other municipalities will use to preserve targeted areas. Counties must incorporate their farmland preservation plans in their

comprehensive plans (sometimes referred to as smart growth plans) and ensure consistency between a farmland preservation plan and the comprehensive plan.

Planning Grants. Authorize DATCP to provide planning grants to counties for up to 50% of the county's cost of preparing a farmland preservation plan. Counties with existing preservation plans scheduled to expire soonest take priority for grant awards. Require that DATCP disburse grant funds only on a reimbursement basis, and allow DATCP to distribute up to 50% of a county's grant prior to the county submitting its farmland preservation plan for certification. Costs eligible for reimbursement are to be identified in a contract entered into by DATCP and the county after a grant is awarded.

Expiration of Certified Plans. Specify that certified farmland preservation plans are: (a) those certified prior to the effective date of the act and whose certifications have not expired; and (b) those certified after the effective date of the act and whose certification has not expired or been withdrawn.

Further, specify that an existing farmland preservation plan expires on a date established in the plan, or, if not specified, on the basis of the county's population increase per square mile between the 2000 United States Census and the Department of Administration's (DOA) 2007 population estimates. Specify expiration dates based on population increases occur as follows:

<u>Expiration Date</u>	<u>Population Increase Per Square Mile, 2000-2007</u>
December 31, 2011	More than 9%
December 31, 2012	3.751% to 9%
December 31, 2013	1.751% to 3.75%
December 31, 2014	0.81% to 1.75%
December 31, 2015	Up to 0.8%

For plans certified after the effective date of the section, specify that DATCP may certify a plan for up to 10 years. Additionally, certified amendments to any DATCP-certified plan expire with the overall plan, except that DATCP may treat comprehensive revisions as new farmland preservation plans and certify the revised plan for up to 10 years.

Application. Specify that a county seeking certification of a farmland preservation plan submit in writing to DATCP: (a) the proposed plan or amendment; (b) a concise summary of the plan or amendment, including key changes from any previous certified plan; (c) a concise summary of the process used to develop the plan, including public hearings, notices to other governmental units within the county, county approval and key unresolved issues between the county and other governmental units within the county; (d) the relationship of the plan or amendment to any county comprehensive plan; (e) a certification statement signed by the county corporation counsel and county planning director or chief elected official, which states that the plan or amendment complies with requirements for contents of the plan; (f) any relevant information the county chooses to provide; and (g) any other materials required by DATCP administrative rules.

Certification of Plans. Authorize DATCP to certify a plan or amendment if it accompanies the county's signed certification statement that declares the plan meets all requirements as listed above, as well as those DATCP may set by administrative rule. DATCP may accept county certification of an amendment if it meets all relevant requirements for plans and does not cause the larger plan to violate any requirements. Further, authorize DATCP to do the following prior to certifying a county farmland preservation plan or plan amendment: (a) review the plan or amendment for compliance with requirements stated above; and (b) review and verify the application for certification, including the county statement of certification.

Require DATCP to deny certification for plans or amendments that do not meet all requirements listed above or those set by rule, or for plans and amendments submitted without a proper application. Require DATCP to issue a written decision on certification no more than 90 days after the day on which a county submits a complete application. Authorize DATCP to certify plans or amendments after adding conditions for approval, with final certification being contingent upon the county board reapproving the conditional plan. Specify that certified plans or amendments take effect on the day DATCP issues a written decision, or on the date of the county's approval for plans on which DATCP places conditions. Specify that an amendment adopted after the effective date of the section is not part of an existing, certified plan unless the amendment is certified separately by DATCP. Authorize DATCP to withdraw certification of a plan found to materially violate any applicable requirements.

Specify that a plan or plan amendment qualifies for certification if it meets all requirements listed above, as well as any set by DATCP in administrative rules, and that an amendment must comply with all relevant requirements and not cause the overall farmland preservation plan to violate any requirements listed above.

Farmland Preservation Zoning

Authorize a city, village, town or county to adopt a farmland preservation zoning ordinance as detailed below. A farmland preservation zoning ordinance generally limits land uses within designated farmland preservation zoning districts. Municipalities are not required to enact farmland preservation zoning ordinances, but such ordinances allow land within farmland preservation zoning districts to be eligible for farmland preservation tax credits. See a description of farmland preservation tax credits under "Shared Revenue and Tax Relief."

Zoning Ordinance Requirements. Specify that a farmland preservation zoning ordinance must fulfill the following requirements: (a) it includes jurisdictional, organizational and enforcement provisions to administer the ordinance; (b) it clearly designates farmland preservation zoning districts with limited land uses; (c) it includes maps that clearly depict farmland preservation zoning districts, that depict allowed land uses in districts, and that comply with DATCP administrative rules on technical specifications; (d) it includes text describing allowed land uses in districts; (e) it must be substantially consistent with a certified farmland preservation plan; (f) farmland preservation zoning districts do not include any lands not included in a farmland preservation area as identified in a certified county farmland preservation plan; and (g) if an overlay district, which generally imposes other requirements on

land use, is superimposed on a farmland preservation zoning district, the following apply: (1) the ordinance identifies the overlay district as such; (2) maps required with the ordinance depict the overlay district such that the farmland preservation zoning district and its boundaries are easily identifiable; and (3) the overlay district does not remove land restrictions from the farmland preservation zoning district. Ordinances must also comply with any requirements DATCP may set by administrative rule. Ordinance amendments must comply with all relevant requirements for ordinances and also not bring the ordinance into noncompliance.

Farmland Preservation Zoning Districts - Permitted Uses. Specify that farmland preservation zoning districts be limited to the following permitted uses, unless DATCP allows other uses by administrative rule:

Agricultural uses. Define agricultural uses as: (a) crop or forage production; (b) keeping of livestock; (c) beekeeping; (d) nursery, sod or Christmas tree production; (e) floriculture; (f) aquaculture; (g) fur farming; (h) forest management; (i) enrollment in a federal agricultural commodity payment program, or a federal or state agricultural land conservation payment program; or (j) any uses identified by DATCP administrative rule.

Accessory uses. Define as: (a) a building, structure or improvement that is an integral part of or incidental to an agricultural use; (b) an activity or business operation that is an integral part of or incidental to an agricultural use; (c) a farm residence; (d) a business, activity or enterprise, regardless of an association with an agricultural use, that is conducted by the owner or operator of a farm, and that requires no otherwise disallowed structures or improvements, employs no more than four full-time employees annually, and does not impair or limit current or future agricultural use of the farm or other protected farmland; or (e) any uses identified by DATCP administrative rule.

Agriculture-related uses. Define as: (a) an agricultural equipment dealership; (b) a facility providing agricultural supplies; (c) a facility for storing or processing agricultural products; (d) a facility for processing agricultural wastes; or (e) any uses identified by DATCP administrative rule.

Nonfarm residences (Cluster). Define as a group of contiguous parcels on which nonfarm residences would be located, with residences constructed in accordance with local restrictions such that all nonfarm residences in the cluster, if constructed, would meet requirements for individual nonfarm residences. (Requirements for individual nonfarm residences are discussed under conditional uses.)

Other uses. Additionally, allow as permitted uses: (a) undeveloped natural resource areas or open-space areas; (b) a transportation, utility, communication or other use required or authorized to be in a specific place under state or federal law, such that the law preempts a requirement for a conditional use permit; and (c) other permitted uses as identified by DATCP by administrative rule. Authorize DATCP to promulgate rules imposing additional limits on permitted uses allowable in a farmland preservation zoning district.

Farmland Preservation Zoning Districts - Conditional Uses. Define allowable conditional

uses as: (a) agricultural uses; (b) accessory uses; (c) agriculture-related uses; (d) individual nonfarm residences meeting statutory requirements, or meeting more stringent requirements set by a farmland preservation zoning ordinance; and (e) nonfarm residential clusters meeting statutory requirements, or meeting more stringent requirements set by a farmland preservation zoning ordinance.

Specify individual nonfarm residences may qualify as conditional uses under a certified ordinance if all the following apply: (a) the ratio of a nonfarm residential acreage to farm acreage will be no more than one to 20 on the base farm tract; (b) there will be no more than four dwelling units in nonfarm residences and no more than five dwelling units of any kind on the base farm tract; (c) the residence will not convert prime farmland from agricultural use or convert previous cropland, except woodlots, from agricultural use if the farm contains reasonable alternative locations for a nonfarm residential parcel or nonfarm residence; and (d) the residence will not significantly impair or limit the current or future agricultural use of other protected farmland. Define a base farm tract as a single contiguous farm existing at the time the ordinance is certified, or any other tract as defined by DATCP rule. Specify that nonfarm residences are permitted if they are constructed in a cluster as defined above and approved as a conditional use.

Further, specify the following allowable conditional uses: (a) transportation; (b) communications; (c) pipeline; (d) electric transmission; (e) utility; (f) drainage; (g) governmental; (h) institutional; (i) religious; (j) nonprofit community; and (k) nonmetallic mineral extraction. Allow these as conditional uses if the following apply: (a) the use and its location in the farmland preservation zoning district are consistent with the purposes of the district; (b) the use and its location are specifically approved under state or federal law, or the use is reasonable and appropriate, considering alternative locations; (c) the use is reasonably designed to minimize conversion of land at and around the site from use in agriculture or as open space; (d) the use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use; and (e) construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible, or, in the case of nonmetallic mineral extraction, the farmland preservation zoning ordinance requires the owner to restore land to agricultural use, consistent with any required locally approved reclamation plan, when extraction is completed.

Additionally, require that nonmetallic mineral extraction operations comply with: (a) subchapter I of Ch. 295 of the statutes (nonmetallic mining reclamation) and any rules promulgated under that chapter; (b) local nonmetallic mining reclamation ordinances passed under Ch. 295; and (c) with any applicable requirements of the Department of Transportation relating to restoration of nonmetallic mining sites.

Also, allow as a conditional use: (a) oil and gas exploration or production licensed by the Department of Natural Resources (DNR); and (b) other uses allowed by DATCP administrative rule. Authorize DATCP to promulgate rules imposing additional limits on conditional uses allowable in a farmland preservation zoning district.

Prior Nonconforming Use. Define a prior nonconforming use as a land use that does not conform with a farmland preservation zoning ordinance, but that existed lawfully before the farmland preservation zoning ordinance was enacted. Allow prior nonconforming uses subject to the following: (a) for residences, any expansion or remodeling does not increase the number of dwelling units in the residence; (b) for non-residential uses, the use may continue without further approval unless materially altered; and (c) the proposed farmland preservation zoning districts under the ordinance contain only isolated prior nonconforming uses.

Application for Ordinance Certification. Specify that a county seeking certification of a farmland preservation zoning ordinance shall submit in writing to DATCP: (a) the proposed ordinance or amendment; (b) a concise summary of the ordinance or amendment, including key changes from any previously certified ordinance; (c) a concise summary of the process used to develop the ordinance, including public hearings, notices to other governmental units within the county, county approval and key unresolved issues between the county and other governmental units within the county; (d) a description of the relationship of the ordinance or amendment to the certified county farmland preservation plan, including any material inconsistencies between the ordinance or amendment and the plan; (e) a statement signed by the county planning director or chief elected official certifying that the ordinance or amendment complies with requirements relating to overlay districts and inclusion of land in zoning districts that is identified in the county plan as a farmland preservation area; (f) a statement signed by the applicant's attorney or chief elected official that the ordinance or amendment complies with requirements relating to the content of the ordinance or amendment; (g) any relevant information the unit of government chooses to provide; and (h) any other materials required by DATCP administrative rules.

Expiration of Certified Zoning Ordinances. Specify that certified farmland preservation zoning ordinances are: (a) those certified prior to the effective date of the act; and (b) those certified after the effective date of the act and whose certification has not expired or been withdrawn.

Specify that a farmland preservation zoning ordinance certified prior to the effective date of the act expires on the date contained in the ordinance, or, if not specified, on the basis of the county's population increase per square mile between the 2000 United States Census and DOA's 2007 population estimates. Specify expiration dates based on population increases occur as follows for counties or any municipalities therein:

<u>Expiration Date</u>	<u>Population Increase Per Square Mile, 2000-2007</u>
December 31, 2012	More than 9%
December 31, 2013	3.751% to 9%
December 31, 2014	1.751% to 3.75%
December 31, 2015	0.81% to 1.75%
December 31, 2016	Up to 0.8%

For ordinances certified after the effective date of the act, specify that DATCP may certify

an ordinance for up to 10 years. Additionally, certified amendments to any DATCP-certified ordinance expire with the overall ordinance, except that DATCP may treat comprehensive revisions as a new farmland preservation ordinance and certify the revised ordinance for up to 10 years.

Allow DATCP to certify an ordinance or amendment on the basis of the signed statements of the county official and applicant's attorney. Further, authorize DATCP to do the following prior to certifying a farmland preservation zoning ordinance or ordinance amendment: (a) review the ordinance or amendment for compliance with requirements stated above; and (b) review and verify the application for certification, including the county statement of certification.

Require DATCP to deny certification to an ordinance or amendment not meeting requirements for content or requirements of the application. Require DATCP to issue a written decision on certification no more than 90 days after the day on which a county submits a complete application. Authorize DATCP to certify ordinances or amendments after adding conditions for approval, with final certification being contingent upon the county board reapproving the conditional ordinance. Specify that certified ordinances or amendments take effect on the day DATCP issues a written decision, or on the date of the county's approval for ordinances on which DATCP places conditions.

In the case of amendments to ordinances, specify that an amendment to a certified ordinance is automatically considered to be certified as part of the ordinance. An amendment is not considered automatically certified if adopted after the effective date of the bill and one of the following applies: (a) an amendment is a comprehensive revision of a certified farmland preservation zoning ordinance; (b) an amendment extends coverage of an ordinance to a town not previously covered; or (c) an amendment as specified by DATCP administrative rule that may materially affect compliance of the certified farmland preservation ordinance. Require that a unit of government notify DATCP if it adopts any such amendment, and require the notification to include a copy of the amendment. These notification requirements do not apply to land rezoned out of a farmland preservation zoning district.

Authorize DATCP to withdraw certification of an ordinance if, as the result of an amendment adopted after the effective date of the bill, the ordinance as amended is noncompliant with state ordinance requirements, regardless of when the ordinance was originally certified.

Rezoning Land Out of a Farmland Preservation Zoning District. Authorize units of government with a certified farmland preservation zoning ordinance to rezone land out of a farmland preservation zoning district without having the rezoning certified by DATCP. Specify the following conditions: (a) the unit of government determines, after a public hearing, that the land is better suited for a use not allowed in the farmland preservation zoning district, that the rezoning is consistent with any applicable comprehensive plan, that the rezoning is substantially consistent with the certified county farmland preservation plan, and that the rezoning will not substantially impair or limit current or future agricultural uses of surrounding

land parcels zoned for or legally restricted to agricultural use; and (b) the owner of the land being rezoned pays a conversion fee to the unit of government for each rezoned acre or portion of rezoned acre. Conversion fees are the higher of: (a) an amount specified in the farmland preservation zoning ordinance; or (b) three times the per-acre value of the highest-value category of tillable cropland in the city, village or town in which the rezoned land is located. Values are those specified by the Department of Revenue for the year in which the land is rezoned.

Require that local units of government report to DATCP annually by March 1 the number of acres converted out of farmland preservation zoning districts, with accompanying maps that clearly show the location of the acres. Further, require local governments to report total conversion fees collected on those acres, and require them to submit to DATCP a sum calculated on the per-acre basis for all lands converted. Funds submitted to DATCP are deposited to the working lands fund. Although the administration did not estimate revenues for the working lands fund in 2009-11, officials indicate annual converted lands may be 6,000 to 12,000 acres. Average cropland values are currently approximately \$270 per acre.

If a local unit of government imposes a higher conversion fee such that it has funds remaining after making required submissions to DATCP, require the unit of government to use excess funds for its costs related to farmland preservation planning, zoning or compliance monitoring.

Additionally, require that noncounty units of government report annually by March 1 to the county in which it is located: (a) the number of acres in the jurisdiction converted out of farmland preservation zoning districts and maps depicting the converted acreage; and (b) the total conversion fees collected. Authorize DATCP to withdraw certification of the farmland preservation zoning ordinance for a unit of government failing to report to DATCP annually.

Special Assessments. Prohibit counties, towns, villages, cities, special-purpose districts or other local governmental entities from levying special assessments for sanitary sewers or water against land in agricultural use and located in a farmland preservation zoning district. However, authorize such units of government to exclude those lands that are exempt from the assessment from use of the improvements. Specify that the exemption from assessment does not apply to an owner who voluntarily pays an assessment after the assessing entity notifies the owner of the exemption.

Farmland Preservation Agreements

Authorize DATCP to enter into farmland preservation agreements with owners of eligible land. Farmland preservation agreements are restrictive covenants between landowners and the state, under which the parties agree to limit the development on the land for a specified period of years. This agreement to restrict certain lands to agricultural and other related uses allows land under the agreement to be eligible for certain levels of farmland preservation tax credits.

Require that a farmland preservation agreement have the following terms: (a) be for a period of at least 15 years; (b) include a correct legal description of the tract of land covered by

the agreement; and (c) include provisions that restrict land to agricultural uses, accessory uses, and undeveloped natural resource or open-space uses. Agreements take effect when signed by DATCP and all owners of the land that the agreement covers. Require DATCP to specify the form for a written agreement, and to provide a copy of the agreement to a designee of the landowners and to the county register of deeds. If the land under the agreement changes ownership, the agreement binds the purchaser for the remaining term of the agreement.

Prior Agreements. Specify that existing agreements remain in effect except if terminated as described below or if modified to allow a landowner to claim farmland preservation tax credits. Prohibit DATCP from extending or renewing an agreement that existed prior to the effective date of the bill.

Eligible Land. Specify that land is eligible for a farmland preservation agreement if all of the following apply: (a) the land is operated as part of a farm that produced at least \$6,000 in gross farm revenues during the taxable year preceding the year in which the owner applies for a farmland preservation agreement, or the land is part of a farm that produced at least \$18,000 in gross farm revenues during the three taxable years preceding the year of application; (b) the land is in a farmland preservation area identified in a certified farmland preservation plan; and (c) the land is in an agricultural enterprise area.

Application. Require a landowner to submit all of the following information to the county clerk: (a) names and addresses of each person with an ownership interest in the land proposed for the agreement; (b) the location of the land proposed for the agreement, indicated by address, global positioning system coordinates, or identification by township, range and section; (c) the legal description of the land proposed for the agreement; (d) a map or aerial photograph of the land proposed for the agreement; (e) proof of the land's eligibility; (f) a description of every existing mortgage, easement, or lien, other than liens on growing crops, on the land proposed for the agreement, including the name and address of the person holding such claim; (g) a signed agreement from each holder of a mortgage, easement or lien subordinating the claim to the farmland preservation agreement; and (h) any other information required by DATCP administrative rule. Authorize counties to charge reasonable fees for processing applications.

Require the county to review the application for eligibility of the land, and require the county to provide its findings in writing to the applicant within 60 days of the county clerk receiving a completed application. Require the county to notify DATCP of land meeting all requirements, and require the county to send DATCP the original application with all attached information and a copy of the county's findings. Authorize DATCP to draft and enter into an agreement based on the county's findings, and also authorize DATCP to deny an agreement due to an incomplete application or ineligibility of the land.

Terminating a Farmland Preservation Agreement. Authorize DATCP to terminate an agreement or release land from an agreement if: (a) all landowners under the agreement consent to termination; (b) DATCP finds that termination will not impair or limit agricultural use of other protected farmland; and (c) the landowners pay DATCP a conversion fee for each acre or portion of acre released from the agreement. A conversion fee is three times the per-acre

value of the highest-value category of tillable cropland in the city, village or town in which the land at issue is located. Cropland values would be those specified by the Department of Revenue for the year in which the termination or release occurs. All conversion fees are deposited to the segregated working lands fund. Require DATCP to submit a copy of the written termination or release to a designee of the landowners and the county register of deeds.

Violations of a Farmland Preservation Agreement. Authorize DATCP to bring an action in circuit court to do any of the following: (a) enforce a farmland preservation agreement; (b) restrain by temporary or permanent injunction a change in land use that violates a farmland preservation agreement; and (c) seek a civil forfeiture for a land use change that violates a farmland preservation agreement. Specify that a civil forfeiture may not exceed twice the fair market value of the land under the agreement at the time of the violation.

Exemption from Special Assessment. Prohibit counties, towns, villages, cities, special-purpose districts or other local governmental entities from levying special assessments for sanitary sewers or water against land in agricultural use and under a farmland preservation agreement. However, authorize such units of government to exclude exempt lands from use of the improvements. Specify that the exemption from assessment does not apply to an owner who voluntarily pays an assessment after the assessing entity notifies the owner of the exemption.

Soil and Water Conservation Compliance

Require that a landowner receiving farmland preservation tax credits comply with land and water conservation standards promulgated by DATCP under applicable sections of chapters 92 and 281 of the statutes, generally relating to the DATCP land and water conservation program and the DNR nonpoint source water pollution abatement program. Require that county land conservation committees monitor compliance, including conducting an inspection of each farm for which the owner claims tax credits at least once every four years. Authorize land conservation committees to: (a) inspect land under a farmland preservation agreement or farmland preservation zoning and that is in agricultural use; and (b) require an owner to certify compliance with soil and water conservation standards no more than annually. Require a land conservation committee to issue a written notice of noncompliance if a landowner has failed to do any of the following: (a) comply with soil and water conservation requirements; (b) permit a reasonable inspection by the committee; or (c) failed to certify compliance. Require a land conservation committee to notify the Department of Revenue of any issued notices of noncompliance, and require a committee to withdraw the notices and notifications if the landowner is found to have made necessary corrections.

Additionally, require DATCP to review at least once every four years each land conservation committee's compliance with inspection duties. Authorize DATCP to promulgate rules prescribing procedures for land conservation committees in carrying out their responsibilities under this section.

Agricultural Enterprise Areas

Authorize DATCP to designate, modify, or terminate by rule areas targeted for agricultural preservation and development, known as agricultural enterprise areas. Under the act, landowners are not be able to enter into new farmland preservation agreements, and therefore would not be eligible for certain levels of farmland preservation tax credits, unless land under the agreement was in an agricultural enterprise area. Agricultural enterprise areas must: (a) be composed of contiguous parcels, including parcels separated by a lake, stream, or transportation or utility right-of-way; (b) be located entirely in a farmland preservation area identified in a certified farmland preservation plan; and (c) be land primarily in agricultural use. Additionally, DATCP may only consider designation of an agricultural enterprise area if it receives a petition requesting the designation.

Petitions. Authorize DATCP to consider designation of an agricultural enterprise area upon receiving a petition from: (a) each unit of government in which the area would be located; and (b) owners of at least five eligible farms located in the area. Eligible farms are those that produced at least \$6,000 of gross farm revenues in the taxable year preceding the petition or those that produced at least \$18,000 in gross farm revenues during the three taxable years preceding the petition. Eligible farms must be located in the proposed agricultural enterprise area.

Require that a petition include the following: (a) names and addresses of each petitioner; (b) a summary of the petition, including the purpose and rationale for the petition; (c) a map depicting boundaries of the proposed agricultural enterprise area such that a reader can determine whether a parcel is located in an area; (d) information showing that the proposed area meets requirements listed above; (e) a clear description of land uses in the proposed agricultural enterprise area, including agricultural uses, agriculture-related uses, transportation, utility, energy and communications uses, and undeveloped natural resource and open space uses; (f) a clear description of the agricultural land use and development goals for the proposed agricultural enterprise area, including proposed agricultural uses, agriculture-related uses and relevant transportation, utility, energy and communication uses; (g) a plan for achieving the land use and development goals, including any anticipated funding, incentives, cooperative agreements, land or easement purchases, land donations or public outreach; and (h) a description of current or proposed land use controls in the proposed agricultural enterprise area, including farmland preservation agreements. A petition may identify persons who propose to cooperate in achieving land use and development goals.

Designation. Authorize DATCP to designate up to 1,000,000 acres as agricultural enterprise areas, but not more than 10 areas covering not more than 200,000 acres combined before January 1, 2012. Specify that in designating areas, DATCP give preference to areas of at least 1,000 acres of land.

Specify that designation as an agricultural enterprise area allows owners of eligible land in the area to enter farmland preservation agreements with DATCP. If DATCP modifies or terminates a designation such that land covered by a farmland preservation agreement is no

longer in an agricultural enterprise area, specify that the agreement remains in effect for the specified term but that it may not be renewed or extended.

Authorize DATCP to promulgate an emergency rule to designate, modify or terminate agricultural enterprise areas. Specify that any such emergency rule remains in effect until DATCP modifies or repeals the rule.

Soil and Water Conservation Program Changes

Repeal the requirement that a county land conservation committee approve a soil and water conservation plan for land under a farmland preservation agreement. Further, repeal requirements that: (a) land conservation committees monitor compliance with a soil and water conservation plan; (b) a committee send a notice of noncompliance to a landowner not following a soil and water conservation plan, and that the committee notify the Department of Revenue; (c) a committee withdraw the same notices upon correction of practices by the landowner; and (d) prohibit claiming of farmland preservation tax credits if a notice of noncompliance is in effect.

Repeal the requirements that: (a) county land conservation committees create soil and water conservation standards based on guidelines set by the Land and Water Conservation Board (LWCB); (b) the LWCB approve all county soil and water conservation standards; (c) a farmland preservation tax credit is not allowed for a landowner whose county land conservation committee does not have soil and water conservation standards approved by the LWCB; (d) land conservation committees monitor compliance with approved standards; (e) a farming operation found to be noncompliant with county standards shall be issued a notice of noncompliance by the county land conservation committee, with notice given to the appropriate zoning authority, or the Department of Revenue, if no zoning authority exists; (f) any notice be cancelled upon the correction of violations; (g) a farming operation be ineligible for farmland preservation tax credits if a notice of noncompliance is in effect at the time of tax filing; and (h) specify the applicability of county conservation standards.

Repeal the requirement that DATCP review county soil and water conservation standards at least once every five years to determine consistency with DATCP's soil and water resource management program. Additionally, delete statutory references to these soil and water conservation requirements.

Other Provisions

Require the Department of Justice to furnish legal services to DATCP for court actions against violations of farmland preservation agreements. Require other state departments to cooperate with DATCP in administration of the farmland preservation program and in preserving farmland in the state, which includes sharing of relevant information, identifying and mapping significant agricultural resources, and planning and evaluating the impact of state actions on agriculture.

Specify that in the case of a deficiency judgment following a mortgage foreclosure, the

deficiency be recorded in the lien docket as an agricultural judgment for a property that was in agricultural use for at least 12 consecutive months out of the previous 36 months. Further, specify that if foreclosed property was in agricultural use for 12 months out of the previous 36 months, an action on the deficiency be commenced within 10 years after the date on which the foreclosure deficiency judgment is entered, or else it be barred. This provision is intended to clarify the definition of "primarily" agricultural use as it applies to foreclosure cases when agricultural judgments are allowed for deficiencies. Deficiencies are amounts due to a bank in a foreclosure proceeding after sale of a mortgaged property.

DATCP Biennial Reporting. Require DATCP, in cooperation with the Department of Revenue, to prepare a report on farmland preservation no later than December 31, 2011, and biennially thereafter. Require DATCP to submit the report to the Board of Agriculture, Trade and Consumer Protection, the Department of Revenue and the Department of Administration.

Require DATCP to report on the following: (a) a review and analysis of farmland availability, uses and use trends in Wisconsin, including information on lands converted from farmland throughout the state and by county; (b) information specific to the farmland preservation program, including the following: (1) participation by municipalities and landowners; (2) tax credit claims by landowners; (3) counties with certified farmland preservation plans; (4) trends and developments in the certification of farmland preservation plans; (5) municipalities with farmland preservation zoning ordinances; (6) trends and developments in certification of farmland preservation zoning ordinances; (7) the number, nature and location of agricultural enterprise areas; (8) the number and location of farms covered by farmland preservation agreements, including new agreements and those that have expired; (9) compliance with soil and water conservation requirements by landowners claiming farmland preservation tax credits, and monitoring of landowner compliance by county land conservation committees; (10) rezoning of land out of farmland preservation zoning districts, with applicable conversion fees paid to municipalities; (11) program costs, with trends and projections; and (12) key issues related to program performance, with any recommendations for program enhancement.

Previous Law

Prior to Act 28, the statutes specified that to be eligible for farmland preservation tax credits, land must be in an exclusive agricultural zone or under a farmland preservation agreement. To be eligible for a farmland preservation agreement, the land proposed for the agreement was required to either be zoned for exclusive agricultural use, or the county was to have an approved agricultural preservation plan. Each of these instruments is described below. These instruments, if in effect upon passage of the act, generally remain in effect, subject to provisions of their expiration described earlier.

Agricultural Preservation Plans. County agricultural preservation plans must contain the following items: (a) statements of policy regarding preservation of agricultural lands, urban growth, provision of public facilities and the protection of areas of significance with respect to natural resources, open spaces, scenery, history or architecture; (b) maps identifying

agricultural areas to be preserved and areas of significant environmental concerns, natural resources or open spaces; and (c) maps identifying transition areas, which are those in predominantly agricultural use but for which future development is planned. Mapped transition areas are at least 35 acres, while mapped agricultural preservation areas are at least 100 acres. Agricultural preservation plans must include a description of programs and actions to allow for the achievement of the county's stated land use goals.

Agricultural preservation plans must generally include any agricultural preservation plans adopted by municipalities within the county. At least 60 days prior to a public hearing regarding plan adoption, agricultural preservation plans were to be submitted for review and comment to all municipalities within the county, as well as adjacent counties and the regional planning commission to which the county belongs. County agricultural preservation plans must indicate and explain any discrepancies with regional plans.

Previously, the LWCB reviewed and certified agricultural preservation plans. Counties were required to review and update their agricultural preservation plans as necessary to meet changing conditions.

Exclusive Agricultural Zoning. The following general standards apply to an exclusive agricultural use ordinance: (a) it contains jurisdictional, organizational or enforcement provisions that allow for proper administration; and (b) it only allows land in agricultural use and identified in agricultural preservation plans to be in exclusive agriculture use districts. Provisions on the use of agricultural lands in exclusive agricultural zoning districts must also meet the following standards: (a) specify a minimum lot size; (b) allow residences on the parcel for only those persons or their family who own the land parcel, make a majority of gross income from operations on the parcel, or conduct the majority of operations on the parcel; (c) no structure inconsistent with agricultural use may be built on the parcel; (d) certain gas and electric utility uses are consistent with agricultural use and allowed as permitted or conditional uses; (e) special exceptions and conditional uses are limited to agriculture-related, religious, other utility, institutional or governmental uses that are necessary in light of alternative locations available; (f) farm residences or structures in existence prior to the ordinance's adoption may be separated from a larger farm parcel for purposes of farm consolidation, if permitted by other local law; (g) structures or improvements made incidental to oil and gas exploration or an easement for the Ice Age Trail are consistent with agricultural uses and may be permitted as a special exception or conditional use; (h) family farm businesses may be permitted if limited to existing farm residences or non-agricultural portions of the farmstead; and (i) nonmetallic mineral extraction may be permitted as a special exception or conditional use if subject to an approved reclamation plan.

Prior to Act 28, zoning authorities could revise ordinances to rezone land out of exclusive agricultural use if the following findings were made: (a) adequate public facilities to accommodate development either existed or would be provided within a reasonable time; (b) provision of public facilities to accommodate development would not unreasonably burden local governments' ability to provide them; and (c) the land proposed for rezoning would be suitable for development, and development would not result in undue water or air pollution,

cause unreasonable soil erosion, or have an unreasonable adverse effect on rare or irreplaceable natural resource areas. Lands zoned for exclusive agricultural use were subject to repayments of tax credits received if the land was granted a special exception or conditional use permit for a nonagricultural use. This process is described below.

The LWCB reviewed and certified exclusive agricultural use zoning ordinances. Also, as under Act 28, landowners receiving tax credits were to meet soil and water conservation standards as set by the county land conservation committee.

Farmland Preservation Agreements. Landowners could previously apply for farmland preservation agreements if: (a) the county in which the land is located had a certified agricultural preservation plan in effect; or (b) the land was zoned for exclusive agricultural use. However, if a city, town or village had an exclusive agricultural use zoning ordinance, or had adopted such an ordinance passed by the county of which it is a part, any land to be covered under a farmland preservation agreement was to be zoned for exclusive agricultural use. Also, landowners in counties with population density less than 100 persons per square mile could apply for farmland preservation agreements if the county had an exclusive agricultural use zoning ordinance, even if the landowner's town had not adopted the ordinance.

Farmland preservation agreements were to be approved within 120 days of application to the appropriate county clerk. DATCP, the county planning and zoning agency, the regional planning commission and the county land conservation committee were allowed a 30-day period for review and comment.

In considering an application, the county or other local governing body with jurisdiction was to consider the following criteria: (a) the land's designation as either an agricultural preservation area or an exclusive agricultural use zone; (b) the productivity and viability of the land for agricultural use; (c) the predominance of agricultural use on the land; (d) the inclusion of all contiguous lands in single ownership; (e) the eligibility of the farmland, as described below; (f) consistency with the county agricultural preservation plan; and (g) other criteria established by the local governing body. DATCP, upon being forwarded a decision on an application, was authorized to deny the application only if the land proposed for coverage was not eligible farmland. Eligible farmland was defined as: (a) a parcel of 35 or more contiguous acres devoted primarily to agricultural use, including land part of the Ice Age Trail, that had gross farm profits of at least \$6,000 in the year preceding application or at least \$18,000 in gross farm profits in the three years preceding application; or (b) land of 35 or more acres which had at least 35 acres enrolled in the federal Conservation Reserve Program in part or all of the year preceding application.

Applicants denied an agreement by the local governing body and DATCP could appeal to the LWCB.

Contents of the Agreement. Approved agreements contain the following provisions: (a) no structure may be built on the land, or no land improvements may be made, except one that has a use consistent with agricultural use, or if it is approved by the local governing body and

DATCP; (b) structures or improvements made for a scenic, access or utility easement or license, an easement or structure created for the Ice Age Trail, and oil and gas exploration and extraction are consistent with agricultural use; (c) farming operations must be conducted in accordance with soil and water conservation plans; (d) DATCP may not require public access to the land; and (e) the state agrees to pay credits as allowed by the statutes, with notice given that credits may have to be paid back upon relinquishment of the agreement. Agreements created prior to Act 28 were to be made for not less than 10 years but no more than 25 years.

Transition Area Agreements. An owner with land in a transition area could apply for a farmland preservation agreement. Agreements were to be for not less than five years and not more than 20 years. Landowners with either farmland preservation agreements or transition area agreements could get approval to convert to the other agreement without incurring a penalty.

Exemption from Special Assessments. As under Act 28, a governmental agency generally cannot levy special assessments for sanitary sewers, water, lights or nonfarm drainage against exclusive agricultural use districts or land under an existing farmland preservation agreement. Unless the landowner paid the amount of the assessment, the governmental agency previously was to exclude the exempt land from use of the improvements.

Change of Ownership. Land under a farmland preservation agreement generally may be transferred to a different owner without penalty, subject to reservation of the rights in the agreement. Agreements created prior to Act 28 may also be released from an agreement without penalty in case an owner dies or is certified by a physician as totally and permanently disabled. Parcels smaller than five acres may also be transferred without penalty for purposes of farm consolidation. These provisions are not included in Act 28.

Relinquishment of Agreements. For agreements created under previous law, DATCP must relinquish land from a farmland preservation agreement at the expiration of an agreement or upon the death or total and permanent disability of a landowner. DATCP is not authorized to file a lien against the property for repayment of tax credits if the owner has complied with all terms of the agreement. DATCP must also relinquish land from an agreement at the owner's request if the owner has been under a farmland preservation agreement for 10 years or more, but this relinquishment would incur a lien against the property.

Under other circumstances, a landowner may apply for relinquishment of the farmland preservation agreement. The local governing body must give notice for a public hearing, hold a public hearing, consider comments of DATCP, the county planning and zoning agency, the county land conservation committee and regional planning commission, and make a decision on relinquishment within 120 days of application. To relinquish an agreement, the local governing body must find at least one of the following: (a) that relinquishment will allow the owner to resolve foreclosure or bankruptcy proceedings by a voluntary agreement with a creditor or mortgagee; (b) that significant natural physical changes in the land have occurred and are generally irreversible and permanent; (c) that surrounding conditions prohibit agricultural use; (d) that relinquishment or release will allow the owner to develop the land to

assist local economic development; or (e) the relinquishment or release will allow transfer of the land to agriculture-related, utility, religious or institutional uses that are consistent with agricultural use and necessary in light of alternative locations for such uses.

To relinquish the land for agriculture-related, utility, religious, institutional or economic development purposes, the local governing body must also find all of the following: (a) adequate public facilities exist to accommodate the development, or will be provided as part of the development; (b) the land is suitable for the proposed use; (c) the development will not cause air or water pollution or soil erosion that exceeds lawful standards and will not harm rare natural resources or adversely affect the environment; (d) the development is consistent with remaining agricultural use in the area; (e) the development is consistent with the county's agricultural preservation plan, if it is in effect; (f) the development is not for residential use; (g) the development is consistent with local economic development plans; and (h) there is no alternative suitable location for the development or use. In addition to making these findings, the local governing body must also consider the following factors: (a) the agricultural productivity of the land; (b) whether the development limits the amount of land converted to non-agricultural use; (c) the economic costs and benefits to the local economy of the development or use as compared to the agricultural use; and (d) the costs of providing public facilities to the development, and local government's ability to provide them.

The LWCB must approve or reject any relinquishment approved by the local governing body. The LWCB also hears any appeals from applicants who contest their rejection for relinquishment by a local governing body. Any farmland relinquished under these procedures will result in a lien filed against the property formerly subject to the farmland preservation agreement for repayment of certain credits plus interest.

Certain other relinquishments may be made without the possibility of a lien being placed against the property. These cases are: (a) when lands are acquired for use as certain electric generating facilities or other utility uses; (b) when lands are acquired by the state or federal government for public improvements or structures, including highways; and (c) when lands are acquired by a school board or municipal governing body for public improvements or structures, including highways, subject to approval by the landowner and the LWCB. Liens may not be placed on a property relinquished from an agreement for a property or any portion thereof that remains zoned for exclusive agricultural use.

Liens. Lien provisions remain in effect for lands under an agreement prior to Act 28 taking effect. For lands relinquished from an agreement and subject to a penalty based on previous receipt of tax credits, liens are filed against the property for repayment of an amount equal to all tax credits received by all owners of the property in the last 10 years the property was eligible for credits. Interest is also charged on the credits received, starting with the time the credits were received until the lien is paid. Interest is charged as follows: (a) for lands relinquished at the request of a landowner following 10 years of an agreement, 9.3% compounded annually; or (b) for all other agreements, 6% compounded annually. The 6% interest on repayment of the preceding 10 years of credits also applies to expired agreements or agreements terminated due to the death or disability of the owner for cases in which the landowner had not fulfilled all

requirements of the agreement.

Liens recorded for a farmland preservation agreement are subordinate to mortgages, and become payable to DATCP upon the sale of the property. If a property under a lien reenters a farmland preservation agreement, reenters a transition area agreement, or comes under an exclusive agricultural use district, the lien is discharged.

Lands may also be subject to civil penalties if they are under agreements but their use is changed outside the statutory process described above. Penalties may not exceed double the value of the land as of the time the agreement was approved.

For land zoned for exclusive agricultural use, but which has assumed a nonagricultural use under a conditional use permit or special exception, liens are filed for the amount of farmland preservation tax credits received for the land over the preceding 10 years it was eligible for credits, plus 6% interest per year compounded from the time of the rezoning.

DATCP currently deposits receipts to the general fund. In 2008-09, revenue of \$6,800 was received. DATCP also received \$3,900 in civil penalties for unapproved use changes of land under farmland preservation agreements.

Joint Finance: Amend the Governor's recommendation as follows:

Farmland Preservation Plans

- a. Restore \$21,000 GPR in 2010-11 for farmland preservation planning grants. This deletes a 5% reduction in GPR appropriations recommended by the Governor, and provides \$415,800 for planning grants in 2010-11.
- b. Specify that a county adopt a farmland preservation plan by January 1, 2016. This is a technical correction that would make plan requirements consistent with expiration dates contained in the bill.
- c. Modify the schedule for expiration of existing agricultural preservation plans to expire on a date contained in an existing plan, or on the basis of the county's change in persons per square mile between the 2000 U.S. Census and the 2007 county population estimates by DOA. This is a correction to reflect the administration's intent.
- d. Specify that the DATCP Secretary may approve a delay in a county's initial farmland preservation plan expiration date by up to two years upon written request from the county. Require that the written request demonstrate to DATCP's satisfaction that a delay would allow the county to concurrently develop a farmland preservation plan and a comprehensive plan or an update to a comprehensive plan.
- e. Require county farmland preservation plans to describe county policies, goals, strategies and proposed actions to increase housing density in areas that are outside farmland preservation areas.

f. Require farmland preservation plans to describe the rationale used to identify mapped farmland preservation areas.

Farmland Preservation Zoning Ordinances

g. Modify the schedule for expiration of existing exclusive agricultural zoning ordinances to expire on a date contained in an existing ordinance, or on the basis of the county's change in persons per square mile between the 2000 U.S. Census and the 2007 county population estimates by DOA. This is a correction to reflect the administration's intent.

h. Specify that a farmland preservation zoning ordinance may be certified by DATCP if the ordinance allows, in addition to permitted and conditional land uses specified under the bill, prior nonconforming uses allowed under current law.

i. Specify that the DATCP Secretary may approve a delay in the expiration of a political subdivision's farmland preservation zoning ordinance by up to two years upon written request from the political subdivision. Require that the written request demonstrate to DATCP's satisfaction that a delay would allow the political subdivision to concurrently develop a farmland preservation zoning ordinance and a comprehensive plan or an update to a comprehensive plan.

j. Specify that requirements for a farmland preservation zoning ordinance to be certified by DATCP are minimum standards.

k. Clarify that farmland preservation zoning ordinances are to be adopted and administered according to existing county and municipal zoning law.

l. Specify that a "base farm tract" is determined on the date of ordinance certification, or on an earlier date specified in the ordinance.

m. Specify that a proposed new nonfarm residence or a farm residence proposed to become a nonfarm residence by a change in occupancy qualifies as a conditional use if the following apply: (a) the ratio of nonfarm residential acreage to farm acreage will not be greater than 1 to 20 on the base farm tract on which the residence exists or will be located after the residence is built or converted; (b) after the residence is constructed or converted to a nonfarm residence, there will not be more than 4 dwelling units in nonfarm residences, and, if the nonfarm residence is newly constructed, there will not be more than 5 dwelling units in residences of any kind on the base farm tract; (c) the location and size of the proposed nonfarm residential parcel, and, for a new nonfarm residence, the location of the nonfarm residence on that nonfarm residential parcel, will not convert prime farmland from agricultural use or convert land previously used as cropland, other than a woodlot, from agricultural use if on the farm there is a reasonable alternative location or size for a nonfarm residential parcel or nonfarm residence, and other nearby protected farmland will not be impaired or limited in its agricultural use.

Agricultural Enterprise Areas

n. Specify that DATCP may designate up to 15 agricultural enterprise areas prior to January 1, 2012.

Conversion Fees

o. Delay the applicability of rezoning conversion fees to January 1, 2010. Further, specify that conversion fees for lands rezoned from a farmland preservation zoning district apply to the person requesting a rezoning.

Assembly: Modify Joint Finance by specifying that if a political subdivision imposes a higher conversion fee than specified in the Joint Finance substitute amendment, the total fee may be no higher than four times the per-acre value of the highest value category of tillable cropland in the political subdivision in which the land to be rezoned is located, for the year in which the land is to be rezoned. Further, specify that if a political subdivision imposes a higher conversion fee, that fee must be adopted by a vote separate from a vote enacting any other provision of a farmland preservation zoning ordinance.

Senate/Legislature: Delete Assembly modification.

[Act 28 Sections: 182, 189, 190, 665, 666, 679, 702, 723, 1467, 1477, 1947, 1953, 1959 thru 1964, 1970, 2153, 2154, 2444b, 2575, 2611 thru 2613, 2656, 3241 thru 3243, and 3350]

10. DEBT SERVICE REESTIMATES

GPR	\$2,713,500
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Governor/Legislature: Provide \$780,200 in 2009-10 and \$1,933,300 in 2010-11 for estimated principal and interest payments for: (a) animal health facilities (\$100 in 2009-10 and -\$800 in 2010-11); (b) the state's share of payments to landowners under the federal Conservation Reserve Enhancement Program (\$1,405,400 in 2009-10 and \$2,421,700 in 2010-11); and (c) cost-sharing grants to counties for the installation of pollution-abatement structures under the soil and water resource management program (-\$625,300 in 2009-10 and -\$487,600 in 2010-11).

11. AGRICULTURAL CHEMICAL FUNDS TRANSFERS [LFB
Paper 142]

GPR-REV	\$2,500,000
SEG-REV	<u>-2,500,000</u>
Total	\$0

Governor/Legislature: Transfer to the state's general fund \$500,000 in 2009-10 and \$1,000,000 in 2010-11 from the segregated agrichemical management (ACM) fund, and \$500,000 in 2009-10 and in 2010-11 from the segregated agricultural chemical cleanup program (ACCP) fund.

The ACCP fund reimburses parties for cleanup of fertilizers, feed and non-household pesticides at farms, commercial fertilizer blending facilities and pesticide application businesses. The ACCP fund may also be used for grants to businesses that make improvements

to prevent agricultural chemical pollution. The ACM fund supports: (a) DATCP administration of the cleanup program; (b) inspection and regulation of parties that manufacture, store or distribute feed, fertilizer and pesticides; (c) DATCP administration of groundwater management programs and the clean sweep program; and (d) the agriculture in the classroom and the Wisconsin grazing lands conservation initiative grant programs.

[Act 28 Sections: 9203(1)&(2)]

12. CLEAN SWEEP [LFB Paper 594]

	<u>Governor</u> <u>(Chg. to Base)</u>		<u>Legislature</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	-\$2,205,800	-1.00	\$1,654,400	0.75	-\$551,400	-0.25

Governor: Delete \$1,000,000 annually from the recycling and renewable energy fund, and delete \$102,900 annually with 1.0 position from the agrichemical management (ACM) fund. Further, repeal the program for grants to collect agricultural and household chemicals and hazardous wastes, commonly known as the clean sweep program.

The statutes authorize DATCP to provide clean sweep grants to municipalities to: (a) establish collection sites; (b) transport chemicals and containers to dealers, distributors or disposal sites; and (c) properly handle collected materials from their collection through their transfer or disposal. The program was expanded by 2007 Act 20 to include collection of unwanted prescription drugs. In the 2007-09 biennium, base-level grant funding of \$1 million was provided from the segregated recycling and renewable energy fund, the revenues of which come from a recycling surcharge on businesses and a recycling tipping fee for most solid waste disposed of at Wisconsin landfills. Administration of the grant program comes from the segregated ACM fund. The ACM fund supports: (a) administration of the agrichemical cleanup program (ACCP); (b) regulation of businesses and individuals that use or store feed, fertilizer and pesticides; (c) administration of DATCP groundwater management programs; and (d) other agriculture-related grant programs.

In calendar year 2008, DATCP named 33 recipients in 49 counties for agricultural and household chemical clean sweep grants, which were generally reimbursed in the 2008-09 fiscal year. DATCP also made 12 awards for pharmaceutical collections taking place in calendar year 2008.

Joint Finance: Restore the statutory authority for the clean sweep program and an appropriation for grants. Restore \$750,000 recycling fund SEG annually for grants. Transfer the program to the Department of Natural Resources (DNR).

Assembly: Modify Joint Finance by restoring clean sweep under DATCP rather than DNR. Further, restore \$77,200 ACM SEG annually with 0.75 position for administration of the clean sweep grant program.

Senate: Adopt Joint Finance. Further, provide \$77,200 ACM SEG annually with 0.75 position for administration of the clean sweep grant program in a new appropriation under DNR. Specify that the incumbent, with all associated employment rights and status, be transferred to DNR from DATCP.

Conference Committee/Legislature: Adopt Assembly provision.

13. FEDERAL REVENUE REESTIMATES

FED	\$5,623,200
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Governor/Legislature: Provide increased expenditure authority of \$2,811,600 annually to reflect anticipated changes in federal funding. Affected appropriations are shown below:

<u>Appropriation</u>	<u>Annual Amount</u>
Food safety inspection	\$293,700
Meat and poultry safety inspection	378,200
Animal health	-503,600
Value-added dairy initiative/specialty-crop block grants	74,200
Farm-related grants	1,142,700
Plant industry services	1,176,700
Central administration and animal premises identification	<u>249,700</u>
Total	\$2,811,600

The requested increase in farm-related grants is due to increased funds for: (a) dispute-resolution services for farmers related to creditor/debtor issues; (b) grazing research, education and technical assistance grants; (c) promotion of risk management for underserved farmers; and (d) stress management support for farm families.

The requested increase in plant industry services is related primarily to increased federal support for control of emerald ash borer, gypsy moth, and other pests.

14. PROGRAM REVENUE REESTIMATES

PR	\$1,771,400
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Governor/Legislature: Provide increased expenditure authority of \$885,700 annually to reflect anticipated revenues in certain programs. Affected appropriations are shown below:

<u>Appropriation</u>	<u>Annual Amount</u>
Food regulation	\$205,800
Fruit and vegetable inspection	20,700
Weights and measures inspection	32,800
Public warehouse regulation	14,000
Animal health inspection, testing and enforcement	12,900
Marketing orders and agreements	7,900
Plant protection	107,100
Plant industry services	56,400
Agricultural impact statements	26,000
No-call telemarketing list	89,900
Administration - Gifts and grants	149,900
Administration - Computer systems	23,600
Administration - Central services	43,500
Administration - Contractual services	63,500
Administration - Laboratory services	<u>31,700</u>
 Total	 \$885,700

15. SLAUGHTER FEE FOR ANIMAL HEALTH AND MEAT SAFETY INSPECTIONS [LFB Paper 143]

	<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>
PR-REV	\$1,500,000	0.00	-\$1,128,500	0.00	\$371,500	0.00
PR	\$1,222,400	7.50	-\$850,900	- 4.00	\$371,500	3.50
SEG	0	0.00	540,000	4.00	540,000	4.00
FED	<u>429,300</u>	<u>3.50</u>	<u>- 184,000</u>	<u>0.00</u>	<u>245,300</u>	<u>3.50</u>
Total	\$1,651,700	11.00	-\$494,900	0.00	\$1,156,800	11.00

Governor: Require establishments at which cattle, calves, swine or poultry are slaughtered for human consumption to pay the following fees per animal slaughtered: (a) 14¢ for swine; (b) 14¢ for cattle; (c) 10¢ for calves; and (d) 1¢ for poultry. Specify that establishments shall submit quarterly payments with reports of the number of each type of animal slaughtered. Payments and reports would be due on the last day of the first month of the subsequent quarter; for example, information for January through March would be due April 30. Require the following surcharges for late reports and payments or for reports that understate the number of animals slaughtered: (a) 1% of the assessment due, for each month or fraction of a month that a report and payment is late; and (b) 1% of the amount of underpayment, for each month or fraction of a month that the underpaid amount was outstanding. Additionally, a person may be subject to a forfeiture of not less than \$500 and no more than \$1,000 for each report that understates the number of animals slaughtered. Further, authorize DATCP to withhold issuance or renewal of a license related to animal slaughter if an establishment has past-due payments and surcharges under this assessment. Authorize DATCP to refund any payments made under protest if it is determined that the payment or surcharge was not due as

a condition of licensing. The assessment would result in estimated revenues of \$750,000 PR annually.

Provide DATCP authority to inspect records relating to this assessment, but require DATCP to keep any information obtained confidential. Provide DATCP rule-making authority, including the authority to modify the per-animal assessments and the authority to modify reporting and payment schedules.

Create a program-revenue annual appropriation in the food safety program, and provide \$310,900 PR in 2009-10 and \$371,500 PR in 2010-11 with 3.5 positions. This appropriation would fund DATCP activities for the licensing of animal-slaughtering establishments and inspection of animals and carcasses at those establishments.

Amend DATCP's inspection, testing and enforcement program-revenue continuing appropriation under the animal health services program to receive all slaughter assessments, less the amount allocated to the new food safety PR appropriation. Provide expenditure authority of \$230,000 PR in 2009-10 and \$310,000 PR in 2010-11 with 4.0 positions.

Additionally, reestimate federal funding for meat and poultry inspection by \$184,000 FED in 2009-10 and \$245,300 FED in 2010-11, and add 3.5 positions.

Under current law, DATCP is generally required to inspect establishments where animals and poultry are slaughtered for human consumption, and required to conduct inspections of animals and poultry before and after slaughter to ensure suitability for human consumption. DATCP must also inspect meat-processing activities. Current law requires licenses for establishments at which animals or poultry are slaughtered or processed. Annual license fees are \$200 for most establishments not otherwise subject to federal regulation and inspection. Annual license fees are \$80 for establishments that slaughter noninspected animals or process noninspected meat or poultry products as a custom service, and these establishments are generally not subject to regular inspection. License fees are deposited to the general fund. These provisions do not change under the act.

Joint Finance: Delete the creation of a statutory fee for each animal slaughtered in establishments in the state. Delete \$310,900 PR and \$184,000 FED in 2009-10 for meat inspections. However, specify that DATCP collect a fee for the purpose of conducting inspections of meat slaughtering and processing establishments. Require DATCP to establish the nature and amount of the fee by administrative rule and in consultation with representatives of industries and groups affected by the fee. Specify the fee shall not be collected prior to July 1, 2010.

Further, convert \$230,000 in 2009-10 and \$310,000 in 2010-11 with 4.0 animal health inspectors from PR fees to agrichemical cleanup program (ACCP) SEG. Create a new appropriation from the ACCP fund for animal health inspections and testing and for enforcement of animal health laws.

Assembly: Modify Joint Finance to specify that in establishing a fee to fund meat

slaughtering and processing inspections, DATCP may not establish a fee requiring a person operating an establishment where animals are slaughtered to pay a fee based on the number of animals slaughtered.

Senate: Delete Assembly provision. In addition, repeal the appropriation, effective July 1, 2011, for animal health inspections, testing and enforcement created from the segregated agrichemical cleanup program (ACCP) fund.

Conference Committee/Legislature: Adopt Assembly provision.

[Act 28 Sections: 177, 180f, and 2037r]

16. CONSUMER PROTECTION REDUCTIONS [LFB Paper 144]

	<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	-\$1,363,000	- 10.00	-\$135,200	0.00	-\$1,498,200	- 10.00
PR	0	0.00	570,400	4.20	570,400	4.20
Total	-\$1,363,000	- 10.00	\$435,200	4.20	-\$927,800	- 5.80

Governor: Delete \$529,500 in 2009-10 and \$833,500 in 2010-11 with 10.0 positions from consumer protection operations. The Bureau of Consumer Protection had base authority of \$5,919,700 with 68.6 positions in 2008-09, which consisted of the following funding and positions:

<u>Fund</u>	<u>Adjusted Base</u>	<u>Positions</u>
GPR	\$2,446,100	35.0
PR	2,817,800	27.6
SEG	655,800	6.0
Total	\$5,919,700	68.6

DATCP's Bureau of Consumer Protection has investigation, enforcement and rule-making responsibilities related to: (a) product safety; (b) telecommunications, including administration of the state's telemarketer no-call registry; (c) unfair trade practices; and (d) fraudulent advertising and representations. In addition to services provided out of DATCP offices in Madison, the Bureau operates regional offices in Eau Claire, Green Bay and Wauwatosa. Madison offices include the Office of Privacy Protection (OPP), created in 2006 and funded by both GPR and a payment from the Office of the Commissioner of Insurance. The OPP provides education and assistance to consumer and victims of identity theft, and it works with law enforcement to investigate complaints of identity theft.

Joint Finance/Legislature: Adopt the Governor's recommended reductions in GPR funding and positions. However, provide \$285,200 annually with 4.2 general consumer protection positions from no-call telemarketer registration PR under a new appropriation.

Delete \$128,000 GPR in 2009-10 associated with the 4.2 positions to be converted from GPR to PR. Further, delete \$3,600 GPR annually, which reflects: (a) restoration of \$132,500 GPR associated with a 5% reduction in certain GPR appropriations recommended by the Governor; and (b) an additional 5.135% across-the-board reduction of \$136,100 GPR.

[Act 28 Sections: 177j and 194p]

17. BUY LOCAL, BUY WISCONSIN GRANT PROGRAM [LFB Paper 145]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$422,800	\$22,600	\$445,400

Governor: Provide funding of \$211,400 annually for the Buy Local, Buy Wisconsin grant program. The program makes grants to individuals or organizations for projects to increase sales of products grown or produced in Wisconsin for purchase in close proximity to where they are produced. Grants may be awarded for: (a) the creation or promotion of regional food and cultural tourism trails; and (b) the development of regional food supply systems.

The Buy Local, Buy Wisconsin grant program received statutory authorization and \$225,000 GPR in 2007-08 on a one-time basis in a biennial appropriation under the 2007-09 budget. Additionally, the budget provided \$229,100 GPR in 2008-09 with 1.0 position for program administration and other promotion of agricultural products. DATCP received 94 applications for grants in 2008 and awarded grants to seven applicants. The grant program had no base funding in 2008-09.

Joint Finance/Legislature: Adopt the Governor's recommendation. Further, restore \$11,300 GPR annually associated with a 5% reduction in certain GPR appropriations recommended by the Governor. DATCP is provided \$222,700 GPR annually for Buy Local, Buy Wisconsin grants under the act.

18. TELECOMMUNICATIONS UTILITY TRADE PRACTICES ASSESSMENT [LFB Paper 665]

	Funding	Positions
GPR	-\$831,600	- 6.00
PR	<u>831,600</u>	<u>6.00</u>
Total	\$0	0.00

Governor: Create an annual program-revenue appropriation for DATCP regulation of telecommunications utility providers. Further, transfer \$415,800 GPR annually with 6.0 positions from DATCP's consumer protection general operations to the PR telecommunications utility appropriation.

The appropriation is funded by an assessment collected by the Public Service Commission (PSC) from regulated telecommunications utility providers, which are generally landline phone service providers. The PSC is required under the act to collect the amount annually appropriated in proportion to providers' gross operating revenues during the preceding calendar year.

Joint Finance/Legislature: Adopt the Governor's recommendation for funding and positions. However, require the PSC to extend the consumer protection assessment to commercial mobile radio (wireless) providers as well as landline telecommunications providers. See the related item under Public Service Commission.

[Act 28 Sections: 179 and 2476]

19. AGRICULTURAL AND VEGETABLE SEED LABELING AND FEES

PR-REV	\$87,000
PR	\$13,000

Governor/Legislature: Repeal statutory requirements for agricultural and vegetable seed labeling. Repeal various statutory definitions related to seed labeling and regulation. Instead, require that DATCP promulgate administrative rules that: (a) prescribe standards for labeling, distribution and sale of agricultural seed and vegetable seed; (b) govern methods of sampling, inspecting, analyzing, testing and examining agricultural seed and vegetable seed; (c) prescribe tolerances for purity and rate of germination of agricultural seed and vegetable seed; (d) prescribe tolerances for the occurrence of noxious weed seeds in agricultural seed and vegetable seed; (e) identify noxious weeds and prohibited noxious weeds; (f) govern issuance of seed labeler licenses; and (g) administer and enforce the seed regulation program. Amend statutory references to seed labeling requirements to refer to administrative rules that would be set by DATCP.

Require that the Wisconsin Crop Improvement Association (WCIA) and the University of Wisconsin–Madison College of Agricultural and Life Sciences (CALs), both of which currently certify agricultural and vegetable seed in Wisconsin, establish standards and procedures for the certification of agricultural seed and vegetable seed. Require that WCIA standards: (a) be subject to DATCP approval; (b) comply with DATCP administrative rules; and (c) be no less stringent than standards set by the Association of Official Seed Certifying Agencies. Further, specify that the WCIA, in cooperation with CALs and DATCP, would be the certifying agency for weed-free mulch, hay, and straw, and certification standards would be based on standards of the North American Weed Management Association.

Specify that it is unlawful to sell, distribute, or offer or expose for sale any agricultural or vegetable seed unless testing to determine percentage of germination, which would be required under DATCP administrative rule, is completed within a 12-month period immediately prior to the end of the month in which the seed is sold, distributed or offered for sale. Authorize that, while following any other conditions prescribed by DATCP administrative rule, seed packaged in hermetically sealed containers may be sold, distributed or offered or exposed for sale for the 36 months following the end of the month in which the seed is tested. Require that if any hermetically sealed seed is to be sold beyond the 36-month period, it must be retested within the nine-month period immediately prior to the end of the month in which it is sold, distributed or offered or exposed for sale. Require that the label of the retested seed be printed with the extended expiration date. Also, specify it is unlawful to sell any seed whose label: (a) does not conform to standards set by DATCP administrative rule; (b) contains labeling statements that modify or deny information required by DATCP administrative rule; or (c) contains false or

misleading labeling.

Repeal statutory requirements for content in seeds of weed seeds and restricted noxious weed seeds, which includes various grass and other seeds.

Fees and Appropriations. Amend the statutory fee schedule for licenses for seed labelers. The schedule is based on gross Wisconsin sales of seed under the applicant's label during the 12 months prior to filing the application. Under the act, fees are as follows:

<u>Gross Sales</u>	<u>Act 28</u>
Up to \$9,999.99	\$25
\$10,000 to \$49,999.99	50
\$50,000 to \$99,999.99	100
\$100,000 to \$249,999.99	300
\$250,000 to \$499,999.99	500
\$500,000 to \$999,999.99	750
\$1,000,000 to \$9,999,999.99	1,000
\$10,000,000 to \$99,999,999.99	1,500
\$100,000,000 and more	2,500

Further, authorize DATCP to set different fees for seed labeler licenses by administrative rule. Provide increased expenditure authority of \$13,000 beginning in 2010-11 to perform additional seed testing. The new fee schedule under the statutes would provide estimated additional revenues of \$43,500 annually, beginning in 2009-10 with the license year beginning January 1, 2010.

Previously, revenue-based fees for seed labeler licenses are as follows:

<u>Gross Sales</u>	<u>Previous Law</u>
Up to \$9,999.99	\$25
\$10,000 to \$24,999.99	50
\$25,000 to \$74,999.99	100
\$75,000 to \$199,999.99	150
\$200,000 and more	200

Revenues are deposited in a DATCP program revenue appropriation for seed labeling and testing. Revenues in 2008-09 were approximately \$54,400.

Effective Dates and Other Provisions. Specify that provisions relating to the repeal of statutory seed labeling requirements would not take effect until the first day of the 19th month beginning after publication. The following provisions would take effect the day after the date of publication of the budget: (a) seed labeler license fees; (b) WCIA certification responsibilities; and (c) DATCP rule-making authority. Additionally, authorize DATCP to promulgate emergency rules without the finding of an emergency.

[Act 28 Sections: 184, 1978 thru 2019, 9103(3), and 9403(1)]

Governor/Legislature: Make various changes to the statutory requirements for vehicle scales, vehicle tank meters, and liquid petroleum gas meters. A preliminary estimate of revenues is \$180,000 annually, which would come from: (a) vehicle scale construction permits (\$13,000 annually); (b) vehicle scale construction variance fees (\$2,000 annually); (c) vehicle tank meter annual license fees (\$54,000 annually); (d) LP gas meter annual license fees (\$71,000 annually); and (e) reinspection fees (\$40,000 annually). However, actual fee levels would be set through the administrative rule process, and revenues may be subject to change.

Vehicle Scales. Require DATCP to promulgate rules to regulate the construction, operation, testing and maintenance of vehicle scales. Require that persons obtain an annual license from DATCP for operation of vehicle scales, except if a person is an employee of an operator who is required to be licensed. Specify that a license application must include the applicant's correct legal name, business address, trade name under which the applicant proposes to operate the vehicle scale, and the description of the nature and location of the scale.

Increase the annual license fee from \$60 to \$100, and authorize DATCP to set a different fee amount by rule. Require that persons operating a vehicle scale without a license in the year preceding a license application pay a surcharge of \$200, and authorize DATCP to set a different surcharge amount by rule. Authorize DATCP to withhold a license to an operator if the operator has not paid any assessed license surcharge. Specify that payment of the license and testing surcharges does not relieve an applicant of criminal or civil liabilities for law violations, but that payment does not count as evidence of a violation.

Require that a person must obtain a permit from DATCP for installation or relocation of a vehicle scale. Require DATCP to provide a permit application form and to set a permit application fee by rule.

Authorize DATCP to allow variances from construction standards for vehicle scales. Specify that special circumstances must merit a variance, and authorize DATCP to impose conditions on a variance. Require DATCP to provide a variance application form and to set a variance application fee by rule.

Require that an owner or operator of a vehicle scale with a weighing capacity of 5,000 pounds or greater used for the commercial weighing of commodities have testing and inspection for accuracy performed at least annually by a licensed inspector. Require that any person doing the testing must: (a) in accordance with rules set by DATCP, conduct the test and prepare a report of the test; and (b) provide a copy of the report to the scale operator and any other persons DATCP may require to be notified. Require the scale's operator to file with DATCP a report within 15 days of the operator receiving the report. Specify that if a scale fails a test, it may not be used until the inaccuracy is corrected and the scale passes a subsequent test. Prohibit any person from falsifying a test, test result or test report. Specify that if an operator fails to file a report as required, DATCP may assess a testing surcharge, to be set in administrative rule, against the operator. Authorize DATCP to withhold licensing of an

operator with an outstanding testing surcharge, and authorize DATCP to revoke a scale license if the operator does not pay a testing surcharge within 120 days of its assessment. Specify that these requirements for scales do not apply to railway scales used exclusively for weighing of commodities on railroad track vehicles.

Under previous law, the statutes required a vehicle scale operator to pay a license fee of \$60, except if DATCP sets a different fee by administrative rule. DATCP currently sets the license fee at \$100 by administrative rule. Licenses expire March 31 annually, and are nontransferable between persons, scales or scale locations. Surcharges for unlicensed operation are \$200, although DATCP was not previously authorized to change that level in administrative rules. All fees received for vehicle scale licenses are deposited in DATCP's program revenue appropriation for weights and measures inspection. Revenues in 2008-09 for vehicle scale licenses and surcharges were \$248,000 and \$12,500, respectively. DATCP also collected \$2,700 in late fees on vehicles scale licenses.

Vehicle Tank Meters and Liquefied Petroleum Gas Meters. Repeal requirements relating to registration and testing of liquefied petroleum (LP) gas meters. Require that no person may operate a vehicle tank meter or a liquefied petroleum (LP) gas meter without an annual license issued by DATCP, unless the person is an employee of a person who is required to be licensed. Require each meter to have a separate license, and specify that licenses are nontransferable between persons or meters. Specify that licenses for vehicle tank meters would expire annually October 31, while licenses for LP gas meters would expire November 30 annually. Define vehicle tank meter as a commercial meter used to measure gasoline, kerosene, fuel oil, diesel fuel or alternate fuels as defined by the statutes.

Require a person seeking a license to submit an application with the following information: (a) the applicant's correct legal name, business address, and trade name under which the applicant proposes to operate the meter; (b) the serial number of the meter and other identifying marks, including, if applicable, the vehicle on which the meter is mounted; and (c) other information the Department may reasonably require. Require an applicant to submit a license fee, which DATCP would be required to set in administrative rule. Further, require a license surcharge, with the level set by DATCP administrative rule, if the applicant has operated a meter without a license in the year prior to submitting the application. Authorize DATCP to withhold a license for an applicant with an outstanding surcharge.

Require operators to have the meter tested annually for accuracy by a licensed inspector. Require the operator or tester to report the test results to DATCP within 30 days of the completion of testing. Require the operator to retain the test results for at least three years. Additionally, if an operator does not comply with reporting requirements for testing, require payment of a testing surcharge to be set by administrative rule. Operators would be required to pay the surcharge upon application for a license, and DATCP would be authorized to withhold licensing for an operator with an outstanding testing surcharge. Specify that payment of the license and testing surcharges does not relieve an applicant of criminal or civil liabilities for law violations, but that payment does not count as evidence of a violation.

In addition to rule-making authority for fees and surcharges, require DATCP to promulgate rules for the construction, operation and maintenance of vehicle tank meters and LP gas meters, as well as for the testing, reporting and record-keeping requirements in the statutes.

No provisions existed prior to Act 28 for the licensing or testing of vehicle tank meters. LP gas meters previously were to be registered with DATCP. Both the statutes and DATCP rules set a one-time registration fee of \$25 charged to owners, to be paid within 60 days of the owner's purchase or obtaining of the meter. If an owner did not register the meter accordingly, a surcharge of \$250 could be assessed. If the surcharge was not paid within 30 days of being assessed, DATCP could increase the fee by \$10 for each day the owner had not complied with registration requirements. Owners of LP gas meters were required to have the meters tested at least annually by a DATCP-licensed inspector, with reports of the testing submitted to DATCP. Meter owners could be charged \$100 for failing to secure an annual test, and inspectors could be charged \$100 for failing to file with DATCP a report of a meter test. Revenues in 2008-09 for LP gas meter registrations were \$1,400. Late fees totaled \$800. There were no surcharges assessed.

Reinspection Fees. Authorize DATCP to charge reinspection fees against operators of any weight or measure found to be in violation of Chapter 98 (weights and measures) or an administrative rule, and authorize DATCP to set a reinspection fee level by rule. Further, specify that fee levels may differ for different types of weights and measures, but that fees are not to exceed DATCP's average cost of reinspecting the weight or measure. Specify that a reinspection fee is payable after the reinspection is complete and is due upon written demand by DATCP. Authorize DATCP to demand payment when it issues an annual license application form to the operator.

Emergency Rule Authority. Authorize DATCP to set by emergency rule, without the finding of an emergency, any fees created by these provisions and not already specified in statute or rule. Emergency rules would remain in effect until January 1, 2011, or until the date on which permanent rules became effective, whichever is sooner. Also, specify that DATCP may not collect a surcharge from an applicant who has operated a vehicle tank meter without a license unless the violation occurred after the date the bill takes effect.

[Act 28 Sections: 178, 2038 thru 2068, and 9103(1)&(2)]

21. ANIMAL HEALTH PROGRAM CHANGES [LFB Paper 147]

PR-REV	\$19,000
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Governor/Legislature: Delete statutory provisions setting license fees for animal markets, animal dealers and animal truckers. Instead, require DATCP to set license fees for each operation by administrative rule.

Further, require DATCP to charge fees for reinspection of animal markets, animal dealers, animal truckers, deer farms and fish farms for cases in which the Department has identified a violation of statutory provisions or administrative rules. Require DATCP to promulgate administrative rules setting reinspection fees for each type of operation. Reinspection fees for these operations are to be set as follows: (a) the fees may not exceed reasonable costs of

reinspection, but fees may vary for different types of premises; (b) a reinspection fee is payable upon completion of a reinspection and due upon written demand by DATCP; and (c) DATCP may require payment when it issues an application for a person renewing his or her registration for the particular operation. The administration estimates revenues may increase by \$19,000 annually under the reinspection provision.

Additionally, delete the requirement that DATCP inspect a fish farm upon its initial registration. Instead, specify that DATCP may inspect a fish farm upon initial registration or at any other time.

The statutes previously specified the following license fees (identified as "statutory guideline" in the table below), except that DATCP was authorized to set different fee levels by administrative rule: (a) \$150 for a non-equine animal market open at least five days in the year preceding the license issue, \$75 for a non-equine animal market open fewer than five days in the year preceding the license issue, and \$100 for all other market licenses; (b) \$75 for an animal dealer; and (c) \$20 for an animal trucker plus \$5 for each animal transport vehicle registered with the licensee. DATCP has set the following license fees by administrative rule:

<u>License/Permit</u>	<u>Annual Fee</u>	<u>Statutory Guideline</u>
Farm-Raised Deer		
Up to 15 deer	\$162.50	---
15 or more deer	325.00	---
Fish Farms - Type 1 (General permit)		
One Farm on Premises	37.50	---
Two or more farms on premises	50.00	---
Fish Farms - Type 2 or 3 (Sell or distribute live fish or eggs)		
Up to 5 on premises	125.00	---
5-10 farms on premises	150.00	---
11-20 farms on premises	200.00	---
21 or more farms	300.00	---
Animal Market (Non-equine)		
Class A (Year-round sales)	420.00	\$150.00
Class B (Limited sales; livestock only)	220.00	75.00
Class E (Year-round; equine only)	280.00	100.00
Animal Dealer	220.00	75.00
Animal Trucker	60.00	20.00
Animal Transport Vehicle	20.00	5.00

Revenues in 2008-09 for these licenses were as follows: (a) \$46,900 for farm-raised deer; (b) \$96,600 for fish farms; (c) \$12,500 for animal markets; (d) \$38,100 for animal dealers; (e) \$12,500 for animal truckers; and (f) \$9,900 for animal transport vehicles.

[Act 28 Sections: 2021 thru 2036]

22. SOIL AND WATER BONDING AUTHORITY

BR	\$7,000,000
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Governor/Legislature: Increase general obligation bonding authority by \$7 million, from

\$33,075,000 to \$40,075,000, for the soil and water resource management (SWRM) program.

DATCP has authority to issue bonds under the SWRM program to fund structural best management practices for the abatement of nonpoint source water pollution caused by sediment and nutrient runoff or animal waste.

[Act 28 Section: 653]

23. SOIL AND WATER BOND DEBT SERVICE [LFB Paper 599]

GPR	- \$3,293,500
SEG	3,293,500
Total	\$0

Governor/Legislature: Repeal a GPR sum-sufficient appropriation for debt service on bonds issued for soil and water resource management (SWRM) projects. Convert an annual appropriation for debt service funded from the nonpoint account of the segregated environmental fund to sum-sufficient.

DATCP issues general obligation bonds to help landowners fund installation of structural best management practices. These practices abate nonpoint source water pollution caused by sediment and nutrient runoff as well as animal waste. Debt service on these bonds was previously paid by both a sum-sufficient GPR appropriation and a sum-certain appropriation funded by the segregated nonpoint account. Base-level payments from the nonpoint account in the 2007-09 biennium were \$847,700 SEG annually. This provision converts \$1,577,900 in 2009-10 and \$1,715,600 in 2010-11 from GPR to SEG and consolidates all SWRM debt service into a single sum-sufficient appropriation funded from the nonpoint account. Total payments are estimated at approximately \$2.4 million in 2009-10 and \$2.6 million in 2010-11.

[Act 28 Sections: 183 and 186]

24. SOIL AND WATER MANAGEMENT APPROPRIATIONS [LFB Paper 599]

SEG	- \$1,330,600
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Joint Finance: Split the current single nonpoint appropriation for the soil and water management program into three separate appropriations for each of the following purposes: (a) DATCP program administration; (b) grants to counties for support of local land conservation personnel; and (c) amounts for contracts and landowner cost-share grants for nutrient management plans and other best management practices. The table below shows the annual funding approved for each appropriation. The initial amounts reflect the overall 1% reduction recommended by the Governor, as well as funds shifted by Joint Finance from landowner cost-shares to county staffing and support.

Further, delete \$665,300 SEG annually from the appropriations as part of an across-the-board 5.135% reduction. The reductions by appropriation are shown below.

<u>Appropriation</u>	<u>Base</u>	<u>Initial Amount</u>	<u>5.1% Reduction</u>	<u>Jt. Finance Amount</u>
DATCP Administration	\$2,165,900	\$2,183,800	-\$113,300	\$2,006,500**
County Staffing and Support	4,225,100	4,987,700	-258,800	4,728,900
Landowner Cost-Shares *	<u>6,520,000</u>	<u>5,649,900</u>	<u>-293,200</u>	<u>5,356,700</u>
Total Nonpoint SEG Appropriation	\$12,911,000	\$12,821,400	-\$665,300	\$12,092,100

* Amounts available for grants would likely be lower by \$3.5 million annually in 2009-11, as the administration intends to transfer this amount to the general fund from nutrient management and other cost-sharing.

** Final amount reflects annual reductions of \$25,300 related to elimination of the 2% general wage adjustment and \$38,700 related to state employee furloughs.

Assembly: Increase the Joint Finance funding level for local land and water conservation personnel by \$308,000 nonpoint SEG annually. Further, decrease nutrient management landowner cost-sharing grants by \$308,000 nonpoint SEG annually. Specify that for the purposes of preparing the 2011-13 budget bill, DATCP report the amount for cost-sharing grants as \$308,000 more than actually appropriated in 2010-11.

The following table shows the annual amounts that this item provides for appropriations under the soil and water resource management (SWRM) program.

<u>Appropriation</u>	<u>2008-09 Base</u>	<u>Jt. Finance</u>	<u>Act 28</u>
DATCP Administration	\$2,165,900	\$2,006,500	\$2,006,500
County Staffing and Support	4,225,100	4,728,900	5,036,900
Nutrient Management Cost-Sharing	6,520,000	5,356,700	5,048,700*
Total Nonpoint SEG	\$12,911,000	\$12,092,100	\$12,092,100
County Staffing and Support (GPR)	\$5,081,900	\$4,270,100	\$4,270,100
Total County Staffing and Support (GPR and SEG)	\$9,307,000	\$8,999,000	\$9,307,000
Total Change to County Staffing and Support from 2008-09	---	- \$308,000	\$0

* The 2011-13 base for cost-sharing would be increased by \$308,000 to \$5,356,700 beginning in 2011-12.

The provision maintains total county staffing grants at previously budgeted levels, while reducing landowner cost-share grants for nutrient management planning and other cropping practices by 23% (18% beginning in 2011-12).

Senate: Delete Assembly modification.

Conference Committee/Legislature: Adopt Assembly provision.

[Act 28 Sections: 185p thru 185t, and 9103(1f)]

25. LAND AND WATER CONSERVATION BOARD RESTRUCTURING [LFB Paper 148]

Governor: Repeal statutory authority of the Land and Water Conservation Board (LWCB), and repeal statutory references to the LWCB, its powers and duties. Create a land and water resource council within DATCP to consist of the following seven voting members: (a) a representative of an agricultural organization, appointed for a four-year term; (b) a representative of an environmental organization, appointed for a four-year term; (c) a representative of county government, appointed for a four-year term; (d) the secretary of Agriculture, Trade and Consumer Protection, or the secretary's designee; (e) the secretary of Natural Resources, or the secretary's designee; (f) the dean of the College of Agriculture and Life Sciences at the University of Wisconsin–Madison, or the dean's designee; and (g) the chancellor of the University of Wisconsin–Extension, or the chancellor's designee. The three appointed members would be selected by the Governor. Specify that: (a) the initial terms expire July 1, 2011, for the representatives of the agricultural organization and the environmental organization, with full four-year terms to begin thereafter; and (b) the initial term of the representative of county government expires July 1, 2013, with four-year terms continuing thereafter. Further, create the following nonvoting members: (a) the state conservationist of the Natural Resource Conservation Service (NRCS) in the United States Department of Agriculture (USDA); and (b) the state executive director of the USDA Farm Service Agency (FSA).

Require the LWRC to advise DATCP on the following: (a) the implementation of soil and water conservation programs under Chapter 92 of the statutes and the implementation of water quality programs under Chapter 281, including the annual joint allocation plan between DATCP and DNR for county conservation staffing grants and state cost-sharing grants for nonpoint source water pollution abatement; (b) research, information and education needs for the implementation of soil and water resource and nonpoint source water pollution abatement programs; (c) coordination of federal, state and local programs for land and water resources; and (d) at the joint request of DATCP and DNR, other matters related to land and water resources.

Require DATCP to establish a tolerable soil erosion level for the state, which is to be based on an erosion rate that is acceptable and maintains long-term soil productivity. Repeal the requirement that DATCP, in cooperation with DNR, submit an annual report to the LWCB on the progress of the soil and water resource management (SWRM) program under Chapter 92 and the nonpoint source pollution abatement program under Chapter 281 of the statutes.

Repeal authority of: (a) owners of critical sites in priority watersheds or priority lakes to seek an LWCB review in certain instances in which DNR has issued a notice of intent to order implementation of best management practices and no county land conservation committee has disapproved of the notice; and (b) DNR to seek an LWCB review for cases in which it has issued a notice and the county land conservation committee has disapproved of the notice. Also, repeal the authority of owners of critical sites to obtain a review of the decision by the LWCB, and repeal the authority of the DNR to obtain an LWCB review of a county land conservation committee's disapproval of a critical site designation.

Repeal the requirement that DNR prepare a plan for the expenditure of public debt under

the priority watershed program and submit the plan to the LWCB. Repeal the requirement that DNR submit to the LWCB a budget report that includes anticipated expenditures on the priority watershed program in the next year, criteria for ending projects under the program, and a plan for reducing expenditures if they are projected to exceed available funds. Repeal the requirement that DNR submit to the Department of Administration: (a) the biennial LWCB report on requested funds and program recommendations for the upcoming biennium, due by the September 1 of each even-numbered year; and (b) a DNR report on the resources necessary to fulfill program changes requested in the LWCB report. The priority watershed program is generally ending in 2009, although some projects may be completed in 2010.

Under current law, the LWCB exists as a board attached to DATCP. The LWCB advises the program duties of DATCP and DNR, and the statutes specify that as an attached board, the LWCB executes its powers and duties generally independent of DATCP or DNR oversight. DATCP, however, performs budgeting and related management functions as specified by statute. The statutes require DATCP and DNR to provide any staff necessary for the LWCB's duties.

The LWCB consists of the following 11 members: (a) the Secretaries of Administration, of Agriculture, Trade and Consumer Protection, and of Natural Resources, or the designee of each; (b) three members of county land conservation committees, to be appointed for two-year terms, and designated biennially by the county land conservation committees at their annual meeting in even-numbered years; (c) one member appointed by the Governor for a two-year term; (d) four members appointed by the Governor for four-year terms, with one being resident of a city of a population of at least 50,000, one being a representative of a governmental unit involved in river management, one being a farmer and one being a member of a charitable corporation, charitable association or charitable trust, the purpose or powers of which include protecting natural resources, protecting scenic or open space, or maintaining or enhancing air or water quality. The five members appointed by the Governor are required to be confirmed by the Senate. Advisory board members include: (a) one representative each from the NRCS and FSA; (b) the dean of the UW–Madison College of Agricultural and Life Sciences or a designee; (c) the director of UW–Extension or a designee; and (d) one representative each from the Wisconsin Land and Water Conservation Association and the Wisconsin Association of Land Conservation Employees.

The statutes give the LWCB the following responsibilities: (a) giving advice to DATCP and the Secretary in their duties relative to soil and water conservation and animal waste management; (b) reviewing land and water resource management plans created and submitted by county land conservation committees; (c) reviewing and approving county standards for soil and water conservation; (d) reviewing annual joint allocation plans of DATCP and DNR; (e) reviewing the joint evaluation plan prepared by DATCP and DNR for the SWRM and nonpoint source water pollution abatement programs; (f) reviewing annual reports for the SWRM and nonpoint source water pollution abatement programs; (g) advising the UW System with regard to soil and water conservation programs; (h) reviewing state soil erosion control goals and notifying DATCP and the Legislature if goals are not being met; (i) establishing a tolerable soil erosion level; (j) maintaining records of all proceedings before it; (k) reviewing certain pollution

abatement decisions of county land conservation committees; (l) reviewing critical site determinations under the priority watershed program; and (m) reviewing administrative rules proposed by DATCP related to soil and water resource management. The LWCB also has general authority to hold hearings, delegate powers or duties to its chairperson or members and make studies and recommendations related to soil and water conservation. The LWCB has no rule-making authority of its own under the SWRM and nonpoint source programs. The current statutes also give the LWCB several duties under the priority watershed program, which is scheduled to end in 2009. Previously, the LWCB had responsibilities under the farmland preservation program, as described in a separate item. Act 28 eliminates these roles.

Joint Finance/Legislature: Delete provision. Rather, specify that the LWCB, DATCP, and the DNR investigate the board's responsibilities and authorities, and report before January 1, 2010, to the Governor, the Joint Committee on Finance, and the appropriate standing committees of the Legislature, recommendations for changes in those responsibilities and authorities to reflect changes in the state's soil and water programs.

[Act 28 Section: 9103(4i)]

26. POSITION REALIGNMENT

Governor/Legislature: Transfer \$109,100 GPR annually with 2.0 financial specialist positions to the trade regulation program in central administration. The source appropriations would be general food inspection (\$53,300 GPR annually with 1.0 position) and plant industry services in the agricultural resource management program (\$55,800 GPR annually with 1.0 position). Additionally, provide \$9,800 GPR annually with 0.1 economic development specialist position for market development in the agricultural development services program. This funding and position authority would be transferred from administration of the segregated agricultural producer security (APS) fund. Also, convert \$66,000 SEG annually with 1.0 agricultural auditor position from the APS fund to \$66,000 FED with 1.0 auditor position under federal indirect cost reimbursement (FICR) for contracts and grants.

	Funding	Positions
GPR	\$19,600	0.10
FED	133,600	1.02
PR	- 1,600	- 0.02
SEG	- 151,600	- 1.10
Total	\$0	0.00

Transfer annually the following funding and positions among PR appropriations: (a) \$24,800 with 0.25 audit supervisor position from dairy trade practices regulation to public warehouse regulation; and (b) \$8,700 with 0.2 consumer protection investigator from public warehouse regulation to administration of the no-call list. Further, convert \$800 PR annually with 0.02 financial specialist PR position from public warehouse regulation to \$800 FED with 0.02 financial specialist under FICR.

Transfer \$23,500 FED with 0.25 program and planning analyst position from meat and poultry inspection to FICR. This is a transfer between FED appropriations.

These funding and position transfers result in no additional funding or position authority for DATCP. The effect of the realignment, however, converts \$800 PR with 0.02 position and

\$75,800 SEG with 1.1 positions to \$9,800 GPR with 0.1 position and \$66,800 FED with 1.02 positions. Funding and position authority is mostly accumulating in DATCP central administrative services and FICR. The following table shows annual realigned expenditure authority and positions by appropriation:

<u>Fund</u>	<u>Appropriation</u>	<u>Funding</u>	<u>Positions</u>
GPR	Food inspection operations	-\$53,300	-1.00
GPR	Agricultural development operations	9,800	0.10
GPR	Plant industry services	-55,800	-1.00
GPR	Central administration	<u>109,100</u>	<u>2.00</u>
	GPR Total	\$9,800	0.10
PR	Dairy trade practices regulation	-\$24,800	-0.25
PR	Public warehouse regulation	15,300	0.03
PR	No-call list administration	<u>8,700</u>	<u>0.20</u>
	PR Total	-\$800	-0.02
SEG	Producer security program administration	-\$75,800	-1.10
FED	Meat and poultry inspection	-\$23,500	-0.25
FED	Reimbursement of contract and grant costs (FICR)	<u>90,300</u>	<u>1.27</u>
	FED Total	\$66,800	1.02

27. CHIEF LEGAL ADVISOR AND PAYMENTS FOR STATE LEGAL SERVICES [LFB Paper 115]

	<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	\$342,400	1.00	-\$342,400	- 1.00	\$0	0.00

Governor: Provide \$171,200 annually with 1.0 attorney position. Specify that the DATCP Secretary may appoint a chief legal advisor from the unclassified service.

Joint Finance/Legislature: Delete provision.

28. ADMINISTRATIVE LAW JUDGE TRANSFER [LFB Paper 117]

<u>Positions</u>	
PR	- 0.50

Governor: Delete 0.5 administrative law judge position from DATCP. Further, in DATCP's program revenue appropriation for central services, annually convert \$46,700 for permanent salaries and \$22,000 for fringe benefits to \$68,700 for supplies and services.

The 0.5 position transfers to the Division of Hearings and Appeals in the Department of Administration (DOA), which performs administrative law functions for other state agencies. This is part of a proposed consolidation within DOA for many of the services performed by state administrative law judges. The shift of funding between line items in the appropriation allows DATCP to contract with DOA for administrative hearings and services required by

DATCP.

Joint Finance/Legislature: Delete 0.5 PR attorney position as recommended, but modify the Governor's recommendation to transfer \$35,500 PR from salary and fringe benefits to supplies and services. (The administration identified the original transfer as an error, with the transfer mistakenly calculated on the basis of a full-time administrative law judge position.)

29. AIDS TO COUNTY AND DISTRICT FAIRS

GPR	- \$1,000
SEG	<u>40,000</u>
Total	\$39,000

Joint Finance/Legislature: Provide \$20,000 GPR annually, which deletes a 5% reduction recommended by the Governor for certain GPR appropriations. Also, provide \$20,000 SEG each year from the ACCP fund in a new annual appropriation for county and district fair aids. Repeal the appropriation June 30, 2011.

Further, delete \$20,500 GPR annually for aids to county and district fairs as part of an across-the-board reduction of 5.135% of base level funding. However, specify that DATCP submit its 2011-13 biennial budget request as if \$396,000 GPR was included in its base funding level. Total funding for county and district fair aids under the act is \$395,500 each year (\$375,500 GPR and \$20,000 ACCP SEG).

[Act 28 Sections: 180n, 180s, 180sc, 1973e thru 1973i, 9103(3g), and 9403(1f)]

30. GRANTS TO AGRICULTURAL FACILITIES

Joint Finance/Legislature: Specify that DATCP make the following grants, with the amounts encumbered but unspent in 2008-09, from the segregated recycling and renewable energy fund for grants to soybean crushing facilities: (a) soybean crushing facilities, as specified in 2007 Act 20; (b) grants to a dairy cooperative, with headquarters in the state, for the construction of additional cheese-making facilities with the capacity to enable the processing of an additional 1.5 million pounds of milk per day; (c) \$200,000 to manufacture anaerobic manure digesters that are cost-effective for small farms; and (d) \$200,000 for diversification of cheese-making capabilities.

2007 Act 20 made \$4 million recycling SEG available in the 2007-09 biennium only for grants for the construction of soybean crushing facilities that can process more than 20 million bushels per year. The entire amount is currently encumbered.

[Act 28 Sections: 180p and 9103(3f)]

31. ENFORCEMENT COST RECOVERY

Governor/Legislature: Delete specifications of costs that a court may order a defendant to repay to DATCP in an action enforcing laws under DATCP's jurisdiction. Instead, authorize a court to order a defendant to reimbursement DATCP for reasonable and documented enforcement costs that the Department incurred while preparing and prosecuting an action.

Also, delete the requirement that court-ordered repayments for compensation of laboratory personnel must be used to purchase laboratory equipment, supplies or services.

Previously, the statutes specified a court could order repayment of the following costs: (a) expert witnesses who are not DATCP employees; (b) depositions, transcripts or photocopying; and (c) any investigation, study, analysis, engineering report, test or project that the court finds necessary for prosecution of the action, including reasonable compensation of DATCP laboratory personnel. The act replaces the specific list with more general authority, which broadens the costs DATCP may seek to recover.

[Act 28 Sections: 194 and 1971 thru 1973]

32. TECHNICAL STATUTORY CHANGES

Governor: Specify that for the year in which a person stopped selling or distributing a pesticide, the person has until March 31 of the following year to file a report with DATCP showing the gross revenue for the discontinued pesticide. Specify that the report shows revenues from October 1 to December 31 of the year in which the person stopped selling or distributing the pesticide. Current law specifies that the report show revenue from the October 1 of the year before sales of the pesticide stopped, or approximately 15 months of pesticide revenues. This change would have the effect of eliminating one year's reporting for which the producer has already been assessed fees. Revenues reported under this section are used to calculate fees payable by a pesticide producer and deposited primarily to the segregated agricultural chemical funds.

Also, as a technical change, move an appropriation for gifts and grants for the Agricultural Education and Workforce Development Council to DATCP's agricultural development services program. The Council, which was authorized in 2008, seeks to coordinate statewide educational systems that develop, train and retrain persons for employment in agricultural, food or natural resources fields, as well as find employees for those fields. The appropriation is currently under DATCP's central administrative services program.

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

ARTS BOARD

Budget Summary							
Fund	2008-09 Base Year Doubled	2009-11 Governor	2009-11 Jt. Finance	2009-11 Legislature	2009-11 Act 28	Act 28 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$4,957,800	\$4,869,800	\$4,835,400	\$4,835,400	\$4,835,400	-\$122,400	- 2.5%
FED	1,353,000	1,548,200	1,518,200	1,518,200	1,518,200	165,200	12.2
PR	<u>983,600</u>	<u>1,143,000</u>	<u>1,091,200</u>	<u>1,091,200</u>	<u>1,091,200</u>	<u>107,600</u>	10.9
TOTAL	\$7,294,400	\$7,561,000	\$7,444,800	\$7,444,800	\$7,444,800	\$150,400	2.1%

FTE Position Summary						
Fund	2008-09 Base	2010-11 Governor	2010-11 Jt. Finance	2010-11 Legislature	2010-11 Act 28	Act 28 Change
						Over 2008-09 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>
TOTAL	10.00	10.00	10.00	10.00	10.00	0.00

Budget Change Items

1. STANDARD BUDGET ADJUSTMENTS

GPR	\$21,000
FED	65,200
PR	<u>2,600</u>
Total	\$88,800

Governor/Legislature: Adjust the base budget for the following:

(a) full funding of salaries and fringe benefits (\$3,500 GPR, \$32,600 FED, and \$1,300 PR annually); (b) reclassifications and semiautomatic pay progression (\$6,400 GPR annually); and (c) full funding of lease and directed move costs (\$600 GPR annually).

2. ELIMINATE 2% GENERAL WAGE ADJUSTMENT

GPR	-\$11,000
FED	- 11,800
PR	<u>- 2,400</u>
Total	-\$25,200

Joint Finance/Legislature: Delete \$12,600 annually relating to the roll-back of 2% general wage adjustments that were scheduled to take effect on June 7, 2009. The reductions include \$5,500 GPR, \$5,900 FED, and \$1,200 PR.

3. STATE EMPLOYEE FURLOUGH

Joint Finance/Legislature: Delete \$19,300 annually relating to the requirement that state employees take eight days of unpaid annual leave (furlough) in each year of the 2009-11 biennium. The reductions include \$8,400 GPR, \$9,100 FED, and \$1,800 PR.

GPR	- \$16,800
FED	- 18,200
PR	- 3,600
Total	- \$38,600

4. ACROSS-THE-BOARD 1% REDUCTIONS

Governor/Legislature: Delete \$24,800 GPR and \$300 PR annually as part of an across-the-board 1% reduction in most non-federal appropriations. The reductions, by appropriation, are shown below:

GPR	- \$49,600
PR	- 600
Total	- \$50,200

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
GPR	General program operations	\$379,100	-\$3,800
GPR	State aid for the arts	1,885,500	-18,900
GPR	Challenge grant program	90,000	-900
GPR	Wisconsin regranting program	124,300	-1,200
PR	State aid for the arts; Indian gaming receipts	25,200	-300

5. ADDITIONAL 5% REDUCTIONS [LFB Paper 175]

	<u>Governor (Chg. to Base)</u>	<u>Jt. Finance/Leg. (Chg. to Gov)</u>	<u>Net Change</u>
GPR	- \$59,400	\$59,400	\$0

Governor: Delete \$29,700 GPR annually, as part of an across-the-board 5% reduction in certain GPR appropriations. The reductions, by appropriation, are shown below:

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
GPR	General program operations	\$379,100	-\$19,000*
GPR	Challenge grant program	90,000	-4,500
GPR	Wisconsin regranting program	124,300	-6,200

*Due to other budget items, the final funding level for this appropriation does not represent a 5% reduction.

Joint Finance/Legislature: Delete provision, which would restore the funding.

6. AGENCY 5.135% BUDGET REDUCTIONS

Joint Finance/Legislature: Delete \$55,900 (all funds) annually relating to increased agency across-the-board reductions. The reductions are equivalent to 5.135% of base level funding. The reductions include \$33,000 GPR

GPR	- \$66,000
PR	- 45,800
Total	- \$111,800

and \$22,900 PR. Annual reduction amounts would be as follows:

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
GPR	General program operations	\$379,100	-\$19,500
GPR	State aid for the arts	1,885,500	-2,500*
GPR	Challenge grant program	90,000	-4,600
GPR	Wisconsin regranting program	124,300	-6,400
PR	Funds received from other state agencies	446,600	-22,900

* Reflects net effect of \$94,300 annual increase and \$96,800 annual reduction under Joint Finance.

7. PERCENT FOR THE ARTS PROGRAM

PR	\$157,400
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Governor/Legislature: Provide \$78,700 annually as a reestimate of anticipated revenue for the percent for the arts program. Base level funding is \$446,600. 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.

8. FEDERAL REESTIMATES

FED	\$130,000
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Governor/Legislature: Reestimate federal funding by \$65,000 annually for federal grants for aids to individuals and organizations. Base level funding is \$236,000.

BOARD FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES

Budget Summary							
Fund	2008-09 Base Year Doubled	2009-11 Governor	2009-11 Jt. Finance	2009-11 Legislature	2009-11 Act 28	Act 28 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$30,000	\$41,200	\$39,600	\$39,600	\$39,600	\$9,600	32.0%
FED	<u>2,561,200</u>	<u>2,805,400</u>	<u>2,769,400</u>	<u>2,769,400</u>	<u>2,769,400</u>	<u>208,200</u>	8.1
TOTAL	<u>\$2,591,200</u>	<u>\$2,846,600</u>	<u>\$2,809,000</u>	<u>\$2,809,000</u>	<u>\$2,809,000</u>	<u>\$217,800</u>	8.4%

FTE Position Summary						
Fund	2008-09 Base	2010-11 Governor	2010-11 Jt. Finance	2010-11 Legislature	2010-11 Act 28	Act 28 Change
						Over 2008-09 Base
FED	7.75	7.75	7.75	7.75	7.75	0.00

Budget Change Items

1. STANDARD BUDGET ADJUSTMENTS

GPR	\$11,600
FED	<u>244,200</u>
Total	\$255,800

Governor/Legislature: Provide \$127,900 (\$5,800 GPR and \$122,100 FED) annually for adjustments to the base budget for: (a) full funding of salaries and fringe benefits (\$109,600 FED annually); and (b) full funding of lease costs (\$5,800 GPR and \$12,500 FED annually).

2. ELIMINATE 2% GENERAL WAGE ADJUSTMENT

FED	- \$14,200
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Joint Finance/Legislature: Delete \$7,100 annually relating to the roll-back of 2% general wage adjustments that were scheduled to take effect on June 7, 2009.

3. STATE EMPLOYEE FURLOUGH

FED	- \$21,800
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Joint Finance/Legislature: Delete \$10,900 annually relating to the requirement that state employees take eight days of unpaid annual leave (furlough) in each year of the 2009-11 biennium.

4. ACROSS-THE-BOARD 1% REDUCTION

GPR	- \$400
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Governor/Legislature: Delete \$200 annually from the Board's general program operations appropriation, as part of an across-the-board 1% reduction in most non-federal appropriations. The reduction, by appropriation, is shown below.

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
GPR	General program operations	\$150,000	\$200*

*Due to other budget items, the final funding level for this appropriation does not represent a 1% reduction.

5. ADDITIONAL AGENCY BUDGET REDUCTIONS

GPR	- \$1,600
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Joint Finance/Legislature: Delete \$800 annually relating to increased agency across-the-board reductions. Annual reductions amounts would be as follows:

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
GPR	General program operations	\$15,000	-\$800

6. CREATE GIFTS AND GRANTS AND PROGRAM SERVICES APPROPRIATIONS [LFB Paper 155]

Governor: Create a PR appropriation that would authorize the Board to receive and expend all gifts, grants and bequests to the Board to carry out the purposes for which they were made and received.

Create a PR appropriation that would authorize the Board to receive and expend all revenue from invoicing entities for using state-owned space, conference fees and other related expenditures, and from printing and publishing forms, documents, pamphlets and other publications. However, limit the Board's authority to expend these funds to the amounts in the Chapter 20 schedule. Under the bill, these amounts would be \$0 in both 2009-10 and 2010-11.

Joint Finance/Legislature: Modify the second appropriation by deleting the provision that would limit the Board's authority to expend the amounts listed in the Chapter 20 appropriation schedule. This change would enable the Board to expend all revenues it collects from invoicing entities for using state-owned space, conference fees and other related expenditures, and

printing and publishing forms, documents, pamphlets, and other publications.

[Act 28 Sections: 514 and 515]

7. BOARD MEMBER STIPENDS

Joint Finance/Legislature: Authorize the Board to provide a \$50 stipend per day to any Board member who is not employed or must forfeit wages from other employment to attend meetings and perform other duties. Specify that the payment would only be made for days on which the member was occupied for over four hours in the performance of his or her duties.

[Act 28 Sections: 30e and 30h]

BOARD OF COMMISSIONERS OF PUBLIC LANDS

Budget Summary							
Fund	2008-09 Base Year Doubled	2009-11 Governor	2009-11 Jt. Finance	2009-11 Legislature	2009-11 Act 28	Act 28 Change Over Base Year Doubled	
						Amount	Percent
FED	\$105,400	\$105,400	\$105,400	\$105,400	\$105,400	\$0	0.0%
PR	<u>3,049,200</u>	<u>3,070,200</u>	<u>3,007,400</u>	<u>3,007,400</u>	<u>3,007,400</u>	<u>- 41,800</u>	- 1.4
TOTAL	<u>\$3,154,600</u>	<u>\$3,175,600</u>	<u>\$3,112,800</u>	<u>\$3,112,800</u>	<u>\$3,112,800</u>	<u>- \$41,800</u>	- 1.3%

FTE Position Summary						
Fund	2008-09 Base	2010-11 Governor	2010-11 Jt. Finance	2010-11 Legislature	2010-11 Act 28	Act 28 Change
						Over 2008-09 Base
FED	0.00	0.00	0.00	0.00	0.00	0.00
PR	<u>8.50</u>	<u>8.50</u>	<u>8.50</u>	<u>8.50</u>	<u>8.50</u>	<u>0.00</u>
TOTAL	8.50	8.50	8.50	8.50	8.50	0.00

Budget Change Items

1. STANDARD BUDGET ADJUSTMENTS

PR	\$52,000
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Governor/Legislature: Provide an increase of \$26,000 annually for adjustments to the base budget as follows: (a) \$1,600 for full funding of continuing salaries and fringe benefits; (b) \$15,000 for staff reclassifications; and (c) \$9,400 for full funding of lease costs and directed moves.

2. ACROSS-THE-BOARD 1% REDUCTIONS

PR	- \$31,000
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Governor/Legislature: Delete \$15,500, annually, as part of an across-the-board 1% reduction in most non-federal appropriations. The reduction is shown below:

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
PR	Trust Lands and Investments Operations	\$1,524,600	-\$15,500*

*Due to other budget items, the final funding level for this appropriation does not represent a 1% reduction.

3. ELIMINATE 2% GENERAL WAGE ADJUSTMENT

PR	-\$24,800
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Joint Finance/Legislature: Delete \$12,400 PR annually relating to the roll-back of 2% general wage adjustments that were scheduled to take effect on June 7, 2009.

4. STATE EMPLOYEE FURLOUGH

Joint Finance/Legislature: Delete \$19,000 PR annually relating to the requirement that state employees take eight days of unpaid annual leave (furlough) in each year of the 2009-11 biennium.

PR	-\$38,000
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5. BCPL LOANS TO MILWAUKEE BREWERS STADIUM DISTRICT

Joint Finance/Legislature: Authorize the Board of Commissioners of Public Lands (BCPL) to make loans to the Milwaukee Brewers Stadium District from the BCPL trust funds (common school fund, normal school fund, university fund, and the agricultural college fund). Specify that the application for a loan must be accompanied by a certified copy of a resolution of the stadium district board approving the loan which must be signed by the chairperson of the district board and the secretary of the district board. In addition, require BCPL to transmit to the stadium district board a certified statement of the amount due on or before October 1 of each year until the loan is paid. The stadium district board would be required to make annual loan payments by March 30. Any payment not made by March 30 would be delinquent and subject to a penalty of one percent per month. If the stadium district board fails to remit the required payment, the secretary of administration, upon certification of delinquency by BCPL, would deduct the amount due, including any penalty, from any state payments due the district, and remit such amount to DOA.

Under current law, in addition to loans to school districts and local units of government for specified purposes, BCPL is also authorized to make a loan to a county (Brown County) that has an agreement with a local professional football stadium district (Lambeau Field) where the county agrees to use the proceeds from a loan obtained by the county from BCPL for the purposes of acquiring, renovating, or constructing football stadium facilities and the district agrees to pay the county the principal and interest costs incurred by the county for the loan in that year. The county has never obtained such a loan from BCPL. However, BCPL is also authorized to invest trust fund moneys in bonds issued by the Green Bay- Brown County Professional Stadium District. In 2001, BCPL invested \$67.5 million in these bonds.

[Act 28 Sections: 665b thru 665r]

6. INCOME FROM NORMAL SCHOOL FUND FOR ENVIRONMENTAL PROGRAMS

Senate/Legislature: Reestimate income and interest from the segregated normal school fund by \$284,600 annually, from the current amount of \$65,400 annually. Rather than depositing this additional revenue in the general fund as under prior law, instead deposit \$200,000 annually from the normal school fund in a new appropriation under the UW System for environmental programs financial aid and scholarships. Of the amount transferred, specify that \$100,000 annually be used to provide need-based grants to students who are members of underrepresented groups and who are enrolled in a program leading to a certificate or a bachelor's degree from the Nelson Institute for Environmental Studies at UW-Madison. In addition, specify that \$100,000 annually be used to provide scholarships to students enrolled in the sustainable management degree program through UW-Extension.

Further, deposit \$74,800 in 2009-10 and \$97,600 in 2010-11 from the normal school fund in a new appropriation under the Department of Public Instruction. Specify that these funds be used to support 1.0 environmental education position to provide school districts with expertise in implementing environmental education-related curriculum, instruction, and assessment.

[Act 28 Sections: 240b, 261w, 665s, 747rm, and 9139(2c)]

BOARD ON AGING AND LONG-TERM CARE

Budget Summary							
Fund	2008-09 Base Year Doubled	2009-11 Governor	2009-11 Jt. Finance	2009-11 Legislature	2009-11 Act 28	Act 28 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$2,190,400	\$2,221,200	\$2,033,800	\$2,033,800	\$2,033,800	-\$156,600	- 7.1%
PR	<u>2,783,200</u>	<u>3,341,300</u>	<u>3,127,600</u>	<u>3,127,600</u>	<u>3,127,600</u>	<u>344,400</u>	12.4
TOTAL	\$4,973,600	\$5,562,500	\$5,161,400	\$5,161,400	\$5,161,400	\$187,800	3.8%

FTE Position Summary						
Fund	2008-09 Base	2010-11 Governor	2010-11 Jt. Finance	2010-11 Legislature	2010-11 Act 28	Act 28 Change Over 2008-09 Base
GPR	15.53	15.53	15.53	15.53	15.53	0.00
PR	<u>18.47</u>	<u>19.47</u>	<u>19.47</u>	<u>19.47</u>	<u>19.47</u>	<u>1.00</u>
TOTAL	34.00	35.00	35.00	35.00	35.00	1.00

Budget Change Items

1. STANDARD BUDGET ADJUSTMENTS

GPR	\$88,800
PR	<u>288,400</u>
Total	\$377,200

Governor/Legislature: Provide \$188,600 (\$44,400 GPR and \$144,200 PR) annually to adjust the Board's base budget for: (a) full funding of continuing salaries and fringe benefits (\$19,100 GPR and \$119,400 PR annually); (b) reclassifications (\$30,700 GPR and \$50,800 PR annually); and (c) full funding of lease costs (-\$5,400 GPR and -\$26,000 PR annually).

2. ACROSS-THE-BOARD 1% REDUCTIONS

GPR	- \$22,000
PR	<u>- 27,800</u>
Total	- \$49,800

Governor/Legislature: Delete \$11,000 GPR and \$13,900 PR, annually, as part of an across-the-board 1% reduction in most non-federal appropriations. The reductions, by appropriation, are shown below:

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
GPR	General Operations	\$1,095,200	-\$11,000*
PR	Contracts with Other Agencies	947,900	-9,500*
PR	Counseling Services	443,700	-4,400*

*Due to other budget items, the final funding level for this appropriation does not represent a 1% reduction.

3. SUPPLIES AND SERVICES

GPR	- \$36,000
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Governor/Legislature: Reduce funding for supplies and services by \$18,000 annually. Base level funding for the Board's supplies and services budget is \$418,600 (\$164,200 GPR and \$254,400 PR).

4. AGENCY 5.135% BUDGET REDUCTIONS

GPR	- \$112,400
PR	- 45,600
Total	- \$158,000

Joint Finance/Legislature: Delete \$79,000 (all funds) annually relating to increased agency across-the-board reductions. The reductions are generally equivalent to 5.135% of base level funding. The reductions include \$56,200 GPR, \$22,800 PR. Annual reductions amounts would be as follows:

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
GPR	General program operations	\$1,095,200	-\$56,200
PR	Insurance and other information, counseling and assistance	443,700	-22,800

5. ELIMINATE 2% GENERAL WAGE ADJUSTMENT

GPR	- \$29,600
PR	- 11,800
Total	- \$41,400

Joint Finance/Legislature: Reduce funding by \$20,700 annually (-\$14,800 GPR and -\$5,900 PR) relating to the roll-back of 2% general wage adjustments scheduled to take effect on June 7, 2009.

6. STATE EMPLOYEE FURLOUGH

GPR	- \$45,400
PR	- 18,000
Total	- \$63,400

Joint Finance/Legislature: Reduce funding by \$31,700 annually (-\$22,700 GPR and -\$9,000 PR) relating to the requirement that state employees take eight days of unpaid annual leave (furlough) in each year of the 2009-11 biennium.

7. RELOCATION OMBUDSMAN POSITION [LFB Paper 165]

	<u>Funding</u>	<u>Positions</u>
PR	\$159,200	1.00

Governor: Provide \$79,600 annually to support 1.0 position that would provide ombudsman services to residents and administrators in long-term care facilities that are in the process of closing or reducing the number of licensed beds. The Board currently assigns this function to 1.0 project position that is scheduled to expire on June 30, 2009. This item would

convert this project position to a permanent position.

Currently, the position is funded entirely with revenue the Department of Health Services (DHS) receives from civil monetary penalties paid by nursing homes that are found to have violated federal nursing home standards. Under the Governor's bill, the position would be supported 50% from civil monetary penalty revenue and 50% from federal Medicaid matching funds claimed by DHS. All of this funding would be budgeted in DHS and transferred to the Board's PR appropriation that supports activities funded from contracts with other state agencies.

Joint Finance/Legislature: Modify the Governor's recommendation by converting this position from a permanent position to a project position, which would expire on June 30, 2011.

8. MEDIGAP HELPLINE [LFB Paper 166]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
PR	\$138,300	-\$138,300	\$0

Governor: Provide \$62,100 in 2009-10 and \$76,200 in 2010-11 to increase funding for the Medigap Helpline. The bill would provide this funding to support costs of permanent position salaries, fringe benefits, and supplies and services, but would not authorize additional staff for the Board. Funding would be provided from insurance fee revenues transferred from the Office of the Commissioner of Insurance.

Joint Finance/Legislature: Delete provision.

9. SERVICES TO RESIDENTS OF RESIDENTIAL CARE APARTMENT COMPLEXES [LFB Paper 167]

Governor/Legislature: Expand the 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 to residents. In addition, require each RCAC to post, in a conspicuous location in the RCAC, a notice, provided by the Board, of the name, address, and telephone number of the Board's ombudsman program.

The Board's ombudsman program provides mediation and advocacy services to individuals that reside in long-term care facilities. In addition, the Board investigates complaints of improper treatment of elderly and disabled persons receiving long-term care services in these facilities. Under current law, the Board is authorized to provide these services to individuals residing in: (a) nursing homes; (b) community-based residential facilities; (c) facilities that provide continuing nursing services; (d) swing beds in acute care facilities or extended care facilities; (e) hospices; and (f) adult family homes. The bill would authorize the Board to provide ombudsman services to individuals residing in RCACs.

[Act 28 Sections: 50 and 1397]

BONDING AUTHORIZATION

1. GENERAL OBLIGATION BONDING AUTHORITY

Provide general obligation bonding authority as indicated in the following table:

<u>Agency and Purpose</u>	<u>Governor Building Comm.</u>	<u>Jt. Finance</u>	<u>Assembly</u>	<u>Senate</u>	<u>Act 28</u>
Administration					
Energy conservation projects	\$50,000,000	\$50,000,000	\$50,000,000	\$50,000,000	\$50,000,000
Agriculture, Trade and Consumer Protection					
Soil and water	7,000,000	7,000,000	7,000,000	7,000,000	7,000,000
Conservation reserve enhancement	-12,000,000	-12,000,000	-12,000,000	-12,000,000	-12,000,000
Agricultural conservation easements	12,000,000	12,000,000	12,000,000	12,000,000	12,000,000
Building Commission					
Refunding tax-supported and self amortizing debt incurred before July 1, 2011	0	300,000,000	300,000,000	300,000,000	309,000,000
Other public purposes	220,850,000	220,850,000	220,850,000	220,850,000	220,850,000
Housing state departments and agencies	50,246,600	50,246,600	50,246,600	50,246,600	50,246,600
Bradley Center Sports and Entertainment Corporation	5,000,000	5,000,000	5,000,000	5,000,000	5,000,000
AIDS Resource Center of Wisconsin, Inc.	800,000	800,000	800,000	800,000	800,000
Myrick Hixon EcoPark, Inc.	500,000	500,000	500,000	500,000	500,000
Madison Children's Museum	250,000	250,000	250,000	250,000	250,000
AIDS Network, Inc.	150,000	300,000	300,000	300,000	300,000
Aldo Leopold Climate Change Classroom and Interactive Laboratory	0	500,000	500,000	500,000	500,000
Oshkosh Opera House	0	500,000	500,000	500,000	500,000
Corrections					
Correctional facilities	7,564,900	7,564,900	7,564,900	7,564,900	7,564,900
Self-amortizing facilities	5,442,900	5,442,900	5,442,900	5,442,900	5,442,900
Environmental Improvement Fund					
Clean water fund program	76,500,000	79,400,000	79,400,000	79,400,000	79,400,000
Safe drinking water loan program	9,400,000	7,000,000	7,000,000	7,000,000	7,000,000
Health Services					
Mental health facilities	-1,867,600	-1,867,600	-1,867,600	-1,867,600	-1,867,600
Historical Society					
Historic records	8,000,000	8,000,000	8,000,000	8,000,000	8,000,000
Historic sites	6,960,000	6,960,000	6,960,000	6,960,000	6,960,000
Marquette University					
Engineering education facility	0	0	0	10,000,000	0
Military Affairs					
Armories and military facilities	5,642,800	18,642,800	18,642,800	18,642,800	18,642,800

<u>Agency and Purpose</u>	<u>Governor Building Comm.</u>	<u>Jt. Finance</u>	<u>Assembly</u>	<u>Senate</u>	<u>Act 28</u>
Natural Resources					
Segregated revenue supported facilities	\$7,476,300	\$7,476,300	\$7,476,300	\$7,476,300	\$7,476,300
Nonpoint source	7,000,000	7,000,000	7,000,000	7,000,000	7,000,000
Urban nonpoint source cost-sharing	6,000,000	6,000,000	6,000,000	6,000,000	6,000,000
Contaminated sediment removal	5,000,000	5,000,000	5,000,000	5,000,000	5,000,000
Dam safety projects	3,000,000	4,000,000	4,000,000	4,000,000	4,000,000
Environmental segregated fund supported administrative facilities	502,700	502,700	502,700	502,700	502,700
Transportation					
Rail passenger route development	40,000,000	40,000,000	40,000,000	40,000,000	40,000,000
Southeast Wisconsin transit improvements	100,000,000	100,000,000	100,000,000	100,000,000	100,000,000
Marquette interchange and I-94 north-south corridor reconstruction projects	250,250,000	250,250,000	250,250,000	250,250,000	250,250,000
Harbor improvements	19,050,000	12,700,000	12,700,000	12,700,000	12,700,000
Rail acquisitions and improvements	60,000,000	60,000,000	60,000,000	60,000,000	60,000,000
State highway rehabilitation projects	0	139,712,200	139,712,200	139,712,200	204,712,200
State highway rehabilitation certain projects	0	60,000,000	60,000,000	60,000,000	60,000,000
Major highway projects	0	50,000,000	50,000,000	50,000,000	50,000,000
Major interstate bridge construction	0	0	0	0	225,000,000
University of Wisconsin System					
Academic facilities	282,551,000	354,620,700	326,551,000	354,620,700	326,551,000
Self-amortizing facilities	564,477,600	569,928,600	569,928,600	569,928,600	569,928,600
Veterans Affairs					
Self-amortizing mortgage loans	195,000,000	195,000,000	195,000,000	195,000,000	195,000,000
Self-amortizing facilities	<u>318,500</u>	<u>318,500</u>	<u>318,500</u>	<u>318,500</u>	<u>318,500</u>
TOTAL General Obligation Bonds	\$1,993,065,700	\$2,629,598,600	\$2,601,598,600	\$2,639,598,600	\$2,900,528,900

[Act 28 Section: 175]

2. REVENUE OBLIGATION BONDING

Provide revenue obligation bonding authority as indicated in the following table:

<u>Agency and Purpose</u>	<u>Governor Building Comm.</u>	<u>Jt. Finance</u>	<u>Assembly</u>	<u>Senate</u>	<u>Act 28</u>
Environmental Improvement Fund					
Clean water fund program	\$418,800,000	\$379,200,000	\$379,200,000	\$379,200,000	\$379,200,000
Transportation					
Major highway projects, transportation facilities	<u>301,443,200</u>	<u>301,443,200</u>	<u>301,443,200</u>	<u>301,443,200</u>	<u>301,443,200</u>
TOTAL Revenue Obligation Bonds	\$720,243,200	\$680,643,200	\$680,643,200	\$680,643,200	\$680,643,200
GRAND TOTAL General and Revenue Obligation Bonds	\$2,713,308,900	\$3,310,241,800	\$3,282,241,800	\$3,320,241,800	\$3,581,172,100

[Act 28 Section: 175]

BUDGET MANAGEMENT AND COMPENSATION RESERVES

1. COMPENSATION RESERVES [LFB Paper 176]

Governor/Legislature: Provide, in the 2009-11 general fund condition statement, total compensation reserves of \$116,131,700 in 2009-10 and \$235,010,000 in 2010-11 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>2009-10</u>	<u>2010-11</u>
General Purpose Revenue	\$47,279,100	\$95,962,700
Federal Revenue	14,101,500	28,315,100
Program Revenue	45,910,700	93,024,600
Segregated Revenue	<u>8,840,400</u>	<u>17,707,600</u>
Total	\$116,131,700	\$235,010,000

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.

2. DOA SECRETARY AUTHORITY TO LAPSE OR TRANSFER MONEYS TO THE GENERAL FUND [LFB Paper 177]

	Governor (Chg. to Base)	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR-REV	\$160,000,000	\$174,107,600	\$20,700,000	\$354,807,600

Governor: Require the Secretary of the Department of Administration (DOA) to lapse or transfer \$160 million during the 2009-11 biennium from the unencumbered balances of appropriations to state agencies, other than from sum sufficient and federal appropriations. Define state agencies as any office, department, or independent agency in the executive branch, excluding the Investment Board and the Department of Employee Trust Funds, and including the Legislature and the Courts. Because this provision would reference unencumbered amounts in appropriations as being subject to transfer, the Secretary of DOA could not transfer

unappropriated moneys held in the balance of a fund.

Specify that the DOA Secretary could not 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.

Authorize the DOA Secretary to lapse from sum certain appropriations and subtract from the expenditure estimates for sum sufficient and continuing appropriations for the: (a) Office of the Governor; (b) Circuit Courts; (c) Court of Appeals; (d) Supreme Court; and (e) Legislature.

Require the Wisconsin Housing and Economic Development Authority to pay \$250,000 to the state in 2010-11 and \$250,000 in 2011-12 of its actual surplus in the Authority surplus fund, irrespective of current law governing the use of that surplus. Specify that these amounts would be deposited in the general fund and would count towards the \$160 million total lapse or transfer requirement.

In its general fund condition statement, DOA includes \$80 million in 2009-10 and in 2010-11 under departmental revenues from this lapse or transfer provision.

Joint Finance: Delete provision and, instead, modify the 2009 Act 2 lapse and transfer provision to require an additional \$334,107,600 of lapses or transfers from available balances in appropriations and funds, over the \$125,000,000 required under Act 2. The \$174,107,600 increase in GPR-Earned shown above is the net change to the Governor's provision.

Assembly: Increase the required lapse and transfer amount by \$20,700,000 (from \$334,107,600 to \$354,807,600).

Senate: Delete Assembly provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 28 Section: 3416d]

3. DELETE 2007 ACT 20 AUTHORITY FOR DOA TO LAPSE OR TRANSFER MONEYS TO THE GENERAL FUND

Governor/Legislature: Delete the provisions of 2007 Act 20 that require the Secretary of the Department of Administration (DOA) to lapse or transfer \$200 million from the unencumbered balances of appropriations of executive branch state agencies, other than sum sufficient and federal appropriations, in the 2009-11 biennium. Delete similar provisions of Act 20 that require the DOA Secretary to lapse or transfer: (a) \$25 million 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 million from the unencumbered balances of appropriations to the Wisconsin Technical College System other than sum sufficient and federal appropriations.

Veto by Governor [F-1]: Restore the Act 20 requirement that the Secretary of DOA lapse or transfer \$200 million from the unencumbered balances of appropriations of executive branch state agencies, other than sum sufficient and federal appropriations, in the 2009-11 biennium.

[Act 28 Sections: 3413 and 3414]

[Act 28 Vetoed Section: 3412]

4. REQUIRED GENERAL FUND STATUTORY RESERVE [LFB Paper 178]

Governor: Provide that the required general fund statutory balance would be \$130 million for each fiscal year from 2010-11 through 2012-13. Specify that beginning in 2013-14, the required balance would equal 2% of total GPR appropriations plus GPR compensation reserves for each fiscal year.

Under current law, the required balance is \$65 million for 2009-10 and 2010-11 and 2% of total GPR appropriations plus GPR compensation reserves for each fiscal year beginning in 2011-12.

A comparison of current law and the statutory balance requirements under the bill is shown in the following table.

	<u>Current Law</u>	<u>Proposal</u>
2009-10	\$65,000,000	\$65,000,000
2010-11	65,000,000	130,000,000
2011-12	2%*	130,000,000
2012-13	2%*	130,000,000
2013-14 and thereafter	2%*	2%*

*The required balance equals 2% of gross GPR appropriations plus GPR compensation reserves in that year. As an example, a 2% calculation for 2010-11 under the bill equals \$286.5 million.

Conference Committee/Legislature: Modify the provision by establishing the annual general fund statutory reserve at \$65,000,000 from 2010-11 through 2012-13 rather than at \$130,000,000 each year. Beginning in 2013-14, and thereafter, the reserve amount would equal 2% of gross GPR appropriations plus GPR compensation reserves in that year.

A comparison of current law and the statutory balance requirements under Act 28 are shown in the following table:

	<u>Current Law</u>	<u>Act 28</u>
2009-10	\$65,000,000	\$65,000,000
2010-11	65,000,000	65,000,000
2011-12	2%	65,000,000
2012-13	2%	65,000,000
2013-14 and thereafter	2%	2%

[Act 28 Sections: 170 thru 173]

5. STRUCTURAL BALANCE EXCEPTION

Assembly/Legislature: Specify that the current law requirements that revenues exceed expenditures in each fiscal year would not apply in 2010-11.

[Act 28 Section: 9157(2i)]

6. THRESHOLD FOR BUDGET ADJUSTMENT BILL [LFB Paper 170]

Governor: Increase the current threshold above which the Governor is required to submit a budget adjustment bill from a shortfall of 0.5% of GPR appropriations to a shortfall of 2.0% of GPR appropriations.

Under current law, the Secretary of DOA can use the state's allotment process to withhold payments from appropriations to state agencies, except appropriations for general school aids, supplemental appropriations under the Joint Committee on Finance, and appropriations for shared revenue and tax relief. Under this provision, the DOA Secretary can force lapses by preventing the expenditure of appropriated moneys, so that they are retained by the general fund, or by whichever program revenue account or segregated fund that the appropriation is drawn from.

However, under current law, once the Secretary of DOA determines that a shortfall is projected to be greater than 0.5%, then the Secretary cannot use the allotment process to reduce spending. Instead, the Secretary is required to immediately notify the Governor, the presiding officer of each house of the Legislature and the Joint Committee on Finance of the revenue shortfall. Following this notification, the Governor is required to submit a bill containing his or her recommendations for the correcting of the imbalance between projected revenues and authorized expenditures.

Using the bill's total GPR expenditures, the current 0.5% threshold would equal \$67.1 million in 2009-11 and \$69.7 million in 2010-11. Under the proposed 2% level, the requirement for a budget adjustment bill would not apply unless the shortfall was greater than \$268.4 million in 2009-10 and \$278.8 million in 2010-11.

Joint Finance/Legislature: Delete provision.

7. LIMIT ON INTERFUND CASHFLOW BORROWING [LFB Paper 171]

Governor: Increase the limit on interfund borrowing to support the general fund's cashflow by five percentage points, from 8% of GPR appropriations in a fiscal year to 13% of GPR appropriations for that year.

Under current law, the Secretary of DOA is authorized to temporarily reallocate to the general fund an amount equal to 5% of total GPR appropriations in order to support the general fund's cashflow (approximately \$685 million in 2009-10 and \$711 million in 2010-11), from

available balances in the state investment fund. This limit would be increased to 10% under the bill. In addition, under current law, the Secretary may permit a further 3% to be used for temporary reallocations to the general fund for a period not to exceed 30 days, which cannot be made for consecutive periods (approximately \$411 million in 2009-10 and \$427 million in 2010-11). In total, under current law, 8% of GPR appropriations (\$1,096 million in 2009-10 and \$1,138 million in 2010-11) may be allocated to the general fund on a temporary basis. Under the Governor's recommendation these aggregate limits would be \$1,781 million in 2009-10 and \$1,850 million in 2010-11. The following table compares the limits under the recommendation with current law. For funds other than the general fund, up to \$400 million can be reallocated between the general fund, certain segregated funds, and the local government investment pool. Funds that borrow money through temporary reallocations are charged interest at the earnings rate of the state investment fund.

**Limits on Temporary Reallocations to Support the General Fund's Cashflow
(\$ in Millions)**

<u>Limit</u>	<u>Current Law</u>		<u>Limit</u>	<u>Governor</u>	
	<u>2009-10</u>	<u>2010-11</u>		<u>2009-10</u>	<u>2010-11</u>
5%	\$685	\$711	10%	\$1,370	\$1,423
3% (30-day limit)	<u>411</u>	<u>427</u>	3% (30-day limit)	<u>411</u>	<u>427</u>
Total	\$1,096	\$1,138	Total	\$1,781	\$1,850

Joint Finance/Legislature: Modify provision to provide that the aggregate limit would be 10% (7% plus 3%) of GPR appropriations for each fiscal year of the 2009-11 biennium. This would be consistent with the provisions of 2009 Act 11, which made the same change to provide an aggregate total of 10% for fiscal year 2008-09. The following table shows the limit under Act 28.

**Limit on Temporary Reallocations Under Act 28
(\$ in Millions)**

<u>Limit</u>	<u>2009-10</u>	<u>2010-11</u>
7%	\$939	\$987
3%	<u>403</u>	<u>423</u>
Total	\$1,342	\$1,410

[Act 28 Section: 168m]

8. EXCEPTION TO STATE GPR SPENDING LIMIT

Governor/Legislature: Provide that the appropriation for the repayment of appropriation obligation bonds issued to re-securitize the tobacco settlement revenues would be excluded from the current statutory limit on GPR appropriations.

Under current law, the GPR budget for the next biennium cannot exceed a level that is the

result of multiplying the total of those appropriations for the second year of the prior biennium by the estimated percentage increases in state personal income. Certain appropriations are excluded from this limit, including appropriations for debt service on public debt and for debt service costs of appropriation obligation bonds relating to unfunded liabilities under the Wisconsin Retirement System. This provision would add the repayment appropriation for the bonds associated with the tobacco re-securitization transaction to the list of appropriations excluded from the limit.

[Act 28 Sections: 11 and 12]

9. OPTION TO PROVIDE BUDGET MATERIALS ON THE INTERNET [LFB Paper 172]

Governor: Provide that the biennial state budget report that is submitted at the same time as the executive budget bill could be posted on the Internet, as an alternative to being distributed in printed or optical disk format as required under current law. Specify that the budget-in-brief and the biennial state budget report could be posted on the Internet on the same day as the budget message, as an alternative to the current requirement that a copy of these documents be provided to each member of the Legislature on that day.

Joint Finance/Legislature: Modify the provision to require that if requested by a member of the Legislature, a printed copy would be provided to the member of the biennial state budget report and the budget-in-brief.

[Act 28 Sections: 80 and 81]

10. DELETE BASE BUDGET REVIEW REPORT [LFB Paper 173]

Governor/Legislature: 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.

[Act 28 Sections: 76, 79, and 82]

11. AGENCY MISSION STATEMENTS AND PERFORMANCE MEASURES

Senate/Legislature: Require the Secretary of the Department of Administration (DOA) to submit agency mission statements and performance measures to the appropriate standing committees of the Legislature, and to the Joint Committee on Finance during January of each odd-numbered year. Under current law, this information is required to be prepared by state

agencies as part of their agency budget requests and submitted to DOA by September 15 of each even-numbered year.

Veto by Governor [F-2]: Delete provision.

[Act 28 Vetoed Section: 73L]

12. CONTRACT LABOR INFORMATION IN AGENCY BUDGET REQUEST

Joint Finance/Legislature: Require each state agency to include the following information as part of its agency biennial budget request: (a) the number of contracted positions providing services for the agency that are paid from base level funding and which appropriations are used to fund the contracted positions; (b) the total amount of base level funding used to pay for the contracted positions; (c) the amount of funding and which appropriations would be used to fund contracted positions in the agency budget request; and (d) an estimate of the number of additional full-time-equivalent state employee positions that the agency would need to perform all of the services provided by contracted positions. Require the Department of Administration to include similar information in the biennial state budget report, which is published at the time the Governor's budget recommendations are presented to the Legislature.

Veto by Governor [C-3]: Delete provision.

[Act 28 Vetoed Sections: 76L and 82L]

13. REPEAL OBSOLETE PROVISION RELATING TO STATE GPR SPENDING LIMIT

Governor: Repeal obsolete provisions of current law that governed the calculation of the statutory GPR spending limit in the 2005-07 biennium.

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

BUILDING COMMISSION

Budget Summary							
Fund	2008-09 Base Year Doubled	2009-11 Governor	2009-11 Jt. Finance	2009-11 Legislature	2009-11 Act 28	Act 28 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$93,163,200	\$79,838,800	\$79,838,800	\$79,838,800	\$79,838,800	-\$13,324,400	- 14.3%
PR	0	0	3,009,800	3,009,800	3,009,800	3,009,800	N.A.
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	\$95,211,600	\$81,887,200	\$84,897,000	\$84,897,000	\$84,897,000	-\$10,314,600	- 10.8%
BR			\$300,000,000	\$300,000,000	\$300,000,000		

FTE Position Summary
There are no full time positions authorized for the Building Commission.

Budget Change Items

1. DEBT SERVICE REESTIMATE [LFB Paper 180]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR-Lapse	\$0	\$4,000,000	\$4,000,000
GPR	-\$13,324,400	\$0	-\$13,324,400

Governor: Reduce funding by \$17,006,300 in 2009-10 and increase funding by \$3,681,900 in 2010-11 to reflect the reestimate of sum sufficient debt service appropriations as shown in the following table.

	Adjusted Base	Change to Base		Total Debt Service	
	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>	<u>2009-10</u>	<u>2010-11</u>
GPR Debt Service Appropriation					
Capitol and Executive Residence	\$8,162,200	\$5,055,600	\$4,828,600	\$13,217,800	\$12,990,800
Amounts Not Initially Allocated to Agencies	36,154,000	-22,149,400	-2,187,500	14,004,600	33,966,500
Other Public Purposes	1,437,800	-19,600	642,200	1,418,200	2,080,000
Children's Research Institute	596,900	49,800	204,100	646,700	801,000
HR Academy Youth Center	116,300	600	800	116,900	117,100
Milwaukee Police Youth Activity Ctr.	84,400	300	1,100	84,700	85,500
Hmong Cultural Centers	0	44,500	137,100	44,500	137,100
Bond Health Center in Oconto	0	15,000	58,600	15,000	58,600
Swiss Cultural Center	30,000	-30,000	-30,000	0	0
Civil War Exhibit at Kenosha Museum	0	26,900	26,900	26,900	26,900
Total GPR	\$46,581,600	-\$17,006,300	\$3,681,900	\$29,575,300	\$50,263,500

Joint Finance/Legislature: Decrease the net amount of GPR debt service required in the 2009-11 biennium by \$2 million annually to reflect projected lapses attributable to interest earnings on the bond security redemption fund which are allocated to debt service appropriations each year and to the reallocation of debt service from the Building Commission's other public purpose bonding to program revenue and segregated revenue debt service appropriations.

2. COMMERCIAL PAPER AND LONG-TERM BOND RESTRUCTURING

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR-Lapse	\$114,000,000	\$285,000,000	\$399,000,000
BR	\$0	\$300,000,000	\$300,000,000

Governor: Estimate lapses from GPR sum sufficient debt service appropriations at \$57,000,000 annually associated with the restructuring the GPR principal amounts of commercial paper that would otherwise be due in 2009-10 and 2010-11. Under this restructuring, the administration will use its current law authority to issue long-term bonds to restructure approximately \$57 million annually in GPR commercial paper principal that otherwise would be paid off in the 2009-11 biennium.

In addition to the GPR debt service lapse, the bill also reflects \$50 million annually in reduced GPR debt service costs under the individual agency debt service appropriations that is associated with rolling forward commercial paper GPR principal amounts that would otherwise be retired in the biennium (these reductions are included in the debt service reestimates shown under the individual agency budgets). According to the Department of Administration (DOA), the final principal payment on the amounts that are to be rolled forward would not extend

beyond the final principal payment date that was identified when the commercial paper obligations were issued.

When the state issues commercial paper, those obligations are counted against the bonding authorization purpose for which the proceeds of the obligations are expended. Under the state's commercial paper program, DOA can issue long-term bonds to replace commercial paper. Despite being short-term general obligations of the state, DOA Capital Finance establishes a ten- or twenty-year "notional" amortization schedule for the payment of principal and interest on outstanding commercial paper. Under this amortization schedule, in May of each year, the state pays off some principal portion of the outstanding commercial paper obligations. The state pays off the specified principal amounts of by requesting the principal amount of commercial paper due under the notional amortization schedule not be rolled over, and instead makes a payment to retire that amount.

Joint Finance/Legislature: Provide \$300,000,000 of GPR supported refunding bonding for the purpose of restructuring \$285,000,000 in GPR principal on the state's tax supported general obligation debt that would otherwise be paid off in the biennium. Increase GPR-Lapses by \$250,000,000 in 2009-10 and \$35,000,000 in 2010-11 from GPR debt service appropriations to reflect the reduced GPR principal payments in the biennium.

[Act 28 Section: 655f]

3. SALE OF UNIVERSITY OF WISCONSIN SYSTEM PROPERTIES

Governor: Make permanent the following current law provisions related to the sale of real property by the UW System, which otherwise would sunset on June 30, 2009, beginning on the effective date of the bill:

- 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. The net proceeds would be proceeds from the sale less any funds needed to pay outstanding debt on the property sold or any funds needed to repay the federal government if the property was acquired, constructed or approved with federal assistance.

This authority would not supersede the current law provisions relating to the sale of agricultural lands owned by the University that are located at statutorily specific sites in Dane, Oneida and Portage counties.

Under current law, various provisions related to the sale of properties by the UW System are only in effect until June 30, 2009. Under this provision, no ending date for this authority would be specified and the authority provided in a nonstatutory provision in 2005 Act 25 and modified by 2007 Act 20, would instead be established as a permanent provision of law under Chapter 36 of the statutes relating to the University of Wisconsin System.

Senate: Sunset on June 30, 2011, the authority of the UW System to sell properties and deposit the net proceeds from the sale (remaining proceeds after state debt or federal funding associated with property is repaid) to the UW Systems general operations appropriation. This would modify a Joint Finance provision that would permanently provide the UW System this authority.

Conference Committee/Legislature: Delete Senate provision.

[Act 28 Sections: 17, 254, 259, 260, and 3407]

4. EXTEND DOA'S AUTHORITY TO SELL STATE PROPERTIES

Governor/Legislature: Extend DOA's authority to sell certain state-owned real property for a third two-year period that would begin on the effective date of the budget and extend until June 30, 2011. During the 2005-07 and 2007-09 biennia, DOA has had the authority, for each biennium, to offer for sale and sell certain state property if the Building Commission authorized the property to be sold. This provision would modify a nonstatutory provision of 2005 Act 25, as modified by 2007 Act 20, to add a third period during which DOA could exercise this authority.

Under current law, through June 30, 2009, DOA can offer certain state properties for sale on the basis of public bids, with DOA reserving the right to reject any bid in the interest of the state, or negotiated prices. DOA can sell these properties without the approval of the agency that has jurisdiction over the property. Net proceeds from the sale of these properties are deposited to the general fund.

[Act 28 Section: 3406]

5. ENERGY CONSERVATION PROGRAM MODIFICATIONS

PR	\$3,009,800
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Joint Finance/Legislature: Specify that DOA may assess for energy cost savings in an amount not exceeding the difference between the actual savings generated, if any, as determined by DOA, and the amount of the debt service costs. Agencies would pay their assessments for debt service costs to the Building Commission and their assessments for cost savings to DOA. These modifications were adopted by the Building Commission, but were not included in the Commission's 2009-11 state building program recommendations. Modify the existing agency energy costs appropriations to allow for payment of the assessments.

Delete the existing Department of Administration energy conservation construction projects PR debt service appropriation and create a similar Building Commission PR debt service appropriation for this purpose. Provide the Building Commission appropriation \$891,400 in 2009-10 and \$2,118,400 in 2010-11 and make a corresponding reduction under DOA's appropriation schedule to reflect the transfer of the appropriation to the Building Commission. For the fiscal effect of the transfer of this appropriation that relates to DOA, see "Administration -- General Agency Provisions."

[Act 28 Sections: 112m, 229m, 234m, 237m, 253m, 307m, 340m, 540m, 552m, 571 thru 571n, 640, 657m, and 657p]

6. STATE BUILDING CONTRACTING AND CONSTRUCTION PROCEDURES

Governor: Make the following modifications to the contracting and construction procedures for state building and facilities projects, which would apply to contracts and change orders for services or construction work entered into on the effective date of the budget.

State Building Construction Contracting and Competitive Bidding Requirement. Provide the Secretary to the Building Commission the authority to waive any contracting or bidding requirement for state construction contracts for any project with an estimated cost of less than \$5,000,000. Several contracting and bidding requirements have been established under current law, including public notice requirements and, with specific exceptions, the requirement that the Department of Administration (DOA) let contracts for state building projects to the lowest qualified bidder for all projects with an estimated cost of more than \$40,000. The Building Commission currently has the authority to waive these requirements when it determines that the use of innovative types of design and construction processes, including the lease, lease purchase, or acquisition processes, will make better use of the resources and technology available in the building industry. This provision would allow the Secretary to the Building Commission the authority to waive the state's contracting and bidding requirements for state building projects up to \$5,000,000 for no specified reason.

Use of Simplified Contracting and Bidding Procedures. Expand the authority of the Building Commission to prescribe simplified policies and procedures to be used in lieu of the state's contracting and bidding procedures to include small building projects having an estimated cost up to \$500,000. Under current law, the Building Commission can exercise this authority for small projects with an estimated cost of \$150,000 or less. Specify that if the Building Commission elects to use these simplified procedures, and the estimated cost of the project is greater than \$100,000, DOA would be required to provide adequate public notice for the project and the procedures to be utilized to construct the project on a publicly accessible computer site. Under current law, DOA is required to meet these notice requirements for any project involving these simplified procedures that is in excess of \$40,000.

Minimum Project Cost For Certain Bidding Requirements. Increase from \$40,000 to \$100,000, the minimum project cost at which the following current law bidding requirements would be

have to be met: (a) that DOA advertise for bid proposal in the state official newspaper; (b) that the advertisements contain information on the location of the work and name of the owner, the scope of the work, the amount of bid guarantee required, the date, place, and time of the bid opening, and the date and place where project plans will be available; (c) the amount of bid guarantee to be included with bid; (d) that bids be publicly opened and read aloud and made available for inspection; (e) that no corrections or alterations of bids are allowed, except deductive changes negotiated with the Department.

Building Commission Supervision of Project Construction. Increase the cost threshold for state building projects that would require Building Commission review and approval from \$150,000 to \$250,000. Under current law, with specific exceptions, no contract for the construction of any state building, structure or facility project with a cost in excess of \$150,000 may be entered into without completion of final plans and review and approval of the project by the Building Commission.

Project Selection Committees. Require the DOA Secretary to appoint one or more selection committees for the purposes of selecting an appropriate engineer and architect for each construction project under DOA's supervision, except certain emergency projects. Require that if the estimated cost of a project is \$5,000,000 or more, the selection committee would have to interview each candidate for appointment as an engineer or architect for a project. Allow the DOA Secretary or the Secretary to the Building Commission to waive this requirement when he or she determines it is in the best interests of the state to do so.

As under current law, this provision would not apply to the engineering, architectural, and construction work of the Department of Transportation, and the engineering service performed by state agencies, boards, and commissions when the service is not related to maintenance, planning and construction of the physical properties of the state.

Subcontractor List. Specify that DOA could require each person to submit with a bid a list of the subcontractors for work to be performed with its bid. Under current law, DOA cannot require that such a list be submitted with a bid.

Single Source Materials and Articles. Under current law, when DOA believes that it is in the best interests of the state to contract for certain articles or materials available from only one source, the Department may contract for those articles or materials without the usual statutory procedure, after a publication of a class 1 notice in the official state newspaper. The bill would allow DOA, upon solicitation of bids apart from the usual statutory procedure, to contract for any specified proprietary materials or articles regardless of whether they are from a single source. The public notice requirements for solicitation of these bids would continue to apply.

Building Commission Secretary. Clarify that the DOA Secretary would have the authority to designate a DOA employee to serve as Secretary to the Building Commission. Current law requires that the Building Commission Secretary, the head of engineering functions, and the ranking architect are all nonvoting advisory members to the Commission, but there is no specification as to who designates the Commission Secretary or the other advisory members.

Currently, the Secretary to the Commission is the Division Administrator of DOA's Division of State Facilities.

Governor's Approval of Contracts. Under current law, for contracts or a change order to a contract involving the expenditure of less than \$150,000, the Governor may delegate his authority to approve any contract for engineering services, limited trades work, construction work to the DOA Secretary or the Secretary's designee. The bill would delete the \$150,000 limit and allow the Governor to delegate this authority for any sized contract.

Transfer of Planning Funds. Direct the Building Commission to authorize the release of funds from the Commission's planning and design appropriation for advance planning, preliminary studies and specify that the Commission may transfer funds from this appropriation to other accounts within the building trust fund. Under current law, the Governor, upon approval of the Commission, has the authority to release and transfer these funds.

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

BUILDING PROGRAM

Budget Change Items

1. 2009-11 ENUMERATED PROJECTS [LFB Papers 182, 183, 184, and 185]

	Building Comm. (Chg. to Base)	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
All Funds	\$1,414,158,700	\$138,121,000	-\$47,346,000	\$1,504,933,700

Building Commission: Provide \$1,414,158,700 from all funding sources of enumerated 2009-11 financing authority for: (a) specific enumerated projects (\$1,106,152,600); and (b) all agency projects (\$308,006,100).

Specify that funding for these projects be drawn from the following sources: (a) \$1,097,225,000 from new general obligation bonding authority; (b) \$41,714,700 from general obligation bonding authority that is currently authorized; (c) \$6,981,100 from revenue bonding authority; (d) \$20,653,500 from agency operating funds; (e) \$61,048,400 from federal funds; and (f) \$186,536,000 from gifts, grants and other receipts.

Joint Finance: Provide an additional \$138,121,000 from all funding sources for the following enumerated projects: (a) an additional \$150,000 in general fund supported bonding for the Aids Network project for total funding of \$300,000; (b) a \$2,700,000 Aldo Leopold Change Classroom and Interactive Classroom project, including \$500,000 in general fund supported bonding; (c) a \$1,500,000 Oshkosh Opera House project, including \$500,000 in general fund supported bonding; (d) a \$125,000 L.E. Phillips Memorial library project in Eau Claire, funded with \$125,000 in existing general fund supported bonding; (e) a \$400,000 Stone Barn restoration project in the Town of Chase in Oconto County, with a state contribution of \$100,000 in building trust fund moneys; (f) a \$44,500,000 Education Building on the UW-Eau Claire campus including \$44,000,000 in general fund supported bonding; (g) a \$47,346,000 School of Nursing facility on the UW-Madison campus, including \$28,069,700 in general fund supported bonding and \$5,451,000 in program revenue supported bonding; and (h) a \$41,400,000 Armory project in Wisconsin Rapids funded with \$13,000,000 in general fund supported bonding and \$28,400,000 in federal funding.

Assembly: Delete \$28,069,700 in general fund supported bonding and the related project enumeration of \$47,346,000 from all funding sources for the UW-Madison School of Nursing that was included as part of the building program under Joint Finance (the \$5,451,000 in program revenue supported bonding was deleted from the project enumeration but still provided under the bonding authorization).

Senate: Provide \$10,000,000 in general fund supported bonding for an engineering

facility at Marquette University, with a total project enumeration of \$35,000,000. Restore the Joint Finance provision to enumerate and fund the \$47,346,000 UW-Madison School of Nursing project.

Conference Committee/Legislature: Adopt the Assembly provision to delete the UW-Madison School of Nursing project enumeration and funding. In addition, delete the Senate provision to enumerate and provide funding for a Marquette School of Engineering building (see separate items on these two projects).

The funding sources for the 2009-11 enumerated project authority by agency at each stage of the budget process are shown in Table 1. A listing of individual major agency projects enumerated as part of the 2009-11 state building program, as recommended by each actor, is provided in Table 2.

[Act 28 Section: 9106(1)]

TABLE 1

**Building Commission Recommended Financing Sources
for the 2009-11 Enumerated Projects**

	<u>New General Obligation Bonds</u>			Revenue <u>Bonds*</u>	Existing General Obligation <u>Bonds</u>	Agency Operating <u>Funds</u>	Gifts, Grants and Other	<u>Federal</u>	<u>Total</u>
	<u>GPR</u>	<u>PR</u>	<u>SEG</u>						
Administration	\$28,850,000	\$45,919,600	\$0	\$0	\$17,000,000	\$0	\$0	\$0	\$91,769,600
Building Commission	6,700,000	0	0	0	6,600,000	0	0	0	13,300,000
Corrections	5,697,300	5,442,900	0	0	1,867,600	0	0	0	13,007,800
Military Affairs	5,642,800	0	0	0	985,800	0	0	60,728,100	67,356,700
Natural Resources	0	0	5,647,600	0	10,450,900	0	0	0	16,098,500
State Historical Society	6,960,000	0	0	0	0	0	7,168,500	0	14,128,500
Transportation	0	0	0	3,959,900	0	0	0	0	3,959,900
University of Wisconsin System	<u>201,632,000</u>	<u>494,014,100</u>	<u>0</u>	<u>0</u>	<u>3,205,000</u>	<u>8,563,000</u>	<u>179,117,500</u>	<u>0</u>	<u>886,531,600</u>
Subtotal	\$255,482,100	\$545,376,600	\$5,647,600	\$3,959,900	\$40,109,300	\$8,563,000	\$186,286,000	\$60,728,100	\$1,106,152,600
All Agency									
Facilities Repair and Renovation	\$114,000,000	\$17,415,000	\$2,330,700	\$3,021,200	\$1,605,400	\$6,958,000	\$0	\$320,300	\$145,650,600
Utilities Repair and Renovation	52,000,000	12,948,900	0	0	0	4,038,500	0	0	68,987,400
Health, Safety and Environmental Prot.	20,000,000	314,600	0	0	0	0	0	0	20,314,600
Energy Conservation	0	50,000,000	0	0	0	0	0	0	50,000,000
Preventative Maintenance Program	3,000,000	0	0	0	0	0	0	0	3,000,000
Programmatic Remodeling and Renovation	7,000,000	7,550,500	0	0	0	1,094,000	250,000	0	15,894,500
Land and Property Acquisition	2,000,000	159,000	0	0	0	0	0	0	2,159,000
Capital Equipment and Acquisition	<u>2,000,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>2,000,000</u>
Subtotal	\$200,000,000	\$88,388,000	\$2,330,700	\$3,021,200	\$1,605,400	\$12,090,500	\$250,000	\$320,300	\$308,006,100
Total	\$455,482,100	\$633,764,600	\$7,978,300	\$6,981,100	\$41,714,700	\$20,653,500	\$186,536,000	\$61,048,400	\$1,414,158,700

TABLE 1 (continued)

**Joint Finance Committee Recommended Financing Sources
for the 2009-11 Enumerated Projects**

	<u>New General Obligation Bonds</u>			<u>Revenue Bond</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	\$28,850,000	\$45,919,600	\$0	\$0	\$17,000,000	\$0	\$0	\$0	\$0	\$91,769,600
Building Commission	7,850,000	0	0	0	6,725,000	0	100,000	3,500,000	0	18,175,000
Corrections	5,697,300	5,442,900	0	0	1,867,600	0	0	0	0	13,007,800
Military Affairs	18,642,800	0	0	0	985,800	0	0	0	89,128,100	108,756,700
Natural Resources	0	0	5,647,600	0	10,450,900	0	0	0	0	16,098,500
State Historical Society	6,960,000	0	0	0	0	0	0	7,168,500	0	14,128,500
Transportation	0	0	0	3,959,900	0	0	0	0	0	3,959,900
University of Wisconsin System	<u>273,701,700</u>	<u>499,465,100</u>	<u>0</u>	<u>0</u>	<u>3,205,000</u>	<u>0</u>	<u>9,063,000</u>	<u>192,942,800</u>	<u>0</u>	<u>978,377,600</u>
Subtotal	\$341,701,800	\$50,827,600	\$5,647,600	\$3,959,900	\$40,234,300	\$0	\$9,163,000	\$203,611,300	\$89,128,100	\$1,244,273,600
All Agency										
Facilities Repair and Renovation	\$114,000,000	\$17,415,000	\$2,330,700	\$3,021,200	\$1,605,400	\$0	\$6,958,000	\$0	\$320,300	\$145,650,600
Utilities Repair and Renovation	52,000,000	12,948,900	0	0	0	0	4,038,500	0	0	68,987,400
Health, Safety and Environmental Prot.	20,000,000	314,600	0	0	0	0	0	0	0	20,314,600
Energy Conservation	0	50,000,000	0	0	0	0	0	0	0	50,000,000
Preventative Maintenance Program	3,000,000	0	0	0	0	0	0	0	0	3,000,000
Programmatic Remodeling and Renovation	7,000,000	7,550,500	0	0	0	0	1,094,000	250,000	0	15,894,500
Land and Property Acquisition	2,000,000	159,000	0	0	0	0	0	0	0	2,159,000
Capital Equipment and Acquisition	<u>2,000,000</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>2,000,000</u>
Subtotal	\$200,000,000	\$88,388,000	\$2,330,700	\$3,021,200	\$1,605,400	\$0	\$12,090,500	\$250,000	\$320,300	\$308,006,100
Total	\$541,701,800	\$639,215,600	\$7,978,300	\$6,981,100	\$41,839,700	\$0	\$21,253,500	\$203,861,300	\$89,448,400	\$1,552,279,700

*Transportation revenue bonds included under the Department of Transportation's 2009-11 operating budget.

TABLE 1 (continued)

**Assembly Recommended Financing Sources
for the 2009-11 Enumerated Projects**

	<u>New General Obligation Bonds</u>			<u>Revenue Bond</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	\$28,850,000	\$45,919,600	\$0	\$0	\$17,000,000	\$0	\$0	\$0	\$0	\$91,769,600
Building Commission	7,850,000	0	0	0	6,725,000	0	100,000	3,500,000	0	18,175,000
Corrections	5,697,300	5,442,900	0	0	1,867,600	0	0	0	0	13,007,800
Military Affairs	18,642,800	0	0	0	985,800	0	0	0	89,128,100	108,756,700
Natural Resources	0	0	5,647,600	0	10,450,900	0	0	0	0	16,098,500
State Historical Society	6,960,000	0	0	0	0	0	0	7,168,500	0	14,128,500
Transportation	0	0	0	3,959,900	0	0	0	0	0	3,959,900
University of Wisconsin System	<u>275,632,700</u>	<u>494,014,100</u>	<u>0</u>	<u>0</u>	<u>3,205,000</u>	<u>0</u>	<u>9,063,000</u>	<u>179,177,500</u>	<u>0</u>	<u>931,031,600</u>
Subtotal	\$313,632,100	\$545,376,600	\$5,647,600	\$3,959,900	\$40,234,300	\$0	\$9,163,000	\$189,786,000	\$89,128,100	\$1,196,927,600
All Agency										
Facilities Repair and Renovation	\$114,000,000	\$17,415,000	\$2,330,700	\$3,021,200	\$1,605,400	\$0	\$6,958,000	\$0	\$320,300	\$145,650,600
Utilities Repair and Renovation	52,000,000	12,948,900	0	0	0	0	4,038,500	0	0	68,987,400
Health, Safety and Environmental Prot.	20,000,000	314,600	0	0	0	0	0	0	0	20,314,600
Energy Conservation	0	50,000,000	0	0	0	0	0	0	0	50,000,000
Preventative Maintenance Program	3,000,000	0	0	0	0	0	0	0	0	3,000,000
Programmatic Remodeling and Renovation	7,000,000	7,550,500	0	0	0	0	1,094,000	250,000	0	15,894,500
Land and Property Acquisition	2,000,000	159,000	0	0	0	0	0	0	0	2,159,000
Capital Equipment and Acquisition	<u>2,000,000</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>2,000,000</u>
Subtotal	\$200,000,000	\$88,388,000	\$2,330,700	\$3,021,200	\$1,605,400	\$0	\$12,090,500	\$250,000	\$320,300	\$308,006,100
Total	\$513,632,100	\$633,764,600	\$7,978,300	\$6,981,100	\$41,839,700	\$0	\$21,253,500	\$190,036,000	\$89,448,400	\$1,504,933,700

*Transportation revenue bonds included under the Department of Transportation's 2009-11 operating budget.

TABLE 1 (continued)

**Senate Recommended Financing Sources
for the 2009-11 Enumerated Projects**

	<u>New General Obligation Bonds</u>			<u>Revenue Bond</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	\$28,850,000	\$45,919,600	\$0	\$0	\$17,000,000	\$0	\$0	\$0	\$0	\$91,769,600
Building Commission	7,850,000	0	0	0	6,725,000	0	100,000	3,500,000	0	18,175,000
Corrections	5,697,300	5,442,900	0	0	1,867,600	0	0	0	0	13,007,800
Marquette University	10,000,000	0	0	0	0	0	0	25,000,000	0	35,000,000
Military Affairs	18,642,800	0	0	0	985,800	0	0	0	89,128,100	108,756,700
Natural Resources	0	0	5,647,600	0	10,450,900	0	0	0	0	16,098,500
State Historical Society	6,960,000	0	0	0	0	0	0	7,168,500	0	14,128,500
Transportation	0	0	0	3,959,900	0	0	0	0	0	3,959,900
University of Wisconsin System	<u>273,701,700</u>	<u>499,465,100</u>	<u>0</u>	<u>0</u>	<u>3,205,000</u>	<u>0</u>	<u>9,063,000</u>	<u>192,942,800</u>	<u>0</u>	<u>978,377,600</u>
Subtotal	\$351,701,800	\$50,827,600	\$5,647,600	\$3,959,900	\$40,234,300	\$0	\$9,163,000	\$228,611,300	\$89,128,100	\$1,279,273,600
All Agency										
Facilities Repair and Renovation	\$114,000,000	\$17,415,000	\$2,330,700	\$3,021,200	\$1,605,400	\$0	\$6,958,000	\$0	\$320,300	\$145,650,600
Utilities Repair and Renovation	52,000,000	12,948,900	0	0	0	0	4,038,500	0	0	68,987,400
Health, Safety and Environmental Prot.	20,000,000	314,600	0	0	0	0	0	0	0	20,314,600
Energy Conservation	0	50,000,000	0	0	0	0	0	0	0	50,000,000
Preventative Maintenance Program	3,000,000	0	0	0	0	0	0	0	0	3,000,000
Programmatic Remodeling and Renovation	7,000,000	7,550,500	0	0	0	0	1,094,000	250,000	0	15,894,500
Land and Property Acquisition	2,000,000	159,000	0	0	0	0	0	0	0	2,159,000
Capital Equipment and Acquisition	<u>2,000,000</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>2,000,000</u>
Subtotal	\$200,000,000	\$88,388,000	\$2,330,700	\$3,021,200	\$1,605,400	\$0	\$12,090,500	\$250,000	\$320,300	\$308,006,100
Total	\$551,701,800	\$639,215,600	\$7,978,300	\$6,981,100	\$41,839,700	\$0	\$21,253,500	\$228,861,300	\$89,448,400	\$1,587,279,700

*Transportation revenue bonds included under the Department of Transportation's 2009-11 operating budget.

TABLE 1 (continued)

**Conference Committee/Act 28 Recommended Financing Sources
for the 2009-11 Enumerated Projects**

	<u>New General Obligation Bonds</u>			<u>Revenue Bond</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	\$28,850,000	\$45,919,600	\$0	\$0	\$17,000,000	\$0	\$0	\$0	\$0	\$91,769,600
Building Commission	7,850,000	0	0	0	6,725,000	0	100,000	3,500,000	0	18,175,000
Corrections	5,697,300	5,442,900	0	0	1,867,600	0	0	0	0	13,007,800
Military Affairs	18,642,800	0	0	0	985,800	0	0	0	89,128,100	108,756,700
Natural Resources	0	0	5,647,600	0	10,450,900	0	0	0	0	16,098,500
State Historical Society	6,960,000	0	0	0	0	0	0	7,168,500	0	14,128,500
Transportation	0	0	0	3,959,900	0	0	0	0	0	3,959,900
University of Wisconsin System	<u>245,632,000</u>	<u>494,014,100</u>	<u>0</u>	<u>0</u>	<u>3,205,000</u>	<u>0</u>	<u>9,063,000</u>	<u>179,117,500</u>	<u>0</u>	<u>931,031,600</u>
Subtotal	\$313,632,100	\$545,376,600	\$5,647,600	\$3,959,900	\$40,234,300	\$0	\$9,163,000	\$189,786,000	\$89,128,100	\$1,196,927,600
All Agency										
Facilities Repair and Renovation	\$114,000,000	\$17,415,000	\$2,330,700	\$3,021,200	\$1,605,400	\$0	\$6,958,000	\$0	\$320,300	\$145,650,600
Utilities Repair and Renovation	52,000,000	12,948,900	0	0	0	0	4,038,500	0	0	68,987,400
Health, Safety and Environmental Prot.	20,000,000	314,600	0	0	0	0	0	0	0	20,314,600
Energy Conservation	0	50,000,000	0	0	0	0	0	0	0	50,000,000
Preventative Maintenance Program	3,000,000	0	0	0	0	0	0	0	0	3,000,000
Programmatic Remodeling and Renovation	7,000,000	7,550,500	0	0	0	0	1,094,000	250,000	0	15,894,500
Land and Property Acquisition	2,000,000	159,000	0	0	0	0	0	0	0	2,159,000
Capital Equipment and Acquisition	<u>2,000,000</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>2,000,000</u>
Subtotal	\$200,000,000	\$88,388,000	\$2,330,700	\$3,021,200	\$1,605,400	\$0	\$12,090,500	\$250,000	\$320,300	\$308,006,100
Total	\$513,632,100	\$633,764,600	\$7,978,300	\$6,981,100	\$41,839,700	\$0	\$21,253,500	\$190,036,000	\$89,448,400	\$1,504,933,700

*Transportation revenue bonds included under the Department of Transportation's 2009-11 operating budget.

TABLE 2

**State Agency 2009-11 Enumerated Major Projects
Total Project Authority (All Funding Sources)**

	<u>Bldg. Comm.</u>	<u>Jt. Finance</u>	<u>Assembly</u>	<u>Senate</u>	<u>Conf. Comm./Act 28</u>
Administration					
Consolidated Laboratory - Madison	\$28,535,000	\$28,535,000	\$28,535,000	\$28,535,000	\$28,535,000
Preservation and Storage Facility	25,000,000	25,000,000	25,000,000	25,000,000	25,000,000
One West Wilson State Office Building Envelope	12,632,000	12,632,000	25,000,000	25,000,000	25,000,000
Capitol Heat and Power Plant Boiler Conversion	<u>25,602,600</u>	<u>25,602,600</u>	<u>25,602,600</u>	<u>25,602,600</u>	<u>25,602,600</u>
Total	\$91,769,600	\$91,769,600	\$91,769,600	\$91,769,600	\$91,769,600
Building Commission					
Aids Network	\$150,000	\$300,000	\$300,000	\$300,000	\$300,000
Aids Resource Center of Wisconsin	800,000	800,000	800,000	800,000	800,000
Bradley Center Sports and Entertainment Corporation	5,000,000	5,000,000	5,000,000	5,000,000	5,000,000
Dane County Yahara River Watershed Initiative	6,600,000	6,600,000	6,600,000	6,600,000	6,600,000
Madison Children's Museum Renovation	250,000	250,000	250,000	250,000	250,000
Myrick Hixon EcoPark, Inc.	500,000	500,000	500,000	500,000	500,000
Aldo Leopold Climate Change Classroom and Interactive Library	0	2,700,000	2,700,000	2,700,000	2,700,000
Oshkosh Opera House	0	1,500,000	1,500,000	1,500,000	1,500,000
L.E. Phillips Memorial Library -- Eau Claire	0	125,000	125,000	125,000	125,000
Stone Barn Restoration -- Town of Chase	<u>0</u>	<u>400,000</u>	<u>400,000</u>	<u>400,000</u>	<u>400,000</u>
Total	\$13,300,000	\$18,175,000	\$18,175,000	\$18,175,000	\$18,175,000
Corrections					
Taycheedah Correctional Institution Segregation and Special Management					
Unit Expansion	\$7,564,900	\$7,564,900	\$7,564,900	\$7,564,900	\$7,564,900
Fox Lake Correctional Institution - Methane Digester	<u>5,442,900</u>	<u>5,442,900</u>	<u>7,564,900</u>	<u>7,564,900</u>	<u>7,564,900</u>
Total	\$13,007,800	\$13,007,800	\$13,007,800	\$13,007,800	\$13,007,800
University of Marquette					
School of Engineering Building	\$0	\$0	\$0	\$35,000,000	\$0
Military Affairs					
Helicopter Parking and Taxiway Repair and Expansion - Madison	\$54,589,200	\$54,589,200	\$54,589,200	\$54,589,200	\$54,589,200
Field Maintenance Shop - Wausau	12,767,500	12,767,500	12,767,500	12,767,500	12,767,500
Wisconsin Rapids Armory	<u>0</u>	<u>41,400,000</u>	<u>41,400,000</u>	<u>41,400,000</u>	<u>41,400,000</u>
Total	\$67,356,700	\$108,756,700	\$108,756,700	\$108,756,700	\$108,756,700

	<u>Bldg. Comm.</u>	<u>Jt. Finance</u>	<u>Assembly</u>	<u>Senate</u>	<u>Conf. Comm./Act 28</u>
Natural Resources					
Governor Thompson State Park Phase II Development	\$2,722,200	\$2,722,200	\$2,722,200	\$2,722,200	\$2,722,200
Rib Mountain State Park Entrance and Visitor Station and Park Development	6,116,900	6,116,900	6,116,900	6,116,900	6,116,900
Entrance and Visitor Stations - Black River State Forest and Lake Kegonsa State Park	1,611,800	1,611,800	1,611,800	1,611,800	1,611,800
Wild Rose State Fish Hatchery Renovation - Phase 3	1,979,700	1,979,700	1,979,700	1,979,700	1,979,700
Fire-Control-Heavy Unit Drive Thru Vehicle Storage Garages - Boscobel, Brule, Poynette, and Wausaukee	2,889,500	2,889,500	2,889,500	2,889,500	2,889,500
Vehicle Maintenance and Equipment Storage Building - Jackson County	<u>778,400</u>	<u>778,400</u>	<u>778,400</u>	<u>778,400</u>	<u>778,400</u>
Total	\$16,098,500	\$16,098,500	\$16,098,500	\$16,098,500	\$16,098,500
State Historical Society					
Multiple Historic Sites Initiative - Statewide	\$14,128,500	\$14,128,500	\$14,128,500	\$14,128,500	\$14,128,500
Transportation					
Division of State Patrol Gap Filler Towers - Statewide Phase 3	\$2,180,200	\$2,180,200	\$2,180,200	\$2,180,200	\$2,180,200
Green Bay Division of Motor Vehicles Service Center Renovation	1,164,300	1,164,300	1,164,300	1,164,300	1,164,300
Truax Complex Addition and Security Modifications	<u>615,400</u>	<u>615,400</u>	<u>615,400</u>	<u>615,400</u>	<u>615,400</u>
Total	\$3,959,900	\$3,959,900	\$3,959,900	\$3,959,900	\$3,959,900
University of Wisconsin System					
Eau Claire Education Building	\$0	\$44,500,000	\$44,500,000	\$44,500,000	\$44,500,000
La Crosse Residence Hall	49,500,000	49,500,000	49,500,000	49,500,000	49,500,000
Madison Utility Improvements	78,374,000	78,374,000	78,374,000	78,374,000	78,374,000
Wisconsin Energy Initiative	78,374,000	78,374,000	78,374,000	78,374,000	78,374,000
Wisconsin Institutes for Medical Research	134,800,000	134,800,000	134,800,000	134,800,000	134,800,000
School of Nursing Facility	0	47,346,000	0	47,346,000	0
Charter Street Heating and Cooling Plant Renovation	250,636,600	250,636,600	250,636,600	250,636,600	250,636,600
Gordon Commons Relocation, Parking and Offices - Phases 1 and 2	41,305,000	41,305,000	41,305,000	41,305,000	41,305,000
Lakeshore Residence Hall and Food Service	59,463,000	59,463,000	59,463,000	59,463,000	59,463,000
21 North Park Street Office Building Purchase	38,546,000	38,546,000	38,546,000	38,546,000	38,546,000
West Campus Athletic Facilities	7,947,000	7,947,000	7,947,000	7,947,000	7,947,000
Agricultural Research Station Renovation - Various Locations Phase 1	5,800,000	5,800,000	5,800,000	5,800,000	5,800,000
Kohl Center Hockey Facility Addition	27,787,000	27,787,000	27,787,000	27,787,000	27,787,000
Science Museum	5,092,000	5,092,000	5,092,000	5,092,000	5,092,000
Tandem Press Relocation	4,616,000	4,616,000	4,616,000	4,616,000	4,616,000

		<u>Bldg. Comm.</u>	<u>Jt. Finance</u>	<u>Assembly</u>	<u>Senate</u>	<u>Conf. Comm./Act 28</u>
Milwaukee	Utility Improvements	\$6,419,000	\$6,419,000	\$6,419,000	\$6,419,000	\$6,419,000
Platteville	Residence Hall Upgrades	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000
	Storage Facility	1,700,000	1,700,000	1,700,000	1,700,000	1,700,000
	Williams Field House Addition	11,700,000	11,700,000	11,700,000	11,700,000	11,700,000
	Stadium Locker Room Expansion	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000
River Falls	Ramer Field Renovation	3,987,000	3,987,000	3,987,000	3,987,000	3,987,000
	Hagestad Hall Renovation	4,000,000	4,000,000	4,000,000	4,000,000	4,000,000
Stevens Point	Utility Improvements	7,725,000	7,725,000	7,725,000	7,725,000	7,725,000
	Waste Management Center	4,550,000	4,550,000	4,550,000	4,550,000	4,550,000
Stout	Memorial Student Center Renovation	18,000,000	18,000,000	18,000,000	18,000,000	18,000,000
Whitewater	Fisher and Wellers Halls Renovation	8,584,000	8,584,000	8,584,000	8,584,000	8,584,000
System Total	Classroom Renovation/Instructional Technology	<u>5,000,000</u>	<u>5,000,000</u>	<u>5,000,000</u>	<u>5,000,000</u>	<u>5,000,000</u>
		\$886,531,600	\$978,377,600	\$931,031,600	\$978,377,600	\$931,031,600
All Agency						
	Facility Maintenance and Repair	\$145,650,600	\$145,650,600	\$145,650,600	\$145,650,600	\$145,650,600
	Utilities Repair and Renovation	68,987,400	68,987,400	68,987,400	68,987,400	68,987,400
	Health, Safety and Environmental Protection	20,314,600	20,314,600	20,314,600	20,314,600	20,314,600
	Energy Conservation	50,000,000	50,000,000	50,000,000	50,000,000	50,000,000
	Preventive Maintenance Program	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000
	Programmatic Remodeling and Renovation	15,894,500	15,894,500	15,894,500	15,894,500	15,894,500
	Land and Property Acquisition	2,159,000	2,159,000	2,159,000	2,159,000	2,159,000
	Capital Equipment Acquisition	<u>2,000,000</u>	<u>2,000,000</u>	<u>2,000,000</u>	<u>2,000,000</u>	<u>2,000,000</u>
	Total	\$308,006,100	\$308,006,100	\$308,006,100	\$308,006,100	\$308,006,100
TOTAL - All Projects		\$1,414,158,700	\$1,552,279,700	\$1,504,933,700	\$1,587,279,700	\$1,504,933,700

2. **BONDING AUTHORIZATIONS IN THE 2009-11 BUILDING PROGRAM**

	Building Comm. (Chg. to Base)	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
BR	\$1,165,973,300	\$91,670,700	- \$28,069,700	\$1,229,574,300

Building Commission: Provide \$1,165,973,300 in new general obligation bonding authority for 2009-11 building program projects, as shown in the following table.

Joint Finance: Provide \$1,257,644,000 in new general obligation bonding authority for 2009-11 building program projects, as shown in the following table:

Assembly: Provide 1,229,574,300 in new general obligation bonding authority for 2009-11 building program projects, as shown in the following table:

Senate: Provide 1,267,644,000 in new general obligation bonding authority for 2009-11 building projects as shown in the following table:

Conference Committee/Legislature: Provide 1,229,574,300 in new general obligation bonding authority for 2009-11 building program projects, as shown in the following table:

[Act 28 Sections: 641m thru 641p, 646e, 646m, 652m, 652n, 655d, 655n thru 655x, and 656e]

2009-11 Building Program Bonding Authorizations

<u>Purpose</u>	<u>Bldg. Comm.</u>	<u>Jt. Finance</u>	<u>Assembly</u>	<u>Senate</u>	<u>Conf. Comm./Act 28</u>
Administration					
Energy Conservation Projects	\$50,000,000	\$50,000,000	\$50,000,000	\$50,000,000	\$50,000,000
Building Commission					
Other Public Purposes (All Agency Projects)	220,850,000	220,850,000	220,850,000	220,850,000	220,850,000
Housing State Agencies	58,246,600	58,246,600	58,246,600	58,246,600	58,246,600
Aids Resource Center of Wisconsin, Inc.	800,000	800,000	800,000	800,000	800,000
Aids Network, Inc.	150,000	300,000	300,000	300,000	300,000
Myrick Hixon, Eco Park, Inc. (LaCrosse)	500,000	500,000	500,000	500,000	500,000
Madison Children's Museum	250,000	250,000	250,000	250,000	250,000
Bradley Center Sports and Entertainment Corp	5,000,000	5,000,000	5,000,000	5,000,000	5,000,000
Oshkosh Opera House	0	500,000	500,000	500,000	500,000
Aldo Leopold Climate Change Classroom Interactive Laboratory	0	500,000	500,000	500,000	500,000
Corrections					
Correctional Facilities	7,564,900 ⁽¹⁾				
Self Amortizing Facilities	5,442,900	5,442,900	5,442,900	5,442,900	5,442,900
Marquette University					
Engineering School	0	0	0	10,000,000	0
Military Affairs					
Armories and Military Facilities	5,642,800	18,642,800	18,642,800	18,642,800	18,642,800
Natural Resources					
SEG Fund Supported Administration Facilities	7,476,300 ⁽²⁾				
Environmental Fund SEG Supported Facilities	502,700	502,700	502,700	502,700	502,700
State Historical Society					
Historic Records	8,000,000	8,000,000	8,000,000	8,000,000	8,000,000
Historic Sites	6,960,000	6,960,000	6,960,000	6,960,000	6,960,000
University of Wisconsin					
Academic Facilities	\$268,512,000 ⁽³⁾	\$340,581,700 ⁽³⁾	\$312,512,000 ⁽³⁾	\$340,581,700 ⁽³⁾	\$312,512,700 ⁽³⁾
Self-Amortizing Facilities	519,756,600	525,207,600	525,207,600 ⁽⁴⁾	525,207,600 ⁽⁴⁾	525,207,600 ⁽⁴⁾
Veterans Affairs					
Self-Amortizing Facilities	<u>318,500</u>	<u>318,500</u>	<u>318,500</u>	<u>318,500</u>	<u>318,500</u>
GRAND TOTAL	\$1,165,973,300	\$1,257,644,000	\$1,229,574,300	\$1,267,644,000	\$1,229,574,300

⁽¹⁾DOA considered \$1,867,600 bonding deleted from a Department of Health Services project as existing bonding for the Department of Corrections (DOC) enumerations (see Item 5) but the DOC bonding purpose is increased by the full project amount.

⁽²⁾According to DOA, this amount should be \$700 less so as to match the agency enumerations.

⁽³⁾Includes \$66,880,000 in GPR supported bonding for the Milwaukee Initiative, but no projects would be enumerated as part of the 2009-11 state building program (see Item 7).

⁽⁴⁾Includes \$5,451,000 in PR supported bonding associated with the UW-Madison Nursing School Project, which should have been deleted.

3. DELAYED BONDING AUTHORIZATIONS FOR UW-MADISON PROJECTS

Building Commission: Specify that the following GPR supported bonding amounts authorized under the 2009-11 building program could not be contracted for until after June 30, 2011 for the following UW-Madison projects.

	<u>Delayed Bonding</u>	<u>2009-11 Funding</u>	<u>Total Project Funding</u>
UW-Madison			
Utility Improvements	\$38,470,600	\$39,903,400	\$78,374,000
Wisconsin Institutes for Medical Research	<u>67,400,000</u>	<u>67,400,000</u>	<u>134,800,000</u>
Total	\$105,870,600	\$107,303,400	\$213,174,000

These projects would be enumerated and GPR supported bonding would be authorized for the projects as part of the 2009-11 state building program. However, a portion of the GPR supported bonding could not be issued, and would not be available to the projects, until the 2011-13 biennium. The remaining \$31,551,200 in GPR supported bonding and \$8,352,200 in PR supported bonding would be available during the 2009-11 biennium for the utility improvements on UW-Madison Campus. The \$67,400,000 in funding for the Wisconsin Institutes for Medical Research in 2009-11 is gifts, grants, and other receipts funding.

The fiscal effect of this item is included in the totals under Items 1 and 2.

Joint Finance/Legislature: In addition to the Building Commission's recommendations, enumerate a \$44,500,000 UW-Eau Claire Education Building and authorize \$44,000,000 in general fund supported bonding for the project. Specify that the bonding authorized for the project could not be issued prior to July 1, 2011.

Enumerate a \$41,400,000 Wisconsin Rapids Armory Facility and authorize \$13 million in general fund supported bonding for the project. Specify that the bonding authorized for the project would not be available until the project is eligible for federal funding or after June 30, 2011, whichever occurs earlier.

The fiscal effect of this item is included in the totals under Items 1 and 2.

[Act 28 Sections: 9106(14), 9106(15), 9106(20), and 9106(21)]

4. MODIFICATIONS TO PREVIOUS STATE BUILDING PROGRAM ENUMERATIONS

Building Commission: Modify the project enumerations of the specific projects that were enumerated under the 2005-07 and 2007-09 state building programs under the Department of Administration (DOA), the Department of Health Services (DHS), and the University of Wisconsin System. Adjust the funding totals for these projects accordingly to reflect the modified enumeration. The following table lists the project enumerations that would be modified (the fiscal effect of the modifications is shown in Item 5).

	General Obligation Bonding		Gifts/ Grants	Subtotal Funding Changes	Total Project Funding
	<u>GPR</u>	<u>PR</u>			
2005-07 Building Program					
UW-Stout Jarvis Wing Science Addition and Remodeling	\$8,100,000	\$0	\$0	\$8,100,000	48,737,000
UW-Superior - Jim Dan Hill Library Renovation	<u>939,000</u>	<u>0</u>	<u>-939,000</u>	<u>0</u>	<u>6,500,000</u>
Subtotal 2005-07 Modifications	\$9,039,000	\$0	-\$939,000	\$8,100,000	\$55,237,000
2007-09 Building Program					
DOA - Preservation and Storage Facility - Madison	\$0	-\$8,000,000	\$0	-\$8,000,000	\$17,000,000
DHS - Sand Ridge Secure Treatment Center 200-Bed Addition and Support Facilities	-8,915,300	0	0	-8,915,300	25,084,700
DHS - Wisconsin Resource Center 45-bed Female Treatment Unit	7,047,700	0	0	7,047,700	18,103,700
UW-River Falls George Fields South Fork Residence Hall Addition	0	4,221,000	0	4,221,000	18,935,000
UW-Superior Academic Building	<u>5,000,000</u>	<u>0</u>	<u>-5,000,000</u>	<u>0</u>	<u>32,343,000</u>
Subtotal 2007-09 Modifications	\$3,132,400	-\$3,779,000	-\$5,000,000	-\$5,646,600	\$111,466,400
TOTAL - All Modifications	\$12,171,400	-\$3,779,000	-\$5,939,000	\$2,453,400	\$166,703,400

Delete the following enumerations from the 2003-05 state building program: (a) the Department of Military Affairs (DMA) project identified as "Repair and expansion of helicopter parkways and taxiways - Madison" funded with \$600,000 in GPR supported borrowing and \$5,292,000 in federal funds; and (b) the Department of Natural Resources project identified as "Rib Mountain State Park water system replacement" funded with \$1,093,000 in existing general fund supported borrowing - stewardship property development and local assistance funds.

Delete the following enumerations from the 2005-07 state building program: (a) the DMA project identified as "Field maintenance shop renovation/addition - Wausau" funded with \$385,800 of GPR supported bonding and \$6,194,000 in federal funds; (b) the UW-Milwaukee project identified as "Columbia St. Mary's Columbia campus medical facilities acquisition and remodeling" funded with \$56,530,000 of GPR supported bonding and \$55,590,000 of PR supported bonding; and (c) the UW-Stevens Point project identified as "Waste Management laboratory" funded with \$1,789,000 of GPR supported bonding.

The agencies' authorized bonding amounts would not be reduced as result of these project enumeration deletions. The bonding amounts would be reprogrammed for other projects, including those recommended under the Building Commission's 2009-11 building program recommendations.

Joint Finance/Legislature: In addition to the Building Commission's recommendations, authorize the Commission to increase the general fund supported bonding amounts authorized for academic buildings at UW-La Crosse, UW-Oshkosh, and UW-Parkside enumerated as part of the 2007-09 building program by a total of \$3,000,000 in existing general fund supported bonding. Specify that the additional bonding provided would be the first draw on any

unallocated existing UW System general fund supported bonding authorized under the 2009-11 building program.

[Act 28 Sections: 3406m, 3406p, 3409n, 3409p, and 9106(4) thru (6)&(18)]

5. BONDING AUTHORIZATIONS -- MODIFICATIONS TO PREVIOUS BUILDING PROGRAMS BR \$8,392,400

Building Commission/Legislature: Provide \$8,392,400 in new general obligation bonding authority associated with the modifications to projects enumerated in previous state building programs, as shown in the following table:

Building Commission	
Housing State Agencies	-\$8,000,000
Health Services	
Mental Health and Secure Treatment Facilities	-1,867,600
University of Wisconsin	
Academic Facilities	14,039,000
Self-Amortizing Facilities	<u>4,221,000</u>
Total	\$8,392,400

[Act 28 Sections: 641m, 641p, 652p, and 655n]

6. UW-MADISON MEMORIAL UNION BR \$40,500,000

Building Commission/Legislature: Provide \$40,500,000 in PR supported bonding to fund the Memorial Union theatre wing renovation project at UW-Madison. The project was enumerated under 2007 Act 20, as part of the 2007-09 state building program, as a \$52,000,000 project to be funded with \$40,500,000 in PR supported bonding and \$11,500,000 in gifts, grant, and other receipts, but no PR supported bonding was provided. This bonding would fund the project at the amount at which it is currently enumerated.

[Act 28 Section: 641p]

7. MILWAUKEE INITIATIVE PROGRAM [LFB Paper 186]

Building Commission/Legislature: Create a program to be known as the Milwaukee Initiative, for the purpose of providing financial support to attract federal and private funds to construct research and academic facilities to spur science education and research activities at the UW-Milwaukee. Require that projects financed under the program must be designed to provide engineering, science, freshwater science, and health education and research facilities, ancillary systems, and supporting infrastructure.

Specify that the projects would be financed from UW System's academic facilities GPR supported bonding authorization or as otherwise provided in the authorized state building program. Specify that the total funding commitments could not exceed \$240,000,000. Specify that the project funding would from the following sources: (a) up to \$123,410,000 in GPR supported borrowing; (b) \$55,590,000 in PR supported borrowing; (c) \$60,000,000 in funding from gifts, grants, and receipts; and (d) \$1,000,000 in funding from moneys in the state building trust fund.

Allocate \$123,410,000 in GPR supported bonding from the UW System's academic facilities bonding authorization for the Milwaukee Initiative. Specify that the total amount of GPR supported debt authorized for the Milwaukee Initiative could not exceed the following amounts on the following dates:

- a. prior to July 1, 2011, \$43,365,000;
- b. July 1, 2011 to June 30, 2013, \$93,330,000; and
- c. July 1, 2013, or thereafter, \$123,410,000.

Though not specifically identified, \$56,530,000 of the GPR supported bonding, and the \$55,590,000 in PR supported bonding, that would be provided for projects to be funded under the Milwaukee Initiative would be associated with the bonding previously authorized for the UW-Milwaukee Columbia St. Mary's Columbia campus medical facilities acquisition and remodeling project, which would be deleted under the Building Commission's recommendations (see Item 4).

No specific projects to be funded under the Milwaukee Initiative would be enumerated as part of the 2009-11 state building program. Specify that no GPR supported bonding authorized for the Milwaukee Initiative could be issued until the UW System Board of Regents approves an expenditure plan for the Milwaukee Initiative that includes the identification of specific projects and sources of funding and the identified projects are enumerated as part of a state building program. As a result, subsequent legislation would be required to enumerate these projects.

The fiscal effect of this initiative is included in the totals under Item 2.

[Act 28 Sections: 18m, 641m, 641n, and 9106(13)]

8. USE OF FEDERAL STIMULUS MONEYS FOR WISCONSIN ENERGY INSTITUTE

Building Commission/Legislature: Allocate the federal funds if the Building Commission determines that federal funds under the American Recovery and Reinvestment Act of 2009 have been received by Wisconsin to finance the Wisconsin energy institute project enumerated as part of the 2009-11 building program. Specify that if such federal moneys are received, then the GPR supported bonding and the gift funding for this project would be

reduced by equal amounts to offset the total amount of federal funds received for this purpose.

[Act 28 Section: 9106(7)]

9. UW-MADISON SCHOOL OF NURSING ADVANCE PLANNING

Conference Committee/Legislature: Require the Building Commission to allocate \$3,006,000 (\$2,004,000 in building trust funds, and \$1,002,000 in gifts if the UW System Board of Regents allocates the gift moneys) for advance planning of the UW-Madison School of Nursing project for potential enumeration in the 2011-13 building program.

[Act 28 Section: 9106(26q)]

10. MARQUETTE UNIVERSITY SCHOOL OF ENGINEERING BUILDING

Senate: Provide \$10,000,000 in general fund supported bonding for an engineering facility at Marquette University. Enumerate the facility as a \$35,000,000 project, with the remainder of the project funding coming from gifts, grants, and other receipts.

Require that the state funding commitment be in the form of a grant to the Marquette University. Specify that before approving any state funding commitment to Marquette University the Building Commission would be required to make the following a determinations

- a. that the organization has secured additional funding from \$25,000,000 in nonstate donations for the project; and
- b. the school of engineering facility will not be used for the purpose of devotional activities, religious worship, or sectarian instruction.

If the Building commission authorizes a construction grant to Marquette University, require the University to provide the state with an option to purchase the engineering education facility under the following conditions: (a) the option price must be the appraised fair market value at the time that the option is exercised, less a credit recognizing the amount of the state's construction grant; and (b) the option must be subject to any mortgage or other security interest of any private lenders. Require the option may be exercised only upon suspension of operation of a program of engineering education at Marquette University or any successor organization or foreclosure of the mortgage by a private lender. Specify that if the state does not exercise the option to purchase the engineering education facility, and if the facility is sold to any third party, any agreement to sell the facility would have to provide that the state has the right to receive an amount equal to the construction grant from the net proceeds of any such sale after the mortgage has been satisfied and all other secured debts have been paid. Specify that this state's right to received funds would be paramount to the right of Marquette University to the proceeds upon such sale.

Specify that the Building Commission would not be allowed to make the grant, unless

DOA has reviewed and approved the plans for the construction of engineering school building at Marquette University, although DOA could not supervise any services or work or let any contract for the project.

Create a bonding authorization for the purpose of issuing bonds 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 authorized for the project.

Specify that the Legislature finds and determines that that it is vital for economic development in this state to ensure the availability of a sufficient number of engineers to meet the needs of businesses and residents of this state. Specify that is therefore in the public interest, and it is the public policy of this state, to assist private institutions in this state, including Marquette University, in the construction of a facility that will be used for engineering education.

The fiscal effect of this project is included under Items 1 and 2.

Conference Committee/Legislature: Delete provision.

11. DANE COUNTY YAHARA RIVER WATERSHED PROJECT [LFB Paper 187]

Building Commission/Legislature: Authorize the Building Commission to issue up to \$6,600,000 in GPR supported bonding to aid in the construction of anaerobic digesters for the Dane County Yahara River Watershed Project. No additional bonding would be authorized for this project. Based on the Building Commission's recommendations, the bonding for the project would be provided from existing bonding under the Building Commission's other public purposes bonding authorization.

Require that the state funding commitment be in the form of a grant to Dane County. Specify that before approving any state funding commitment to Dane County, the Building Commission would be required to make a determination that the County has secured additional funding from nonstate donations for the project. Specify that the Building Commission would not be allowed to make the grant, unless DOA has reviewed and approved the plans for the construction of the anaerobic digesters, although DOA could not supervise any services or work or let any contract for the project.

Specify that if the Building Commission authorizes a grant to the Dane County and if, for any reason, the anaerobic digesters that are constructed are not used for the purpose of protecting water quality in Dane County, the state would retain an ownership interest in the digesters equal to the amount of the state's grant.

Specify that the Legislature finds and determines that the protection of water quality through reduction in manure nutrient loadings, in particular phosphorus, from agricultural enterprises is necessary for preserving public health in Wisconsin. Further specify that it is in the public interest, and it is the public policy of this state, to assist Dane County in the construction of anaerobic digesters for the Dane County Yahara River Watershed Project.

The fiscal effect of this project is included in the totals under Item 1.

[Act 28 Sections: 19k and 9106(1)(k)&(11)]

12. BRADLEY CENTER SPORTS AND ENTERTAINMENT CORPORATION [LFB Paper 187]

Building Commission: Authorize the Building Commission to issue up to \$5,000,000 in general fund supported bonding to aid the Bradley Center Sports and Entertainment Corporation in the capital maintenance and repair of its sports and entertainment facility identified under the statutes. Require that the state funding commitment be in the form of a grant to the Bradley Center Sports and Entertainment Corporation. Specify that before approving any state funding commitment to the Bradley Center Sports and Entertainment Corporation, the Building Commission would be required to make a determination that the organization has secured additional funding from nonstate donations for the project.

Specify that the total amount of GPR supported debt authorized for making grants to the Bradley Center Sports and Entertainment Corporation could not exceed the following amounts on the following dates:

- a. prior to July 1, 2011, \$1,000,000
- b. July 1, 2011 to June 30, 2013, \$2,000,000
- c. July 1, 2013 to June 30, 2015, \$3,000,000
- d. July 1, 2015 to June 30, 2017, \$4,000,000
- e. July 1, 2017, or thereafter, \$5,000,000.

Specify that the Building Commission would not be allowed to make the grant, unless DOA has reviewed and approved the plans for capital maintenance and repair of the facilities, although DOA could not supervise any services or work or let any contract for the project.

Specify that if the Building Commission authorizes a grant to the Bradley Center Sports and Entertainment Corporation, and if, for any reason the facility that is maintained or repaired with the funds from the grant is not used as a sports and entertainment facility, as described under current law, the state would retain an ownership interest in the facility equal to the amount of the state's grant.

Create a bonding authorization for the purpose of issuing bonds 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 authorized for the project.

Specify that the Legislature finds and determines that sports and entertainment facilities encourage economic development and tourism in this state, by reducing unemployment and by bringing needed capital into the City of Milwaukee and Milwaukee County. Further specify that it is in the public interest, and it is the public policy of this state, to assist the Bradley Center Sports and Entertainment Corporation in the capital maintenance and repair of its sports and entertainment facility.

The fiscal effect of this project is included in the totals under Items 1 and 2.

Joint Finance/Legislature: Delete the Building Commission's recommendation to provide the bonding over the next five biennia. Rather, specify that \$2,500,000 in general fund supported bonding for the Bradley Center project would be available before July 1, 2010 and the remaining \$2,500,000 would be available on or after July 1, 2010.

[Act 28 Sections: 19i, 640, 655r, 657f, and 9106(1)(j)&(10)]

13. AIDS RESOURCE CENTER OF WISCONSIN, INC. [LFB Paper 187]

Building Commission/Legislature: Authorize the Building Commission to issue up to \$800,000 in GPR supported bonding to aid in the construction and renovation of facilities in cities of Green Bay, Kenosha, or Milwaukee and for the purchases of equipment for the AIDS Resource Center of Wisconsin, Inc. Require that the state funding commitment would be in the form of a grant to AIDS Resource Center of Wisconsin, Inc. Specify that before approving any state funding commitment to the AIDS Resource Center of Wisconsin, Inc., the Building Commission would be required to make a determination that the organization has secured at least \$800,000 in additional funding from nonstate donations for the project.

Specify that the Building Commission would not be allowed to make the grant, unless DOA has reviewed and approved the plans for construction and renovation of the facilities in the cities of Green Bay, Kenosha, or Milwaukee and the purchase of equipment, although DOA could not supervise any services or work or let any contract for the project.

Specify that if the Building Commission authorizes a grant to the AIDS Resource Center of Wisconsin, Inc., and if, for any reason, the facility that is constructed or renovated with funds from the grant, or the equipment that is purchased, is not used for providing comprehensive care and prevention services for individuals with human immunodeficiency virus or acquired immunodeficiency syndrome and related illnesses, the state would retain an ownership interest in the facility and equipment equal to the amount of the state's grant.

Create a bonding authorization for the purpose of issuing bonds 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 authorized for the project or equipment.

Specify that the Legislature finds and determines that providing comprehensive care and prevention services for individuals with human immunodeficiency virus or acquired immunodeficiency syndrome and related illnesses, including core and support services facilitating the enhanced well-being and quality of life of affected individuals, is necessary for preserving public health in Wisconsin. Further specify that it is the public interest, and it is the public policy of this state, to assist the AIDS Resource Center of Wisconsin, Inc., in the construction and renovation of facilities in cities of Green Bay, Kenosha, or Milwaukee, and the purchase of equipment for providing such care and prevention services.

The fiscal effect of this project is included in the totals under Items 1 and 2.

[Act 28 Sections: 19h, 640, 655q, 657g, and 9106(1)(i)&(9)]

14. AIDS NETWORK, INC. [LFB Paper 187]

Building Commission: Authorize the Building Commission to issue up to \$150,000 in GPR supported bonding to aid in the construction and renovation of facilities and purchase equipment for the AIDS Network, Inc. Require that the state funding commitment would be in the form of a grant to AIDS Network, Inc. Specify that before approving any state funding commitment to the AIDS Network Inc., the Building Commission would be required to make a determination that the organization has secured additional funding from nonstate donations for the project.

Specify that the Building Commission would not be allowed to make the grant, unless DOA has reviewed and approved the plans for construction and renovation of the facilities and the purchase of equipment, although DOA could not supervise any services or work or let any contract for the project.

Specify that if the Building Commission authorizes a grant to the AIDS Network, and if, for any reason the facility that is constructed or renovated with funds from the grant, or the equipment that is purchased, is not used for providing comprehensive care and prevention services for individuals with human immunodeficiency virus or acquired immunodeficiency syndrome and related illnesses, the state would retain an ownership interest in the facility and equipment equal to the amount of the state's grant.

Create a bonding authorization for the purpose of issuing bonds 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 authorized for the project or equipment.

Specify that the Legislature finds and determines that providing comprehensive care and prevention services for individuals with human immunodeficiency virus or acquired immunodeficiency syndrome and related illnesses, including core and support services facilitating the enhanced well-being and quality of life of affected individuals, is necessary for preserving public health in Wisconsin. Further specify that it is the public interest, and it is the public policy of this state, to assist the AIDS Network, Inc., in the construction and renovation of facilities and the purchase of equipment for providing such care and prevention services.

The fiscal effect of this project is included in the totals under Items 1 and 2.

Joint Finance/Legislature: Increase the amount of general fund supported bonding and the project enumeration by \$150,000 (\$300,000 in total) and specify that the Building Commission, in making its determination as to whether the project has secured additional funding, would have to take into account cash or other goods donated to the project.

The fiscal effect of the Joint Finance Committee action on this project is shown in the totals under Items 1 and 2.

[Act 28 Sections: 19g, 640, 655s, 657e, and 9106(1)(h)&(8)]

15. MYRICK HIXON ECOPARK, INC. [LFB Paper 187]

Building Commission/Legislature: Authorize the Building Commission to issue up to \$500,000 in GPR supported bonding to aid in the construction of an educational facility in the City of La Crosse for Myrick Hixon EcoPark, Inc. Require that the state funding commitment be in the form of a grant to Myrick Hixon EcoPark, Inc. Specify that before approving any state funding commitment to Myrick Hixon EcoPark, Inc., the Building Commission would be required to make a determination that Myrick Hixon EcoPark, Inc., has secured additional funding from nonstate donations for the project.

Specify that the Building Commission would not be allowed to make the grant, unless DOA has reviewed and approved the plans for the construction of an educational center facility in the City of La Crosse, although DOA could not supervise any services or work or let any contract for the project.

Specify that if the Building Commission authorizes a grant to Myrick Hixon EcoPark, Inc., and if, for any reason, the facility that is constructed is not used as an educational center facility, the state would retain an ownership interest in the facility equal to the amount of the state's grant.

Create a bonding authorization for the purpose of issuing bonds 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 authorized for the project.

Specify that the Legislature finds and determines that creating a unique destination with dynamic educational programming on the environment, interactive displays, and live animal exhibits will advance the appreciation and conservation of this state's natural resources. Further specify that it is in the public interest, and it is the public policy of this state, to assist Myrick Hixon EcoPark, Inc., in the construction of an educational center facility in the City of La Crosse.

The fiscal effect of this project is included in the totals under Items 1 and 2.

[Act 28 Sections: 19L, 640, 655t, 657i, and 9106(1)(m)&(16)]

16. MADISON CHILDREN'S MUSEUM [LFB Paper 187]

Building Commission/Legislature: Authorize the Building Commission to issue up to \$250,000 in general fund supported bonding to aid in the construction of a museum facility in Madison for the Madison Children's Museum. Require that the state funding commitment be in

the form of a grant to the Madison Children's Museum. Specify that before approving any state funding commitment to the Madison Children's Museum, the Building Commission would be required to make a determination that the organization has secured additional funding from nonstate donations for the project.

Specify that the Building Commission would not be allowed to make the grant, unless DOA has reviewed and approved the plans for the construction of museum facility in Madison, although DOA could not supervise any services or work or let any contract for the project.

Specify that if the Building Commission authorizes a grant to the Madison' Children's Museum, and if, for any reason the facility that constructed with funds from the grant is not used as a museum for the Madison Children's Museum, the state would retain an ownership interest in the facility equal to the amount of the state's grant.

Create a bonding authorization for the purpose of issuing bonds 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 authorized for the project.

Specify that the Legislature finds and determines that connecting children with their families, communities, and the world beyond through the discovery learning and creative play enhances the intellectual and cultural development of children and builds strong communities. Further specify that it is in the public interest, and it is the public policy of this state, to assist the Madison Children's Museum in the construction of a museum facility in Madison.

The fiscal effect of this project is included in the totals under Items 1 and 2.

[Act 28 Sections: 19j, 640, 655u, 657h, and 9106(1)(L)&(12)]

17. OSHKOSH OPERA HOUSE

Joint Finance/Legislature: Authorize \$500,000 in general fund supported bonding to assist with the repair and restoration of the Grand Opera House in Oshkosh and enumerate the project as a \$1,500,000 project under the 2009-11 state building program. Require that the state funding commitment be in the form of a grant to the City of Oshkosh. Specify that before approving any state funding commitment to City of Oshkosh, the Building Commission would be required to make a determination that the organization has secured at least \$1,000,000 in additional funding from nonstate donations for the project.

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. Specify that if the Building Commission authorizes a grant to the City of Oshkosh for the project, and if, for any reason the facility that constructed with funds from the grant is not used as an opera house, the state would retain an ownership interest in the facility equal to the amount of the state's grant.

Create a bonding authorization for the purpose of issuing bonds 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 authorized for the project.

Specify that the Legislature finds and determines that public support for the performing and cultural arts contributes to the education, enjoyment, and quality of life at Wisconsin residents. Specify that it is in the public interest, and it is the public policy of this state, to assist the City of Oshkosh with the repair and restoration of the Grand Opera House.

The fiscal effect of this project is included in the totals under Items 1 and 2.

[Act 28 Sections: 19gc, 640, 655ub, 657eb, and 9106(1)(n)&(22)]

18. ALDO LEOPOLD CLIMATE CHANGE CLASSROOM AND INTERACTIVE LABORATORY

Joint Finance/Legislature: Authorize \$500,000 in GPR supported bonding to assist with the construction of a Aldo Leopold Climate Change Center and Interactive Laboratory to be located in the greenway park that borders the cities of Madison and Monona and enumerate the project as a \$2,700,000 project under the 2009-11 state building program. Require that the state funding commitment be in the form of a grant to the Aldo Leopold Nature Center. Specify that before approving any state funding commitment to the Aldo Leopold Nature Center, the Building Commission would be required to make a determination that the organization has secured at least \$2,200,000 in additional funding from nonstate donations for the project.

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. Specify that if the Building Commission authorizes a grant to the Aldo Leopold Nature Center for the project, and if, for any reason the facility that constructed with funds from the grant is not used as a Climate Change Classroom and Interactive Laboratory, the state would retain an ownership interest in the facility equal to the amount of the state's grant.

Create a bonding authorization for the purpose of issuing bonds 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 authorized for the project.

Specify that the Legislature finds and determines that studying the environment and connecting children and their families with the outdoors enhances the quality of life in Wisconsin. Specify that it is in the public interest, and it is the public policy of this state, to assist the Aldo Leopold Nature Center, Inc., in the construction of the climate change classroom and interactive laboratory.

The fiscal effect of this project is included in the total under Items 1 and 2.

[Act 28 Sections: 19gd, 640, 655uc, 657ec, and 9106(1)(o)&(23)]

19. L.E. PHILLIPS MEMORIAL PUBLIC LIBRARY IN EAU CLAIRE

Joint Finance/Legislature: Allocate \$125,000 in existing GPR supported bonding for the project and specify that the project would be a first draw on any unallocated existing GPR supported bonding. Enumerate a \$125,000 L.E. Phillips Memorial Public Library remodeling project in Eau Claire project under the 2009-11 state building program. Specify that before approving any state funding commitment to the L.E. Phillips Memorial Public Library, the Building Commission would be required to make a determination that the organization has secured additional funding from nonstate donations for the project.

Specify that if the Building Commission authorizes a grant to the L.E. Phillips Memorial Public Library, and if, for any reason the facility that is remodeled with funds from the grant is not used as a public library, the state would retain an ownership interest in the facility equal to the amount of the state's grant. The debt service on the project would be paid from the existing Building Commission other public purposes debt service appropriation.

Specify that the Legislature finds and determines that increased access to public libraries strengthens education and increases opportunities for civic engagement by residents of Wisconsin. Specify that it is therefore in the public interest, and it is the public policy of this state, to assist in the remodeling of the L.E. Phillips Public Library in the City of Eau Claire.

The fiscal effect of this project is included in the totals under Items 1 and 2.

[Act 28 Sections: 19ge and 9106(1)(p)&(24)]

20. STONE BARN IN TOWN OF CHASE

Joint Finance/Legislature: Require the Building Commission to allocate \$100,000 in building trust funds for the restoration of the Stone Barn historic site in the Town of Chase in Oconto County. Enumerate the \$400,000 project as a part of the 2009-11 state building program to be funded with \$100,000 in building trust funds and \$300,000 gifts, grants, and other receipts.

Require that the state funding commitment be in the form of a grant to the Town of Chase for the restoration project. Specify that before approving any state funding commitment to Town of Chase, the Building Commission would be required to make a determination that the organization has secured at least \$300,000 in additional funding from nonstate donations for the project.

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. Specify that if the Building Commission authorizes a grant to the Town of Chase for the project, and if, for any reason the facility that constructed with funds from the grant is not used as a historic site, the state would retain an ownership interest in the facility equal to the amount of the state's grant.

The fiscal effect of this project is included in the totals under Items 1 and 2.

[Act 28 Sections: 19gf and 9106(1)(q)&(25)]

21. JOINT MUSEUM FACILITY PLANNING

Joint Finance/Legislature: Require the Building Commission to allocate \$4,000,000 in building trust funds from its planning appropriation to conduct planning, programming, and site identification of a joint museum facility for the State Historical Society and the Department of Veterans Affairs.

[Act 28 Section: 9106(17)]

22. CITY OF БЕЛОIT ТURTLE ISLAND PARK

Joint Finance/Legislature: Require the Building Commission to allocate \$35,000 in building trust funds to the City of Beloit for the restoration of Turtle Island Park. Require that the state funding commitment be in the form of a grant to the City of Beloit for the project. Specify that before approving any state funding commitment to City of Beloit, the Building Commission would be required to make a determination that the city has secured additional funding from nonstate donations for the project.

[Act 28 Sections: 19gg and 9106(19)]

23. UW-MADISON CHARTER STREET HEATING AND COOLING PLANT -- APPROPRIATION CHANGES [LFB Paper 184]

Building Commission/Legislature: Modify the program revenue continuing debt service appropriation for the UW-System that authorizes the expenditure of all monies received from utility charges to nonstate entities that receive utility services from the campus's central utility plants to include the renovation and addition to the Charter Street heating and cooling plant. In addition, modify the existing PR continuing debt service appropriation to receive payments from campus facilities through chargebacks and credits to include the renovation and addition to the Charter Street heating and cooling plant.

Require the UW System Board of Regents to ensure that the UW-Madison reports annually to DOA on the following: (a) the utility charges in the following fiscal year to fund principal and interest costs incurred in renovating and adding an addition to the Charter Street heating and cooling plant that would be enumerated as part of the 2009-11 state building program; and (b) the methodology used to calculate those charges. Specify that the Board of Regents may not assess the utility charges until DOA approves the charges.

[Act 28 Sections: 259e, 261q, and 738e]

24. STUDY OF STATE ROLE IN EXPANDING DENTAL EDUCATION

Senate/Legislature: Direct the Building Commission to allocate \$500,000 from the building trust fund to study the state's role in expanding access to dental education in the state.

Specify that the study emphasize the state's role in increasing dental care in rural and underserved areas of the state, including the possibility of construction of a new dental school in Marshfield.

[Act 28 Section: 9106(25f)]

25. STATEMENT OF BUILDING PROGRAM CONTINUATION

Building Commission/Legislature: Continue the building projects and financing authority enumerated under the previous state building program into the 2009-11 biennium. Each building program is approved only for the current biennium; this provision would continue the past state building program into the 2009-11 biennium.

[Act 28 Section: 9106(2)]

26. PROJECT LOANS

Building Commission/Legislature: Authorize the Building Commission, during the 2009-11 biennium, to make loans from general fund-supported borrowing or the building trust fund to state agencies for any 2009-11 building program projects funded from non-GPR sources.

[Act 28 Section: 9106(3)]

CHILD ABUSE AND NEGLECT PREVENTION BOARD

Budget Summary							
Fund	2008-09 Base Year Doubled	2009-11 Governor	2009-11 Jt. Finance	2009-11 Legislature	2009-11 Act 28	Act 28 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$2,262,200	\$2,221,000	\$2,215,200	\$2,215,200	\$2,215,200	-\$47,000	-2.1%
FED	1,238,000	1,247,400	1,240,200	1,240,200	1,240,200	2,200	0.2
PR	3,861,000	3,859,400	4,068,000	4,068,000	4,068,000	207,000	5.4
SEG	<u>46,200</u>	<u>46,200</u>	<u>46,200</u>	<u>46,200</u>	<u>46,200</u>	<u>0</u>	<u>0.0</u>
TOTAL	\$7,407,400	\$7,374,000	\$7,569,600	\$7,569,600	\$7,569,600	\$162,200	2.2%

FTE Position Summary						
Fund	2008-09 Base	2010-11 Governor	2010-11 Jt. Finance	2010-11 Legislature	2010-11 Act 28	Act 28 Change
						Over 2008-09 Base
GPR	1.00	1.00	1.00	1.00	1.00	0.00
FED	1.00	1.00	1.00	1.00	1.00	0.00
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>
TOTAL	7.00	7.00	7.00	7.00	7.00	0.00

Budget Change Items

1. STANDARD BUDGET ADJUSTMENTS

Governor/Legislature: Provide annual adjustments of -\$500 GPR, \$4,700 FED, and \$18,500 PR for: (a) full funding of continuing salaries and fringe benefits (-\$500 GPR, \$4,700 FED, and -\$1,000 PR annually); and (b) full funding of lease costs and directed moves (\$19,500 PR annually).

GPR	-\$1,000
FED	9,400
PR	<u>37,000</u>
Total	\$45,400

2. ACROSS-THE-BOARD 1% REDUCTIONS

Governor/Legislature: Delete \$30,600 annually as part of an across-the-board 1% reduction in most non-federal appropriations. The reductions, by appropriation, are shown below:

GPR	-\$22,600
PR	<u>-38,600</u>
Total	-\$61,200

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
GPR	Grants to organizations	\$1,131,100	-\$11,300
PR	General program operations	450,500	-4,500*
PR	Grants to organizations; program revenues	1,480,000	-14,800

*Due to other budget items, the final funding level for this appropriation does not represent a 1% reduction.

3. BUDGET REDUCTIONS

GPR	- \$17,600
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Governor/Legislature: Delete \$8,800 annually to reduce base level funding from the grants to organizations appropriation. This reduction is in addition to the across-the-board 1% reduction.

4. ELIMINATE 2% GENERAL WAGE ADJUSTMENT

GPR	- \$2,600
FED	- 3,200
PR	- 13,200
Total	- \$19,000

Joint Finance/Legislature: Delete \$9,500 (all funds) annually relating to the roll-back of 2% general wage adjustments that were scheduled to take effect on June 7, 2009. The reductions include \$1,300 GPR, \$1,600 FED, and \$6,600 PR.

5. STATE EMPLOYEE FURLOUGH

GPR	- \$3,200
FED	- 4,000
PR	- 18,200
Total	- \$25,400

Joint Finance/Legislature: Delete \$12,700 (all funds) annually relating to the requirement that state employees take eight days of unpaid annual leave (furlough) in each year of the 2009-11 biennium. The reductions include \$1,600 GPR, \$2,000 FED, and \$9,100 PR.

6. CONTRACT WITH CELEBRATE CHILDREN FOUNDATION

PR	\$240,000
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Joint Finance/Legislature: Provide \$120,000 annually to allow the Child Abuse and Neglect Prevention (CANP) Board to continue to contract with the Celebrate Children Foundation for a development director. Initial funding was provided under a 14-day passive review process, which was approved by the Joint Committee on Finance on September 24, 2008. However, this expenditure was not included in the CANP Board's adjusted base level funding. The program revenue funding is from a portion of the fees charged for issuing copies of birth certificates that is transferred to the CANP Board (\$7 from the \$20 fee).

CHILDREN AND FAMILIES

Budget Summary							
Fund	2008-09 Base Year Doubled	2009-11 Governor	2009-11 Jt. Finance	2009-11 Legislature	2009-11 Act 28	Act 28 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$628,660,000	\$660,311,800	\$671,326,800	\$689,606,200	\$689,606,200	\$60,946,200	9.7%
FED	1,308,341,200	1,261,400,400	1,298,746,300	1,298,746,300	1,298,746,300	- 9,594,900	- 0.7
PR	304,923,600	248,836,000	234,928,900	234,728,900	234,728,900	- 70,194,700	- 23.0
SEG	<u>19,793,200</u>	<u>19,608,600</u>	<u>37,108,800</u>	<u>18,829,400</u>	<u>18,829,400</u>	<u>- 963,800</u>	- 4.9
TOTAL	\$2,261,718,000	\$2,190,156,800	\$2,242,110,800	\$2,241,910,800	\$2,241,910,800	-\$19,807,200	- 0.9%

FTE Position Summary						
Fund	2008-09 Base	2010-11 Governor	2010-11 Jt. Finance	2010-11 Legislature	2010-11 Act 28	Act 28 Change
						Over 2008-09 Base
GPR	172.60	212.85	212.00	212.00	212.00	39.40
FED	246.00	267.15	274.00	274.00	274.00	28.00
PR	<u>217.29</u>	<u>157.21</u>	<u>157.21</u>	<u>157.21</u>	<u>157.21</u>	<u>- 60.08</u>
TOTAL	635.89	637.21	643.21	643.21	643.21	7.32

Budget Change Items

Departmentwide

1. STANDARD BUDGET ADJUSTMENTS

Governor/Legislature: Provide adjustments of \$735,600 GPR annually; \$886,500 FED in 2009-10, \$859,000 FED in 2010-11, and -1.00 FED position, beginning in 2010-11; and \$890,900 PR annually. Adjustments are for: (a) turnover reduction (-\$182,300 GPR, -\$155,600 FED, and -\$317,300 PR annually); (b) removal of noncontinuing elements from the base (-\$38,500 FED in 2009-10, -\$66,000 FED in 2010-11, and -1.00 FED position beginning in 2010-11); (c) full funding

	Funding	Positions
GPR	\$1,471,200	0.00
FED	1,745,500	- 1.00
PR	<u>1,781,800</u>	<u>0.00</u>
Total	\$4,998,500	- 1.00

of continuing salaries and fringe benefits (\$689,100 GPR, \$953,600 FED, and \$1,103,500 PR annually); (d) overtime (\$164,600 GPR, \$56,500 FED, and \$61,800 PR annually); (e) night and weekend differential (\$46,200 GPR, \$16,900 FED, and \$26,600 PR annually); and (f) full funding of lease costs and directed moves (\$18,000 GPR, \$53,600 FED, and \$16,300 PR annually).

2. ACROSS-THE-BOARD 1% REDUCTIONS [LFB Papers 210, 212, 217, and 221]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	- \$3,026,400	\$2,432,400	- \$594,000
FED	0	- 25,200	- 25,200
PR	- 2,579,600	146,600	- 2,433,000
SEG	- 184,600	0	- 184,600
Total	- \$5,790,600	\$2,553,800	- \$3,236,800

Governor: Delete \$2,895,300 annually as part of an across-the-board 1% reduction in most non-federal appropriations. The reductions, by appropriation, are shown below:

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
GPR	General program operations -- children and family services	\$5,873,600	-\$58,700*
GPR	Child abuse and neglect prevention grants	995,700	-10,000
GPR	Children and family aids payments	28,959,400	-289,600*
GPR	Grants for children's community programs	797,200	-8,000
GPR	Group home parent insurance and liability	60,000	-600
GPR	Milwaukee child welfare services; general program operations	12,787,700	-127,900*
GPR	Milwaukee child welfare services; aids	42,248,900	-422,500*
GPR	Child welfare program enhancement plan; aids	1,117,200	-11,200*
GPR	State foster care and adoption services	50,408,800	-504,100
GPR	State adoption information exchange and state adoption center	171,300	-1,700
GPR	Brighter futures initiative and tribal adolescent services	1,959,500	-19,600
GPR	General program operations--economic support	5,157,100	-51,600*
GPR	General program operations--general administration	772,400	-7,700*
PR	Milwaukee child welfare services; collections	2,589,700	-25,900*
PR	Domestic abuse surcharge grants	781,000	-7,800
PR	Statewide automated child welfare information system receipts	783,400	-7,800
PR	Children and family fees for administrative services	78,800	-800
PR	Searches for birth parents and adoption record information; foreign adoptions	118,500	-1,200*
PR	Interagency and intra-agency aids; Milwaukee child welfare services	21,991,100	-219,900*
PR	Children and family interagency and intra-agency programs	18,123,900	-181,200
PR	Children and family interagency and intra-agency aids	7,328,200	-73,300
PR	Children and family interagency and intra-agency local assistance	500,000	-5,000
PR	Child support state operations -- fees and reimbursements	14,470,500	-144,700
PR	Economic support fees for administrative services	733,300	-7,300
PR	Job access loan repayments	616,400	-6,200
PR	Licensing activities	980,100	-9,800*
PR	Child support transfers	17,373,300	-173,700
PR	Economic support interagency and intra-agency programs	24,931,500	-249,300
PR	Public assistance overpayment recovery, fraud, and error reduction	210,400	-2,100*
PR	Administrative and support services	17,377,300	-173,800*
SEG	Economic support--public benefits	9,232,000	-92,300

*Due to other budget items, the final funding level for this appropriation does not represent a 1% reduction.

Joint Finance/Legislature: Provide \$1,216,200 GPR and \$73,300 PR annually to reflect the removal of the following appropriations from the across-the-board 1% reductions:

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
GPR	Children and family aids payments	\$28,959,400	-\$289,600
GPR	Milwaukee child welfare services; aids	42,248,900	-422,500
GPR	State foster care and adoption services	50,408,800	-504,100
PR	Children and family interagency and intra-agency aids	7,328,200	-73,300

In addition, reduce funding by \$12,600 FED annually to reflect a reduction of federal matching funds to correspond with the 1% reduction from the Milwaukee child welfare services; general program operations appropriation (-\$127,900 GPR annually).

3. ELIMINATE 2% GENERAL WAGE ADJUSTMENT

Joint Finance/Legislature: Delete \$730,800 (all funds) annually relating to the roll-back of 2% general wage adjustments that were scheduled to take effect on June 7, 2009. The reductions include \$203,400 GPR, \$264,900 FED, and \$262,500 PR.

GPR	- \$406,800
FED	- 529,800
PR	- 525,000
Total	- \$1,461,600

4. STATE EMPLOYEE FURLOUGH

Joint Finance/Legislature: Delete \$1,120,100 (all funds) annually relating to the requirement that state employees take eight days of unpaid annual leave (furlough) in each year of the 2009-11 biennium. The reductions include \$311,800 GPR, \$406,000 FED, and \$402,300 PR.

GPR	- \$623,600
FED	- 812,000
PR	- 804,600
Total	- \$2,240,200

5. CHIEF LEGAL ADVISOR [LFB Paper 115]

	<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	\$259,200	0.85	-\$259,200	- 0.85	\$0	0.00
FED	45,600	0.15	- 45,600	- 0.15	0	0.00
Total	\$304,800	1.00	-\$304,800	- 1.00	\$0	0.00

Governor: Provide \$129,600 GPR and \$22,800 FED annually and 0.85 GPR position and 0.15 FED position, beginning in 2009-10, in the Department of Children and Families (DCF). Specify that the DCF Secretary may appoint a chief legal advisor from the unclassified service.

Joint Finance/Legislature: Delete provision.

6. TRANSFER TEFAP AND WIC PROGRAMS TO THE DEPARTMENT OF HEALTH SERVICES

	Funding	Positions
GPR	-\$1,017,800	0.00
FED	- 140,944,400	- 28.73
PR	<u>- 259,200</u>	<u>0.00</u>
Total	-\$142,221,400	- 28.73

Governor/Legislature: Reduce funding by \$71,110,700 (-\$508,900 GPR, -\$70,472,200 FED, and -\$129,600 PR) annually and positions by 28.73 FED positions, beginning in 2009-10, to reflect the transfer of responsibilities for the emergency food assistance program (TEFAP) and the special supplemental nutrition program for women, infants, and children (WIC) from DCF to the Department of Health Services (DHS) on the bill's general effective date.

Specify that:

- a. The assets and liabilities primarily related to the functions of TEFAP and WIC in DCF would become the assets and liabilities of DHS;
- b. Classified positions, and incumbent employees holding these positions, relating primarily to TEFAP and WIC would be transferred to DHS;
- c. Employees transferred would have the same rights and status in DHS that they enjoyed in DCF, 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 TEFAP and WIC would be transferred to DHS;
- e. All contracts primarily related to TEFAP and WIC would remain in effect and would be transferred to DHS. DHS would be required to carry out these contractual obligations unless modified or rescinded by DHS to the extent allowed under the contract;
- f. Any matter pending with DCF primarily related to TEFAP or WIC would be transferred to DHS and all materials submitted to or actions taken by DCF with respect to the pending matter would be considered as having been submitted to or taken by DHS; and
- g. All rules and orders primarily related to TEFAP and WIC that are in effect would remain in effect until their specified expiration dates or until amended, repealed, modified, or rescinded by DHS.

Under 2007 Wisconsin Act 20, TEFAP and WIC were transferred from the Department of Health and Family Services (now DHS) to DCF, which was created under the bill. The U.S. Department of Agriculture (USDA) requires TEFAP and WIC to be administered by the same agency that administers public health programs. DHS is currently administering TEFAP and WIC under a memorandum of understanding with DCF.

The WIC program's purpose is to promote and maintain the health and well-being of low-income, nutritionally at-risk pregnant, breastfeeding, and postpartum women, infants (up to one year of age); and children (up to five years of age). The WIC program provides supplemental nutritious foods, nutrition education and counseling, and health screenings and

referrals for other health, welfare, and social services.

TEFAP is a federal program, administered by the USDA, that makes food available to states to help supplement the diets of low-income individuals. The USDA buys the food, processes and packages it, and ships it to the states. The amount of food that each state receives depends on the state's low-income and unemployed population.

[Act 28 Sections: 485, 488, 490, 1144, 1217 thru 1220, 2480, 3237 thru 3239, 3392, and 9122(1)]

7. TRANSFER REFUGEE ASSISTANCE SERVICES PROGRAM FROM DWD TO DCF

	Funding	Positions
FED	\$12,136,400	9.05

Governor/Legislature: Provide \$6,096,000 in 2009-10, \$6,040,400 in 2010-11, and 9.05 positions, beginning in 2009-10 to reflect the transfer of the refugee assistance services program from the Department of Workforce Development (DWD) to DCF on the bill's general effective date.

Specify that:

a. The assets and liabilities primarily related to refugee assistance services, including refugee cash and medical assistance, targeted assistance and employee training, refugee social services, older refugees, preventive health, health screening, interpreter training, and bilingual materials development, in DWD would become the assets and liabilities of DCF;

b. All positions, and incumbent employees holding these positions, relating primarily to refugee assistance services would be transferred to DCF;

c. Employees transferred would have the same rights and status in DCF that they enjoyed in DWD, 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 refugee assistance services would be transferred to DCF;

e. All contracts primarily related to refugee assistance services 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;

f. Any matter pending with DWD primarily related to refugee assistance services would be transferred to DCF and all materials submitted to or actions taken by DWD with respect to the pending matter would be considered as having been submitted to or taken by DCF; and

g. All rules and orders primarily related to refugee assistance services that are in effect would remain in effect until their specified expiration dates or until amended, repealed,

modified, or rescinded by DCF.

The refugee assistance services program helps refugees achieve economic self-sufficiency and social self-reliance. Services include: (a) cash and medical assistance; (b) targeted assistance and employee training; (c) social services; (d) activities for older refugees; (e) mental health, preventive health, and health screenings; (f) interpreter training; and (g) bilingual materials development.

[Act 28 Sections: 522 and 9156(1)]

8. INFORMATION TECHNOLOGY

	Funding	Positions
PR	\$422,200	2.00

Governor/Legislature: Provide \$209,100 in 2009-10, \$213,100 in 2010-11, and 2.0 positions, beginning in 2009-10, to reflect the transfer of 2.0 FTE positions, along with the salary (\$138,100 in 2009-10 and \$140,800 in 2010-11), fringe benefits (\$65,000 in 2009-10 and \$66,300 in 2010-11), and supplies and service costs (\$6,000 annually) associated with these positions, from the Department of Administration (DOA) to the Information Technology Bureau in DCF. These positions currently provide desktop support and help desk services to the former Department of Health and Family Services programs that were transferred to DCF. Position authority and funding in DOA would decrease by a corresponding amount. Revenue that DCF currently provides to DOA for these services would now be provided within DCF in a program revenue service (PR-S) appropriation.

9. REORGANIZATION OF APPROPRIATIONS

Governor/Legislature: Amend, renumber, and eliminate appropriations in DCF to consolidate or clarify various appropriations that were transferred to DCF from DWD and DHS as follows:

Clarify Appropriations. Amend the gifts and grants appropriations and the fees for administrative services appropriations in DCF's children and family services program, economic support program, and general administration program to clarify that the money received in each appropriation must be expended for purposes related to the specific program associated with the appropriation.

In addition, amend several federal appropriations in the general administration program to distinguish the appropriations from federal appropriations in the other programs.

Finally, amend the child support local assistance; federal funds appropriation in the economic support program to eliminate language that refers to a lapse that does not occur.

Renumber Appropriations. Renumber the child abuse and neglect prevention grants appropriation and the child abuse and neglect prevention technical assistance appropriation in

order to move the appropriations from the economic support program to the children and family services program.

Eliminate Unnecessary Appropriations. Eliminate several federal appropriations in the Department's general administration program because similar appropriations exist in the children and family services program and the economic support program. In addition, eliminate the federal project operations appropriation in the economic support program in order to consolidate that appropriation with the federal project activities appropriation in the economic support program.

[Act 28 Sections: 475, 476, 481, 482, 491, 492, 495, 496, 499, 501, 502, 504 thru 509, and 511 thru 513]

10. EMERGENCY SHELTER

GPR	\$100,000
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Joint Finance/Legislature: Provide \$50,000 annually for the emergency shelter of the Fox Valley, beginning on October 1, 2009, to provide services to homeless individuals and families.

[Act 28 Sections: 488d and 1140g]

Children and Families

1. CHILD WELFARE FEDERAL AND PROGRAM REVENUE REDUCTIONS

A combination of state, federal, and local funding supports the costs of providing child welfare services. Two of the federal sources of funding include: (a) Title IV-E funds; and (b) targeted case management (TCM) funds. Title IV-E of the federal Social Security Act provides entitlement matching funds to states for a portion of the cost of services for Title IV-E eligible children who are placed in out-of-home care and the associated administrative, child placement, and training costs. Federal medical assistance (MA) TCM funds are federal matching funds for case management services provided at the local level. These sources of funding have been or will be either reduced or eliminated for child welfare activities, which has resulted in increases of GPR to replace the loss of federal revenue (Title IV-E) and program revenue (TCM) for child welfare activities or in reduced funding provided to local child welfare agencies. The reduction of these revenue sources is described below. [The TCM funds are recorded as program revenue in DCF because they are transferred from DHS.]

Title IV-E. The loss of federal Title IV-E funding is due to: (a) federal policy changes under the federal Deficit Reduction Act (DRA) of 2005; (b) audit practices implemented through the IV-E eligibility review process; and (c) ongoing federal review of state IV-E claiming practices.

The federal DRA prohibits claiming IV-E administrative revenue on costs associated with children placed with unlicensed relatives, such as court-ordered kinship care placements. In addition, the federal DRA implemented new requirements to claim IV-E administrative revenue on placement prevention activities. Under the federal DRA, children must be at imminent risk, rather than serious risk, and have case plans reviewed every six months, rather than every 12 months, for placement prevention activities to receive matching funds under IV-E. Cases that do not meet these new requirements are not eligible for IV-E matching funds.

One requirement to be eligible for IV-E matching funds is that the family of the removed child meets certain financial eligibility criteria based on the former aid to families with dependent children (AFDC) program that were in effect in June of 1996. Upon a review by the federal government, many cases that were thought to have met these criteria, as well as other criteria for IV-E eligibility, did not. In addition, because the income limits are tied to AFDC in 1996, fewer cases qualify for IV-E matching funds based on family income.

Finally, to be eligible under IV-E, certain court findings must be timely made in initial court hearings. If there are delays between the removal of children and the court hearings where findings are made, then the cases are no longer IV-E eligible. Stricter enforcement and more aggressive federal review of these types of cases have also resulted in a decrease in the number of cases eligible for IV-E matching funds.

TCM. The federal DRA eliminated the ability to claim TCM funds for child welfare expenditures. Implementation of this provision, however, has been delayed. Therefore, DCF will continue to receive TCM funds in 2009-10 for expenditures made through June, 2009.

2. MILWAUKEE CHILD WELFARE [LFB Paper 210]

	<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	\$41,525,100	22.05	-\$2,932,000	0.00	\$38,593,100	22.05
FED	- 4,207,300	- 22.05	1,732,000	0.00	- 2,475,300	- 22.05
PR	<u>2,717,000</u>	<u>0.00</u>	<u>- 852,600</u>	<u>0.00</u>	<u>1,864,400</u>	<u>0.00</u>
Total	\$40,034,800	0.00	-\$2,052,600	0.00	\$37,982,200	0.00

Governor: Provide \$19,210,400 (\$16,533,100 GPR, -\$2,231,200 FED, and \$4,908,500 PR) in 2009-10 and \$20,824,400 (\$24,992,000 GPR, -\$1,976,100 FED, and -\$2,191,500 PR) in 2010-11 to reflect the net effect of funding changes for activities administered by the Bureau of Milwaukee Child Welfare (BMCW). In addition, convert 22.05 FED positions to GPR, beginning in 2009-10.

Milwaukee Child Welfare Aids. Provide \$18,790,800 (\$15,342,700 GPR, \$168,500 FED, and \$3,279,600 PR) in 2009-10 and \$20,228,300 (\$20,672,800 GPR, \$375,900 FED, and -\$820,400 PR) in 2010-11 to fund projected costs of aids expenses. The federal funding is available under Title IV-E; PR funding is TANF funds transferred from DCF's economic support program, TCM funds, and collections. [Collections are supplemental security income (SSI), Social Security Administration (SSA) survivor and disability, and child support payments for children in out-

of-home care that are collected and retained by the state of offset the costs of providing out-of-home care to those children.] Base funding for Milwaukee child welfare aids is \$89,310,400 (\$42,248,900 GPR, \$15,283,900 FED, and \$31,777,600 PR).

This item would: (a) partially replace decreasing federal Title IV-E funds with GPR (\$1,666,000 GPR and -\$1,666,200 FED annually); (b) modify GPR amounts to account for an increase in TCM funds in 2009-10 and a decrease in these funds in 2010-11 (-\$2,210,200 GPR and \$2,210,200 PR in 2009-10 and \$1,889,800 GPR and -\$1,889,800 PR in 2010-11); (c) fund projected increases in the number of children with special needs in the out-of-home care population and the cost per case for children in treatment foster homes, group homes, and residential care centers (\$12,878,800 GPR, \$1,688,900 FED, and \$1,069,400 PR in 2009-10 and \$14,108,900 GPR, \$1,896,300 FED, and \$1,069,400 PR in 2010-11); and (d) fund projected decreases or increases in contracted services and provide funding for ongoing initiatives (\$3,008,100 GPR and \$145,800 FED annually).

Projected increases in contracted services include: (a) case manager salary increases (\$1,353,100 GPR and \$19,800 FED annually); (b) case manager training expansion (\$110,400 GPR and \$9,600 FED annually); and (c) independent investigations (\$20,000 GPR annually). In addition, funding for adoption searches would be decreased (-\$50,000 GPR annually).

Ongoing initiatives include: (a) ombudsman (\$287,600 GPR annually); (b) court initiative permanency counselor (\$65,000 GPR annually); (c) foster parent crisis intervention (\$442,000 GPR and \$116,400 FED annually); (d) child abuse review team facilitator (\$45,000 GPR annually); (e) BMCW safety plan (\$600,000 GPR annually); and (f) subsidized guardianship waiver evaluation (\$135,000 GPR annually).

Milwaukee Child Welfare Operations. Provide \$419,600 (\$1,190,400 GPR, -\$2,399,700 FED, and \$1,628,900 PR) in 2009-10 and \$596,100 (\$4,319,200 GPR, -\$2,352,000 FED, and -\$1,371,100 PR) in 2010-11 to fund BMCW operations. Convert 22.05 FED positions, beginning in 2009-10, to GPR positions to reflect decreasing Title IV-E funding. Base funding for child welfare operations is \$20,574,700 (\$12,787,700 GPR, \$5,516,500 FED, and \$2,270,500 PR).

The funding would support: (a) the electronic Wisconsin statewide automated child welfare information system (eWISACWIS) in Milwaukee (\$135,200 GPR and \$64,500 FED annually); (b) reestimates of infrastructure costs related to the Bureau's computer systems (\$543,300 GPR and -\$323,400 FED in 2009-10 and \$672,100 GPR and -\$275,700 FED in 2010-11); (c) a reestimate of the amount of federal Title IV-E and TCM funds that the state would receive (-\$50,000 GPR, -\$1,858,900 FED, and \$1,908,900 PR in 2009-10 and \$2,950,000 GPR, -\$1,858,900 FED, and -\$1,091,100 PR in 2010-11); and (d) increased rent costs (\$561,900 GPR, -\$281,900 FED, and -\$280,000 PR annually).

[Funding for Milwaukee child welfare operations includes \$3 million PR that the bill would use to increase funding for Milwaukee child welfare aids. The administration indicates that this \$3 million PR increase for Milwaukee child welfare aids was an error and that this \$3 million PR should have been appropriated for Milwaukee child welfare operations.]

Joint Finance: Reduce funding by \$1,026,300 (-\$1,444,000 GPR, \$844,000 FED, and -\$426,300 PR) in 2009-10 and \$1,026,300 (-\$1,488,000 GPR, \$888,000 FED, and -\$426,300 PR) in 2010-11 to reflect the net effect of funding changes for activities administered by BMCW.

Milwaukee Child Welfare Aids. Reduce funding by \$4,026,300 (-\$4,444,000 GPR, \$844,000 FED, and -\$426,300 PR) in 2009-10 and \$1,026,300 (-\$1,488,000 GPR, \$888,000 FED, and -\$426,300 PR) in 2010-11 to reflect the following: (a) transfer of GPR funds to BMCW operations in 2009-10 to correct the placement of TCM funds in BMCW aids that should have been placed in BMCW operations under AB 75 and to maximize federal matching funds (-\$3,000,000 GPR in 2009-10); (b) the correct federal match on expenditures for residential care centers and group homes (-\$844,000 GPR and \$844,000 FED in 2009-10 and -\$888,000 GPR and \$888,000 FED in 2010-11); (c) elimination of funding for the BMCW safety plan (-\$600,000 GPR annually); and (d) the correct funding level for safety services (-\$426,300 PR annually).

In addition, require DCF to submit a plan to the Joint Committee on Finance by January 1, 2010, that specifies how to improve the effectiveness of the ombudsman, contracted for by DCF, in reviewing and resolving complaints concerning BMCW.

Milwaukee Child Welfare Operations. Provide \$3,000,000 GPR in 2009-10 to reflect a transfer of GPR funds from BMCW aids to correct the placement of TCM funds in BMCW aids that should have been placed in BMCW operations under AB 75 and to maximize federal matching funds.

BMCW Audit. Require the Legislative Audit Bureau (LAB) to conduct a performance evaluation audit of the programs administered by BMCW and address the following: (a) the timeliness of BMCW in investigating allegations of child abuse or neglect; (b) the effectiveness of the out-of-home care and in-home safety services provided by BMCW in achieving safety and permanence for children, including the effectiveness of BMCW in coordinating its services; and (c) the effectiveness of BMCW in achieving the performance standards required under the settlement agreement.

In addition, require the LAB to conduct a financial audit of BMCW, which would address: (a) the funding of the programs administered by BMCW; (b) the appropriateness of the expenditures made by BMCW and by organizations with which BMCW contracts; and (c) issues concerning turnover, qualifications, training, workloads, and salaries of BMCW staff.

Finally, require the LAB to file a report of these audits by July 1, 2010.

Assembly/Legislature: Request the Joint Legislative Audit Committee to direct the LAB to conduct a performance evaluation audit and a financial audit of BMCW, rather than require the LAB to conduct the audits.

Veto by Governor [B-2 and C-12]: Delete the provision related to the LAB audit of BMCW. As a result, the LAB would not be required to complete an audit of BMCW, and the Joint Legislative Audit Committee would not be requested to direct the LAB to conduct an audit of BMCW.

In addition, delete the provision that would have required DCF to submit a plan to the Joint Committee on Finance that specifies how to improve the effectiveness of the ombudsman.

[Act 28 Vetoed Sections: 9108(8u) and 9131(2f)]

3. BUREAU OF MILWAUKEE CHILD WELFARE IMPROVEMENTS [LFB Paper 211]

	Governor (Chg. to Base)		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	\$5,299,400	16.56	-\$1,394,800	0.00	\$3,904,600	16.56
FED	420,600	1.44	0	0.00	420,600	1.44
PR	0	0.00	510,000	0.00	510,000	0.00
Total	\$5,720,000	18.00	-\$884,800	0.00	\$4,835,200	18.00

Governor: Provide \$2,558,100 (\$2,393,900 GPR and \$164,200 FED) in 2009-10, \$3,161,900 (\$2,905,500 GPR and \$256,400 FED) in 2010-11, and 16.56 GPR positions and 1.44 FED positions, beginning in 2009-10, to fund a variety of initiatives to improve the performance of BMCW.

Mobile Urgent Treatment Team. Provide \$250,000 GPR in 2009-10 and \$500,000 GPR in 2010-11 to develop additional crisis intervention, stabilization, and support services for youth placed by BMCW in treatment foster homes. In addition, provide crisis intervention services to children and care-taking relatives in court-ordered kinship care cases.

Career Ladder for Contracted Ongoing Case Managers. Provide \$370,500 (\$292,700 GPR and \$77,800 FED) in 2009-10 and \$741,000 (\$585,400 GPR and \$155,600 FED) in 2010-11 to increase salaries of the 192 contracted ongoing case managers, eight mentors, and 32 ongoing case management supervisory staff. Under this initiative, all employees listed would receive an across-the-board increase based on their level of experience and education.

On-Call Reimbursement. Provide \$59,200 GPR in 2009-10 and \$60,400 GPR in 2010-11 to provide additional reimbursement for salaried state-employed service managers and region managers for after hours on-call rotation to be available for consultation in the event of urgent or emergency situations. As salaried staff, service managers and region managers do not receive reimbursement for overtime hours.

Technical Assistance for Supervisors of Initial Assessments. Provide one-time funding of \$198,000 GPR in 2009-10 to develop professional competency among region managers and initial assessment service managers to effectively supervise the implementation of the initial assessment function.

Nurses. Provide \$600,000 GPR annually for nurses to provide home visits to children and to provide consultation services for all BMCW child welfare program areas, including initial assessment. The administration indicates that they anticipate the ability to claim MA matching funds for the medical staff. However, no federal matching funds are provided in the bill.

Additional Child Protective Services Staff. Provide \$1,080,400 (\$994,000 GPR and \$86,400

FED) in 2009-10, \$1,260,500 (\$1,159,700 GPR and \$100,800 FED) in 2010-11, and 16.56 GPR and 1.44 FED positions, beginning in 2009-10, to increase the number of social workers and supervisors dedicated to child protective services in BMCW. Funding would support 15 additional social worker positions and three additional site supervisors as follows: (a) salaries (\$566,100 GPR and \$49,200 FED in 2009-10 and \$754,800 GPR and \$65,600 FED in 2010-11); (b) fringe benefits (\$266,400 GPR and \$23,200 FED in 2009-10 and \$355,200 GPR and \$30,900 FED in 2010-11); and (c) supplies and services (\$161,500 GPR and \$14,000 FED in 2009-10 and \$49,700 GPR and \$4,300 FED in 2010-11).

Joint Finance/Legislature: Reduce funding by \$379,600 (-\$643,800 GPR and \$264,200 PR) in 2009-10 and \$505,200 (-\$751,000 GPR and \$245,800 PR) in 2010-11 to adjust the funding levels for the following initiatives to improve the performance of BMCW:

Mobile Urgent Treatment Team. Reduce funding by \$125,000 GPR in 2009-10 and by \$250,000 GPR in 2010-11 to provide one-half of the funding requested.

On-Call Reimbursement. Reduce funding by \$29,600 GPR in 2009-10 and \$30,200 GPR in 2010-11 to provide one-half of the funding requested.

Nurses. Reduce funding by \$225,000 (-\$489,200 GPR and \$264,200 PR) in 2009-10 and \$225,000 (-\$470,800 GPR and \$245,800 PR) in 2010-11 to reflect: (a) sufficient funding to contract with approximately 5.0 FTE nursing staff, rather than 8.0 nursing staff under AB 75; and (b) MA matching funds transferred from DHS.

4. CHILDREN AND FAMILY AIDS [LFB Papers 212 and 213]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	-\$17,892,000	\$5,527,500	-\$12,364,500
FED	<u>-20,533,700</u>	<u>0</u>	<u>-20,533,700</u>
Total	-\$38,425,700	\$5,527,500	-\$32,898,200

Governor: Reduce funding by \$27,642,400 (-\$18,196,000 GPR and -\$9,446,400 FED) in 2009-10 and \$10,783,300 (\$304,000 GPR and -\$11,087,300 FED) in 2010-11 for children and family aids. An increase in GPR would fully fund a 5% increase in foster care rates, enacted as part of 2007 Act 20, which took effect on January 1, 2009 (\$304,000 GPR annually). In addition, federal funding budgeted to support children and family aids would be adjusted by: (a) reducing Title IV-B support by \$361,400 FED in 2009-10 and \$432,600 FED in 2010-11; (b) reducing Title IV-E support by \$9,058,900 FED in 2009-10 and \$10,600,800 in 2010-11; and (c) reducing the Social Services Block Grant by \$26,100 FED in 2009-10 and \$53,900 FED in 2010-11. Finally, reduce funding to reflect an adjustment in the timing of payments to the counties, resulting in a one-time savings without reducing the county funding levels (-\$18,500,000 GPR in 2009-10).

Beginning with the calendar year 2010 contracts, DCF would make a payment to counties of 25% of their children and family aids allocation on January 1 and make a second payment of

75% of their children and family aids allocation on July 1. This would result in a one-time savings of \$18,500,000 in state fiscal year 2009-10 (approximately 25% of the contract allocation). Under the current contracts, counties receive advance payments in January, February, and March, and are then reimbursed for actual expenditures made, such that approximately 50% of the contract allocation is paid during the first six months of the calendar year, and 50% is paid during the second half of the calendar year.

A similar payment delay would be made, beginning with the calendar year 2010 contracts, with community aids payments in DHS.

Joint Finance/Legislature: Provide \$4,817,100 GPR in 2009-10 and \$710,400 GPR in 2010-11 for children and family aids to reflect: (a) additional funds to partially offset the loss of federal funds (\$710,400 GPR annually); and (b) more recent estimates of the amount of funding available for a payment delay in DCF (\$4,106,700 GPR in 2009-10). A corresponding decrease of \$4,106,700 GPR in 2009-10 from community aids in DHS reflects that more funding is available in DHS, rather than DCF, for the payment delay. The amount of the one-time savings due to the payment delay in DCF would total \$14,393,300 in 2009-10, rather than \$18,500,000 under AB 75.

[Act 28 Section: 989s]

5. FEDERAL ECONOMIC STIMULUS FOSTER CARE AND ADOPTION ASSISTANCE FUNDS [LFB Paper 212]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
FED	\$8,200,000	\$3,261,800	\$11,461,800

Governor: Provide \$5,500,000 in 2009-10 and \$2,700,000 in 2010-11 to reflect federal economic stimulus funds the state would receive for foster care and adoption assistance. Create an appropriation that would receive these funds and specify that the funds would be used for their intended purposes. The administration indicates that this funding would be allocated to counties for services related to children and families to partially offset the reduction in children and family aids and the incentive program funded with excess Title IV-E funds.

The American Recovery and Reinvestment Act of 2009 (ARRA) increased the federal medical assistance percentage (FMAP), which is the federal share of medical assistance and other programs, by 6.2% for the period October 1, 2008, through December 31, 2010. Without applying the ARRA FMAP increase, Wisconsin's FMAP rate is approximately 59%.

Under current law, the state may be reimbursed for costs related to certain child welfare activities under Title IV-E of the Social Security Act. Maintenance payments intended to cover the costs of food, shelter, clothing, daily supervision, child care, school supplies, general incidentals, liability insurance for the child, and reasonable travel to the child's home for visits are reimbursed at the state's FMAP rate for eligible children. In addition, adoption assistance

payments to assist in the cost of care of a child are eligible for reimbursement at the state's FMAP rate for eligible children.

The ARRA allows eligible expenses under Title IV-E for foster care and adoption assistance to be matched at the higher FMAP rate. As a result, the administration estimates that the state would receive \$5,500,000 FED in 2009-10 and \$2,700,000 FED in 2010-11 for the 27-month period at that higher rate.

Joint Finance/Legislature: Provide \$1,011,800 in 2009-10 and \$2,250,000 in 2010-11 to reflect more recent estimates of the additional funds provided under the federal ARRA for the increase in the FMAP from October 1, 2008, through December 31, 2010.

[Act 28 Section: 510]

6. GRADUATED FOSTER CARE LICENSING SYSTEM [LFB Paper 214]

	Governor (Chg. to Base)		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	-\$11,617,500	0.79	\$6,475,700	0.00	-\$5,141,800	0.79
FED	<u>13,367,500</u>	<u>0.21</u>	<u>-6,475,700</u>	<u>0.00</u>	<u>6,891,800</u>	<u>0.21</u>
Total	\$1,750,000	1.00	\$0	0.00	\$1,750,000	1.00

Governor: Provide \$880,000 (\$695,200 GPR and \$184,800 FED) in 2009-10, \$870,000 (-\$12,312,700 GPR and \$13,182,700 FED) in 2010-11, and 0.79 GPR position and 0.21 FED position, beginning in 2009-10, to create and implement a graduated foster care licensing system.

Foster Care Policy Position. Provide \$47,400 GPR and \$12,600 FED in 2009-10, \$63,200 GPR and \$16,800 FED in 2010-11, and 0.79 GPR position and 0.21 FED position, beginning in 2009-10, to fund a foster care policy position to develop level-of-care policies and procedures, modify administrative rules, and coordinate technical assistance to child welfare agencies.

Regional Foster Care Coordinators. Provide \$252,800 GPR and \$67,200 FED in 2009-10 and \$505,600 GPR and \$134,400 FED in 2010-11 to contract for nine regional foster care coordinators, beginning January 1, 2010, who would provide technical assistance to licensing agencies and monitor provider licensing to ensure consistency with the new licensing rules. Of these coordinators, five would be based in each of the five DCF administrative regions, three would be based in Milwaukee County, and one supervisor would work with the child welfare licensing section in the Department's Division of Safety and Performance.

eWISACWIS. Provide \$197,500 GPR and \$52,500 FED in 2009-10 on a one-time basis to modify the electronic statewide child welfare information system to accommodate the necessary changes for the new graduated foster care licensing system, including: (a) providing support for the formal placement needs assessments for children; (b) setting the level-of-care levels for providers; (c) reflecting the appropriate information on the provider license; (d) tracking

provider training and experience; and (e) modifying the rate setting functionality.

Consulting Contract. Provide \$197,500 GPR and \$52,500 FED in 2009-10 and \$118,500 GPR and \$31,500 FED in 2010-11 to contract with a consultant to help DCF establish the formal assessment process and develop education materials regarding the level-of-care approach. The consultant would assist DCF in the selection of assessment tools, develop training for licensing agency staff on how to use the tools, and provide education materials to explain the system to kinship care providers and foster parents.

Title IV-E Reimbursement for Kinship Care. Reduce funding by \$13,000,000 GPR and increase funding by \$13,000,000 FED in 2010-11 to reflect additional Title IV-E funds. Under the graduated foster care licensing system, court-ordered kinship care providers would be licensed under the provisions described below. Out-of-home care costs may not be reimbursed under Title IV-E unless the child is placed in a licensed out-of-home care placement. Under current law, kinship care providers are not licensed and, therefore, not entitled to reimbursement under Title IV-E. The licensing of court-ordered kinship providers under this provision would allow reimbursement under Title IV-E. The new system would not take effect until January 1, 2010. The bill would assume no new IV-E reimbursements until 2010-11.

Licensing System. Require DCF, the Department of Corrections (DOC), or a county department of human/social services, beginning January 1, 2010, to reimburse a person who is licensed, or considered to be licensed, to operate a foster home at the appropriate rate determined by the Department or county department under rules promulgated by DCF. A person would be considered to be licensed if: (a) that person is licensed to operate a treatment foster home on December 31, 2009, for the remainder of the term of the treatment foster home license; or (b) that person is receiving kinship care or long-term kinship care payments on December 31, 2009, for the care and maintenance of a child, and is not ineligible for a license to operate a foster home, until the time the next review of the child's placement would take place.

Under current law, foster care licensing regulations are divided into two separate licensing standards: (a) foster home care; and (b) treatment foster home care. In addition, relative caregivers under kinship care and long-term kinship care are not typically licensed. The bill would eliminate these standards and create a new system that would license all three of these categories as foster homes, based on graduated levels of care.

Rules. Require DCF to promulgate rules related to foster homes that address the following:

a. Levels of care that a foster home would be licensed to provide. The levels of care would have to be based on the level of knowledge, skill, training, experience, and other qualifications required of the licensee, the level of responsibilities expected of the licensee, the needs of the children placed with the licensee, and any other requirements relating to the ability of the licensee to provide for those needs that DCF promulgates by rule.

b. Standardized assessment tools that would be used to assess the needs of a child placed, or to be placed, outside the home, determine the level of care required to meet those

needs, and place the child in a placement that meets those needs. A foster home licensed to provide a given level of care under the rules could provide foster care for any child whose needs would be assessed at or below the level of care that the foster home would be licensed to provide.

c. Monthly rates of reimbursement for foster care commensurate with the level of care that the foster home would be licensed to provide and the needs of the child placed in the foster home. The rates would have to include rates for supplemental payments for special needs, exceptional circumstances, and initial clothing allowances for children placed in a foster home.

d. Monthly retainer fees for foster homes that agree to maintain openings for emergency placements.

Require DCF to submit the rules in proposed form to the Legislative Council staff no later than the first day of the third month beginning after the bill's general effective date. Authorize DCF to promulgate emergency rules until the permanent rules take effect without being required to provide evidence that the emergency rule would be necessary for the preservation of the public peace, health, safety, or welfare or to provide a finding of emergency.

Miscellaneous Provisions. Require county departments or DCF to conduct a criminal history and child abuse record search for recipients of subsidized guardianship payments. Authorize a county department or DCF to refuse subsidized guardianship payments if the proposed recipient has been determined ineligible based on the criminal history and child abuse record search. Under current law, this requirement applies to foster homes and treatment foster homes, while subsidized guardianship recipients undergo a background investigation to determine whether the individual has any arrests or convictions likely to adversely affect the child or ability to care for the child. This provision would specify uniform language and treatment for subsidized guardianships and foster homes.

Modify current law to authorize family-operated group home parents, along with foster parents, to submit an insurance claim for bodily or property damage to the state Claims Board for the portion of the claim not paid out of the foster home and family-operated group home parent insurance and liability appropriation.

Joint Finance: Provide \$6,475,700 GPR in 2010-11 and reduce funding by \$6,475,700 FED in 2010-11 to reflect more recent estimates of the Title IV-E reimbursement for the licensing of kinship care providers and the corresponding GPR savings.

Require DCF to promulgate rules that provide a mechanism for equalizing the amount of reimbursement received by a foster parent so as to reduce the amount of any reimbursement that may be lost as a result of implementation of the rules related to the graduated foster care licensing system as compared to the amount of reimbursement received prior to implementation of those rules.

Require DCF to submit a detailed plan for the implementation of the rules related to the graduated foster care licensing system and the equalization mechanism to the Joint Committee

on Finance by December 1, 2009, under a 14-day passive review process.

Require DCF to evaluate the graduated foster care licensing system implemented under rules promulgated by DCF with respect to: (a) cost-effectiveness; (b) consistency in placing children in foster homes that provide an appropriate level of care for those children; (c) outcomes for children placed in foster homes; and (d) the increase or decrease in the availability of foster homes at each level of care. Specify that DCF must report its findings, conclusions, and recommendations to the Governor and to the Joint Committee on Finance by February 1, 2011.

Finally, prohibit DCF from promulgating rules related to the graduated foster care licensing system as emergency rules.

Conference Committee/Legislature: Modify the requirement that DCF create a new foster care licensing system that would license foster home care, treatment foster home care, kinship care, and long-term kinship care as foster homes, based on graduated levels of care, as follows:

Effective Date. Require the DCF Secretary to send a notice to the Legislative Reference Bureau (LRB) for publication in the Wisconsin Administrative Register that states the date on which the provisions relating to the graduated foster care licensing system would become effective, as soon as DCF is ready to implement the rules promulgated regarding the graduated foster care licensing system.

Modify the definition of "a person considered to be licensed" such that the date on which a person is licensed or receiving kinship care or long-term kinship care payments to qualify as "considered to be licensed" is the date specified in the notice sent to the LRB, rather than December 31, 2009.

Finally, require DCF, DOC, or a county department of human/social services to reimburse a person who is licensed, or considered to be licensed, to operate a foster home at the appropriate rate determined by the Department or county department under rules promulgated by DCF, beginning on the date specified in the notice sent to the LRB, rather than January 1, 2010.

Restore Kinship Care and Treatment Foster Care. Restore the kinship care program and the definition of and references to treatment foster care to allow DCF to continue to make payments to kinship care and treatment foster home providers under current law until the new graduated foster care licensing system is implemented.

Subsidized Guardianship. Remove the provisions that would have specified uniform language and treatment for subsidized guardianships and foster homes regarding a criminal history and child abuse record search. Instead, maintain current law, which requires a background investigation for subsidized guardianship recipients to determine whether the individual has any arrests or convictions likely to adversely affect the child or ability to care for the child.

Veto by Governor [B-4]: Delete the provision to prohibit DCF from promulgating rules as emergency rules. Instead, DCF would be able to promulgate rules under current state law procedures, which allow DCF to promulgate emergency rules if DCF provides evidence that promulgating an emergency rule would be necessary for the preservation of the public peace, health, safety, or welfare, or provides a finding of emergency.

In addition, delete the provision that would have required DCF to submit a detailed plan for the implementation of the rules related to the graduated foster care licensing system and the equalization mechanism to the Joint Committee on Finance by December 1, 2009, under a 14-day passive review process.

[Act 28 Sections: 316, 471, 472, 474, 480, 834, 835, 839, 900, 902, 910, 913 thru 970, 971 thru 978, 980 thru 983, 985 thru 989, 990 thru 994, 1003 thru 1013, 1015, 1018 thru 1051, 1058 thru 1061, 1062b thru 1066, 1068 thru 1070, 1072d, 1074d, 1076, 1078d, 1080d thru 1084, 1086 thru 1096, 1099, 1101, 1128, 1130, 1139, 1192, 1205, 1206, 1242b, 1251 thru 1256, 1271, 1273, 1276g thru 1277, 1278g, 1279, 1287 thru 1289, 1318, 1320, 1334, 1383, 1384, 1451, 1452, 1454, 1455, 1458, 1459, 2169, 2173, 2306 thru 2308, 2432, 2451, 2531, 2543, 2670, 2671, 2676, 2678 thru 2680, 2692, 2917, 3141 thru 3145, 3209, 3221, 3227, 3273 thru 3280, 3287 thru 3313, 3316 thru 3334, 3336 thru 3339, 3340 thru 3349, 3352, 3353, 3359, 3387, 9108(2)(a), 9108(3), and 9408(6)]

[Act 28 Vetoed Sections: 9108(3)(b)&(cm)]

7. CHILD WELFARE PROVIDER RATE REGULATION [LFB Paper 215]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	-\$1,528,300	\$646,400	-\$881,900
FED	52,500	-219,100	-166,600
Total	-\$1,475,800	\$427,300	-\$1,048,500

Governor: Reduce funding by \$416,100 (-\$447,600 GPR and \$31,500 FED) in 2009-10 and \$1,059,700 (-\$1,080,700 GPR and \$21,000 FED) in 2010-11 to reflect the implementation of a policy to regulate the rates charged by child welfare providers.

The bill would provide \$150,000 (\$118,500 GPR and \$31,500 FED) in 2009-10 and \$100,000 (\$79,000 GPR and \$21,000 FED) in 2010-11 to commission an actuarial study to review provider rates during calendar year 2010 and implement rate regulation, beginning in calendar year 2011. The study would be used to establish parameters for providers to document costs and establish benchmarks for different levels of care. Federal funds are from Title IV-E. Funding reductions of \$566,100 GPR in 2009-10 and \$1,159,700 GPR in 2010-11 are estimates of savings generated for out-of-home care costs in the Bureau of Milwaukee Child Welfare from regulating rates for child welfare agencies, residential care centers, and group homes.

Regulation of rates would occur in three phases. Phase I would require child welfare agencies to establish a per client administrative rate, similar to the requirement of residential care centers and group homes to establish a per client rate under current law. Phase II would

freeze rates at the December 31, 2009, level. The final phase would require DCF to establish rates for child welfare agencies, residential care centers, and group homes based on procedures described below.

Phase I

Agencies Establish Rates. Effective on the day after publication of the bill, require child welfare agencies to establish a per client administrative rate for the administrative portion of their treatment foster care services and charge all purchasers the same administrative rate for the same treatment foster care services. Specify that: (a) "administrative rate" would mean the difference between the rate charged by a child welfare agency to a purchaser of treatment foster care services and the rate paid by the child welfare agency to a treatment foster parent for the care and maintenance of a child; and (b) "child welfare agency" would mean a child welfare agency that is authorized to license treatment foster homes. Under current law, residential care centers and group homes are required to establish a per client rate and are required to charge all purchasers the same rate. In addition, expand the definition of "group home" to include all group homes licensed by DCF, including group homes that are not incorporated, as well as group homes that are incorporated. Under current law, only those group homes that are incorporated must establish a per client rate.

Delete the requirement for child welfare agencies to establish a per client administrative rate and for residential care centers and group homes to establish a per client rate, beginning January 1, 2011.

Negotiation of Rates. Authorize DCF, a county department of human/social services, a group of county departments, or DCF and one or more county departments to negotiate for a per client administrative rate for the administrative portion of treatment foster care services with these child welfare agencies if DCF, a county department, a group of county departments, or DCF and one or more county departments agrees to place 75% or more of the residents of that child welfare agency during the period that the rate is in effect. A child welfare agency that negotiates such a rate would have to charge all purchasers of its treatment foster care services the same administrative rate for the same treatment foster care services purchased. Under current law, DCF, a county department, a group of county departments, or DCF and one or more county departments may negotiate with residential care centers and group homes for a per client rate for services if 75% or more of the residents are placed by DCF, a county department, a group of county departments, or DCF and one or more county departments, and that negotiated rate must be charged to all purchasers of the same services.

Delete the new authority to negotiate per client administrative rates with child welfare agencies and per client rates with residential care centers and group homes, beginning January 1, 2011.

Phase 2

Freeze Rates in 2010. Require a child welfare agency to charge the same per client administrative rate for the administrative portion of its treatment foster care services in calendar

year 2010 as it charged for the administrative portion of those services on December 31, 2009. Require residential care centers and group homes to charge the same per client rate for their services in calendar year 2010 as they charged for those services on December 31, 2009. For contracts that are in effect on December 31, 2009, and that contain provisions that are inconsistent with freezing the rates, the rate freeze would first apply on the day on which the contract expires or is extended, modified, or renewed, whichever occurs first.

Phase 3

Require DCF to Establish Rates. Require DCF to establish the per client rate, for services provided beginning on January 1, 2011, that a residential care center or group home may charge for its services and the per client administrative rate that a child welfare agency may charge for the administrative portion of its treatment foster care services following the procedure to review proposed rates. Specify that residential care centers and group homes must charge all purchasers the same rate for the same services and that child welfare agencies must charge all purchasers the same administrative rate for the same treatment foster care services. Require DCF to establish rates for Type 2 juvenile correctional facilities, Type 2 residential care centers, and other less restrictive placements for juveniles in consultation with DOC.

For contracts in effect on December 31, 2010, and that contain provisions inconsistent with DCF establishing rates, this provision would first apply on the day the contract expires or is extended, modified, or renewed, whichever occurs first.

Proposed Rates. Require child welfare agencies to submit by October 1 annually, beginning October 1, 2010, to DCF the per client administrative rate that they propose to charge for treatment foster care services provided in the following year. Require child welfare agencies to use forms and instructions for submitting these rates that are provided by DCF.

Require residential care centers and group homes to submit by October 1 annually, beginning October 1, 2010, to DCF the per client rate that they propose to charge for services provided in the following year. Under current law, residential care centers and group homes are required to submit to DCF the rates they charge and any change in that rate before a charge is made to any purchaser, and those rates and proposed rate changes must be submitted using forms and instructions provided by DCF.

Review of Proposed Rates. Require DCF to review a proposed rate submitted annually and to audit the residential care center, group home, or child welfare agency to determine whether the proposed rate is appropriate to the level of services to be provided, the qualifications of the residential care center, group home, or child welfare agency to provide those services, and the reasonable and necessary costs of providing those services. Specify that DCF must consider all of the following factors: (a) changes in the consumer price index for all urban consumers, U.S. city average, as determined by the U.S. Department of Labor, for the 12 months ending on June 30 of the year in which the proposed rate is submitted; (b) changes in the allowable costs of the residential care center, group home, or child welfare agency based on current actual cost data or documented projection of costs; (c) changes in program utilization that affect the per client rate

or per client administrative rate; (d) changes in DCF's expectations relating to service delivery; (e) changes in service delivery proposed by the residential care center, group home, or child welfare agency and agreed to by DCF; (f) the loss of any source of revenue that had been used to pay expenses, resulting in a lower per client rate or per client administrative rate for services; (g) changes in any state or federal laws, rules, or regulations that result in any change in the cost of providing services, including any changes in the minimum wage; (h) competitive factors; (i) the availability of funding to pay for the services to be provided under the proposed rate; and (j) any other factor relevant to the setting of a rate that DCF may determine by rule.

Specify that if DCF determines that a rate is appropriate, then DCF must approve the proposed rate. Require DCF to negotiate with the residential care center, group home, or child welfare agency to determine an agreed to rate if DCF does not approve the proposed rate. Require DCF and the residential care center, group home, or child welfare agency to engage in mediation under the rate resolution procedure to arrive at an agreed to rate if negotiations fail. Specify that the residential care center, group home, or child welfare agency would not be allowed to provide services for which the rate was proposed if mediation fails.

Miscellaneous Provisions

Audit. Authorize DCF to require an audit of a child welfare agency for the purpose of collecting federal funds. Under current law, DCF may require a similar audit of any residential care center and group home.

Rules. Require DCF to promulgate rules regarding the implementation of these procedures, including: (a) standards for determining whether a proposed rate is appropriate to the level of services to be provided, the qualifications of a residential care center, group home, or child welfare agency to provide those services, and the reasonable and necessary costs of providing those services; (b) factors for DCF to consider in reviewing a proposed rate; and (c) procedures for reviewing proposed rates, including rate resolution procedures for mediating an agreed to rate when negotiations fail to produce an agreed to rate.

Specify that DCF must submit in proposed form these rules to the Legislative Council staff no later than the first day of the seventh month beginning after the bill's general effective date. Authorize DCF to promulgate emergency rules before the effective date of permanent rules without having to provide evidence that promulgating an emergency rule would be necessary for the preservation of the public peace, health, safety, or welfare or to provide a finding of emergency.

Joint Finance/Legislature: Provide \$56,500 (\$142,800 GPR and -\$86,300 FED) in 2009-10 and \$370,800 (\$503,600 GPR and -\$132,800 FED) in 2010-11 to reflect more recent estimates of the savings that would be generated from regulating the rates of certain child welfare providers.

In addition, require the Joint Legislative Council to study the implementation of the rate regulation system, including alternative methods of reducing the cost of out-of-home care placements for children. Specify that the Joint Legislative Council must report its findings, conclusions, and recommendations to the Joint Committee on Finance by December 31, 2009.

Finally, prohibit DCF from promulgating rules for child welfare provider rate regulation as emergency rules.

Veto by Governor [B-3]: Delete the provision to prohibit DCF from promulgating rules as emergency rules. Instead, DCF would be able to promulgate rules under current state law procedures, which allow DCF to promulgate emergency rules if DCF provides evidence that promulgating an emergency rule would be necessary for the preservation of the public peace, health, safety, or welfare, or provides a finding of emergency.

[Act 28 Sections: 1274 thru 1286, 3314, 3315, 9108(2), 9308(3), and 9408(5)]

[Act 28 Vetoed Section: 9108(2)(b)]

8. CHILD WELFARE ALTERNATIVE RESPONSE PILOT PROGRAM [LFB Paper 216]

GPR	\$325,000
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Governor: Provide \$200,000 in 2009-10 and \$125,000 in 2010-11 to implement a pilot program that authorizes participating county departments of human/social services to utilize alternative responses to reports of suspected or threatened child abuse or neglect. Funding would support: (a) the development and implementation of an alternative response training course (\$75,000 in 2009-10); and (b) technical assistance for county departments to dedicate local staff time to implement the program and to purchase consultation services to support implementation (\$125,000 annually). It is anticipated that five counties would participate in 2009-10, and 12 counties would participate in 2010-11.

Require DCF to do all of the following:

a. Select the county departments to participate in the pilot program in accordance with DCF's request for proposals and other criteria developed by DCF, including an assessment of a county department's plan for involving the community in providing services for a family participating in the pilot program and a determination of whether a county department has an agreement with local law enforcement agencies and a representative of the public to ensure interagency cooperation in implementing the pilot program.

b. Establish guidelines for determining appropriate alternative responses to a report of abuse or neglect or of threatened abuse or neglect, including guidelines for determining what types of abuse or neglect or threatened abuse or neglect constitute substantial abuse or neglect. "Substantial abuse or neglect" would mean severe abuse or neglect or a threat of severe abuse or neglect and a significant threat to the safety of a child and his or her family. DCF would not be required to promulgate the guidelines as rules.

c. Provide training and technical assistance for a county department selected to participate in the pilot program.

d. Conduct an evaluation of the pilot program and submit the evaluation report by

July 1, 2012, to the Governor and to the appropriate standing committees of the Legislature. The evaluation would have to assess the issues encountered in implementing the pilot program and the overall operations of the pilot program, include specific measurements of the effectiveness of the pilot program, and make recommendations to improve that effectiveness. Specific measurements would have to include: (a) the turnover rate of the county department caseworkers providing services under the pilot program; (b) the number of families referred for each type of response; (c) the number of families that accepted, and the number of families that declined to accept, services offered under the pilot program; (d) the effectiveness of the evaluation done by county departments in determining the appropriate response under the pilot program; (e) the impact of the pilot program on the number of out-of-home placements of children by the county departments participating in the pilot program; and (f) the availability of services to address the issues of child and family safety, risk of subsequent abuse or neglect, and family strengths and needs in the communities served under the pilot project.

Require county departments selected to participate in the pilot program to evaluate a report of abuse or neglect or threat of abuse or neglect, immediately after receiving the report, to determine the most appropriate alternative response from the following:

a. If the county department determines that there is reason to suspect that substantial abuse or neglect has occurred or is likely to occur or that an investigation is otherwise necessary to ensure the safety of the child and his or her family, the county department would have to investigate the report. If in conducting that investigation, the county determines that it is not necessary for the safety of the child and his or her family to complete the investigation, the county department would be allowed to terminate the investigation and conduct an assessment. If the county department terminates an investigation, the county department would have to document the reasons for terminating the investigation and notify any law enforcement agency that is cooperating in the investigation.

b. If the county department determines that there is reason to suspect that abuse or neglect, other than substantial abuse or neglect, has occurred or is likely to occur, but that, under the guidelines developed by DCF, there is no immediate threat to the safety of the child and his or her family and court intervention is not necessary, the county department would have to conduct a comprehensive assessment of the safety of the child and his or her family, the risk of subsequent abuse or neglect, and the strengths and needs of the child's family to determine whether services are needed to address those issues assessed and, based on the assessment, would have to offer to provide appropriate services to the child's family on a voluntary basis or refer the child's family to a service provider in the community for provision of those services.

If the county department employs the assessment response, the county department would not be required to refer the report to the sheriff or police department, determine by a preponderance of the evidence that abuse or neglect has occurred or is likely to occur, or determine that a specific person has abused or neglected the child. If, in conducting the assessment, the county department determines that there is reason to suspect that substantial abuse or neglect has occurred or is likely to occur or that an investigation is otherwise necessary

to ensure the safety of the child and his or her family, the county department would have to immediately begin an investigation.

c. If the county department determines that there is no reason to suspect that abuse or neglect has occurred or is likely to occur, the county department would have to refer the child's family to a service provider in the community for the provision of appropriate services on a voluntary basis. If the county department employs the community services response, the county department would not be required to conduct an assessment, refer the report to the sheriff or police department, determine by a preponderance of evidence that abuse or neglect has occurred or is likely to occur, or determine that a specific person has abused or neglected the child.

Exclude county departments participating in the pilot program from the following requirements of current law: (a) referring all cases of suspected or threatened abuse to the sheriff or police department within 12 hours, exclusive of Saturdays, Sundays, or legal holidays; and (b) initiating a diligent investigation to determine if a child is need of protection or services within 24 hours after receiving a report when the county department determines that a caregiver is suspected of abuse or neglect or of threatened abuse or neglect of the child, determines that a caregiver is suspected of facilitating or failing to take action to prevent the suspected or threatened abuse or neglect of the child, or cannot determine who abused or neglected the child. Instead, the county department participating in the pilot program would follow the procedures listed above.

This provision is intended to focus on responses to low-risk families by providing services in a less adversarial environment in order to prevent future abuse or neglect.

Joint Finance/Legislature: Modify the child welfare alternative response pilot program to limit the pilot to five counties. Require DCF to select an agency in Milwaukee and four other county departments to participate in the pilot program.

Include the following specific measurements in the evaluation conducted by DCF of the pilot program: (a) the rate at which children referred for each type of response are subsequently the subjects of reports of suspected or threatened abuse or neglect; (b) the satisfaction of families referred for each type of response with the process used to respond to the referral; and (c) the cost-effectiveness of responding to reports of suspected or threatened abuse or neglect in the manner provided under the pilot program.

[Act 28 Sections: 1097, 1098, and 1100]

9. FOSTER CARE, ADOPTION ASSISTANCE, AND SUBSIDIZED GUARDIANSHIP
[LFB Paper 217]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	-\$2,084,600	\$1,942,500	- \$142,100
FED	<u>2,051,300</u>	<u>1,407,900</u>	<u>3,459,200</u>
Total	-\$33,300	\$3,350,400	\$3,317,100

Governor: Reduce funding by \$1,536,900 (-\$1,626,400 GPR and \$89,500 FED) in 2009-10 and increase funding by \$1,503,600 (-\$458,200 GPR and \$1,961,800 FED) in 2010-11 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), adoption assistance payments for children with special needs who have been adopted, and for subsidized guardianship payments. (Funding for foster care payments DCF makes on behalf of children with special needs in Milwaukee County is budgeted as part of the budget for BMCW.) Some of these costs are reimbursed at the state's MA rate (currently approximately 59%). The increase in federal funds in 2010-11 represents an anticipated increase in this rate. Base funding for these programs is \$96,880,500 (\$50,181,800 GPR and \$46,698,700 FED).

Require subsidized guardianship payments in Milwaukee County to be made from the state foster care, guardianship, and adoption services appropriations, rather than from the out-of-home care budget in BMCW, to reflect that subsidized guardianship placements are not technically an out-of-home placement.

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.

In addition, in Milwaukee County, the state makes payments to legal guardians if certain statutory criteria are met. Foster care payments terminate when a child is placed with a legal guardian, and subsidized guardianship payments are an effort to encourage permanence for a child by continuing assistance to the licensed foster care parent after the foster parent is appointed as a legal guardian for the child.

Joint Finance/Legislature: Increase funding by \$1,249,000 (\$762,300 GPR and \$486,700 FED) in 2009-10 and \$2,101,400 (\$1,180,200 GPR and \$921,200 FED) in 2010-11 to reflect more current estimates of state costs for foster care, adoption assistance, and subsidized guardianship payments in the 2009-11 biennium based on more recent expenditure information.

[Act 28 Sections: 473, 479, 984, and 1017]

10. FOSTER CARE RATES [LFB Paper 218]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$1,827,900	-\$1,061,700	\$766,200
FED	<u>646,900</u>	<u>- 463,600</u>	<u>183,300</u>
Total	\$2,474,800	-\$1,525,300	\$949,500

Governor: Provide \$642,500 (\$474,600 GPR and \$167,900 FED) in 2009-10 and \$1,832,300 (\$1,353,300 GPR and \$479,000 FED) in 2010-11 to fund a 5% increase in the uniform foster care rates, effective January 1, 2010, an additional 5% increase in the uniform foster care rates, effective January 1, 2011, and a 50% increase in the one-time clothing allowance paid to foster families.

Specify foster care rates for care and maintenance provided by a relative and for care and maintenance provided by a nonrelative. Monthly foster care rates for care and maintenance provided by a relative of a child of any age would be \$215. Foster care rates for a nonrelative would vary based on the age of the child. Require DCF to provide supplemental payments for foster care that are commensurate with the level of care that the foster home is licensed to provide and the needs of the child who is placed in the foster home.

Under current law, if a child is placed with a relative, other than a parent, the relative may qualify for a monthly kinship care payment of \$215. The bill would show this monthly payment of \$215 as a foster care rate for care and maintenance provided by a relative. In addition, counties and DCF 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. Finally, a county or DCF may provide a clothing allowance when the child is initially placed in out-of-home care. The basic foster care rates under current law and under this item for a nonrelative are shown in the following table.

Basic Monthly Maintenance Payments for Nonrelatives

<u>Age</u>	<u>Current Law</u>	<u>Governor's Recommendation</u>	
		<u>CY 2010</u>	<u>CY 2011</u>
0 thru 4	\$349	\$366	\$384
5 thru 11	381	400	420
12 thru 14	433	455	478
15 and Over	452	475	499

Joint Finance: Reduce funding by \$596,900 (-\$440,900 GPR and -\$156,000 FED) in 2009-10 and by \$928,400 (-\$620,800 GPR and -\$307,600 FED) in 2010-11 to reflect the following: (a) a 2.5% increase in the basic monthly foster care rates for relatives, beginning January 1, 2011 (\$276,600 GPR and \$9,800 FED in 2010-11); (b) a 5% increase in basic monthly foster care rates

for nonrelatives, beginning January 1, 2011 (-\$384,900 GPR and -\$136,300 FED in 2009-10 and -\$785,200 GPR and -\$278,200 FED in 2010-11); and (c) more recent estimates of a 50% increase in the clothing allowance, beginning January 1, 2010 (-\$56,000 GPR and -\$19,700 FED in 2009-10 and -\$112,200 GPR and -\$39,200 FED in 2010-11).

As a result, the basic monthly foster care rate for relatives would be \$215 until December 31, 2010. Beginning January 1, 2011, this rate would increase to \$220. The basic monthly foster care rates for nonrelatives would remain the same as current law until December 31, 2010. Beginning January 1, 2011, these rates would increase as follows: (a) \$366 for children up to age five; (b) \$400 for children between the ages of five and 11; (c) \$455 for children between the ages of 12 and 14; and (d) \$475 for children ages 15 and older. Finally, beginning January 1, 2010, the maximum clothing allowance would be: (a) \$225 for children up to age five; (b) \$263 for children between the ages of five and 11; and (c) \$300 for children ages 12 and older.

Conference Committee/Legislature: Limit any supplemental payments to basic monthly foster care rates paid to nonrelatives who receive age-related monthly rates.

[Act 28 Sections: 1014d, 1067, 1085, 1202, and 9408(8)]

11. CHILD ABUSE AND NEGLECT PREVENTION PROGRAM

Governor: Make the following modifications to the child abuse and neglect prevention program, which includes the home visiting program:

Poor Birth Outcomes. Expand the child abuse and neglect prevention program to include the prevention of poor birth outcomes. Prevention of poor birth outcomes would be incorporated into definitions, the application process for a grant, the assessment process for participants, services provided, and evaluation of each grantee's program. Under current law, the child abuse and neglect prevention program provides grants for the prevention of child abuse or neglect.

Eliminate Restrictions on Grantees. Eliminate restrictions on which counties or Indian tribes would be allowed to receive grants under the child abuse and neglect prevention program. As a result, the following would be eliminated: (a) the definitions of "rural county" and "urban county;" (b) the distinction between Milwaukee county and other counties; and (c) the cap of six rural counties, three urban counties, and two Indian tribes that are eligible to receive a grant.

Home Visiting Services. Modify the program to specify that a county or Indian tribe selected to receive a grant must: (a) offer all pregnant women in the county or the reservation of the Indian tribe who are eligible for medial assistance an opportunity to undergo an assessment for home visiting services; (b) begin home visiting services during the prenatal period; and (c) allow continuation of home visiting services until the child reaches three years of age, regardless of whether the child continues to be eligible for MA, if the family has been receiving home visitation services continuously for not less than 12 months. Under current law, services are only offered to first-time parents; begin during the prenatal period, if possible, or as

close to the time of the child's birth as possible; and are provided to a family with a child identified as being at risk of child abuse or neglect until the identified child reaches three years of age.

Flexible Funding. Modify the amount of flexible funding that a county or Indian tribe may provide to a family in their home visiting program or intervention program to be at least \$250 per calendar year. Under current law, flexible funds for home visitation programs may not exceed \$1,000 per family per calendar year, and flexible funds for intervention programs may not exceed \$500 per family per year. There are no minimum amounts. Examples of flexible fund expenditures for home visiting programs include equipment and supplies for infants, such as cribs and car seats, and for intervention programs include payments for car repairs and security deposits.

New County and Tribal Requirements. Require counties or Indian tribes receiving a child abuse and neglect prevention grant to provide a match of at least 25% of the grant money annually, either in funds or in-kind contributions.

Require counties or Indian tribes to explain how they, in collaboration with local prenatal care coordination providers, would implement strategies aimed at achieving healthy birth outcomes, as determined by performance measures prescribed by DHS.

Require counties or Indian tribes to reinvest a portion of MA reimbursement they receive. Specify that DCF and each county or Indian tribe would have to negotiate the amount of that reinvestment based on the county's or Indian tribe's administrative costs for billing MA for reimbursement for services provided under the home visiting program and the ratio of MA reimbursement received for home visiting services to the amount billed to the MA program for those services.

Eliminate the authority of a county or Indian tribe to permit a person who is not a first-time parent or who is not eligible for MA to participate in the program if that person presents risk factors for perpetrating abuse or neglect.

Permit Milwaukee County to use grant funds to provide case management services.

Grant Amount. Require DCF to determine the amount of a grant awarded to a county or Indian tribe in excess of the \$10,000 minimum amount based on the need of the county or tribe based on a formula promulgated by rule. Specify that the formula would have to determine need based on the number of births that are MA funded in that county or the reservation of that Indian tribe and on the rate of poor birth outcomes, including infant mortality, premature births, low birth weights, and racial or ethnic disproportionality in the rates of those outcomes, in that county or the reservation of that Indian tribe.

Require DCF to submit rules in proposed form to the Legislative Council staff no later than the first day of the seventh month beginning after the bill's general effective date. Authorize DCF to promulgate emergency rules until the permanent rules go into effect without having to provide evidence that the emergency rule is necessary for the preservation of the

public peace, health, safety, or welfare or a finding of an emergency.

Under current law, DCF determines the grant award for each county and Indian tribe selected, in excess of the \$10,000 minimum amount, in proportion to the number of births that are MA funded in all of the selected counties and Indian tribes, but provides Milwaukee County funds in excess of the minimum amount based on 60% of the number of MA funded births in that county in proportion to the number of MA funded births in all of the selected counties and Indian tribes.

Joint Finance/Legislature: Modify the provision to reinstate restrictions on grantees of this program. As a result, the following would remain the same as current law: (a) the definitions of "rural county" and "urban county;" (b) the distinction between Milwaukee County and other counties; and (c) the cap of six rural counties, three urban counties, and two Indian tribes that are eligible to receive a grant. In addition, eliminate the 25% match requirement from grantees.

[Act 28 Sections: 1102 thru 1127, 2547, 2549, 2550, and 9108(6)]

12. KINSHIP CARE REESTIMATE [LFB Paper 223]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
FED	\$1,111,300	\$1,074,100	\$2,185,400

Governor: Increase funding by \$550,100 in 2009-10 and \$561,200 in 2010-11 to reflect full funding of the kinship care program. Federal funding consists of TANF funds and reflects estimates of the amount of funding that will be required to fully fund kinship care benefits (\$541,900 FED in 2009-10 and \$552,200 FED in 2010-11) and assessments (\$8,200 FED in 2009-10 and \$9,000 FED in 2010-11) during the 2009-11 biennium.

This item would increase annual funding for DCF to make kinship care payments to caretakers in Milwaukee County (\$228,800 annually) and for counties to make kinship care benefit payments to caretakers in non-Milwaukee counties (\$313,100 in 2009-10 and \$323,400 in 2010-11). The benefit amounts reflect DCF estimates of the cost of funding projected caseloads during the 2009-11 biennium. The estimates are based on the average number of the following cases from June, 2007, through May, 2008: (a) TANF-funded cases; (b) cases on waiting lists; and (c) county-funded cases.

If a child is placed with a relative, other than a parent, the relative is eligible to receive a kinship care payment of \$215 per month.

Joint Finance/Legislature: Increase funding by \$542,600 in 2009-10 and \$531,500 in 2010-11 to reflect more recent estimates to fully fund kinship care benefits (\$489,100 in 2009-10 and \$478,800 in 2010-11) and assessments (\$53,500 in 2009-10 and \$52,700 in 2010-11).

More recent estimates are based on the average number of the following cases from April, 2008, through March, 2009: (a) Milwaukee County cases; (b) cases in counties other than Milwaukee County; (c) cases on waiting lists; and (d) tribal cases. Annual funding would total \$12,040,200 for kinship care benefits in Milwaukee County, \$10,869,100 for kinship care benefits in counties other than Milwaukee and tribes, \$637,400 for kinship care assessments in Milwaukee County, and \$888,300 for kinship care assessments in counties other than Milwaukee and tribes.

[Act 28 Section: 1245]

13. ELIMINATE DUPLICATIVE PROGRAM REVENUE-SERVICE APPROPRIATIONS

PR	- \$46,684,600
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Governor/Legislature: Delete base level funding of \$23,342,300 annually to reflect the elimination of unnecessary program revenue-service kinship care and long-term kinship care appropriations from the children and family services program. Instead, fund the kinship care program directly from federal TANF revenue in the economic support program.

[Act 28 Sections: 477, 478, 497, 996, and 999]

14. FOSTER PARENT TRAINING [LFB Paper 219]

GPR	\$758,600
FED	348,900
Total	\$1,107,500

Governor: Provide \$402,500 (\$275,700 GPR and \$126,800 FED) in 2009-10 and \$705,000 (\$482,900 GPR and \$222,100 FED) in 2010-11 to require training for foster parents in the care and support needs of children who are placed in foster care. The mandatory training requirements would take effect January 1, 2010.

Require DCF to promulgate rules prescribing the training that is required for foster parents and to monitor compliance with the rules. Require DCF to submit the proposed rules to the Legislative Council staff no later than the first day of the seventh month beginning after the bill's general effective date.

Authorize DCF to implement emergency rules, prior to the permanent rules taking effect, without submitting evidence that the emergency rules are necessary for the preservation of the public peace, health, safety, or welfare or providing a finding of emergency.

Under current law, there is no statewide foster parent training program. Any training is provided by local child welfare agencies, which use a variety of curricula that are not consistent. This provision would establish such a statewide program with specific criteria established by rule and monitoring for compliance with the program.

Joint Finance/Legislature: Prohibit DCF from promulgating rules as emergency rules.

Veto by Governor [B-3]: Delete the provision to prohibit DCF from promulgating rules as emergency rules. Instead, DCF would be able to promulgate rules under current state law

procedures, which allow DCF to promulgate emergency rules if DCF provides evidence that promulgating an emergency rule would be necessary for the preservation of the public peace, health, safety, or welfare, or provides a finding of emergency.

[Act 28 Sections: 1062, 9108(5), and 9408(11)]

[Act 28 Vetoed Section: 9108(5)]

15. FOSTER CARE PUBLIC INFORMATION CAMPAIGN [LFB Paper 453]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
PR	\$311,200	- \$155,600	\$155,600

Governor: Provide \$155,600 annually to conduct public information activities to promote understanding of the foster care program and awareness of the need for foster parents. The revenue to fund this information campaign would be provided from a \$2 increase in the fee for a copy of a birth certificate. Additional information on the birth certificate fee increase can be found under "Health Services -- Public Health."

Joint Finance/Legislature: Reduce funding by \$77,800 annually. Specify that the revenue source to conduct foster care public information activities would be vital records fee revenues in DHS, rather than a \$2 increase in the fee for a copy of a birth certificate. In addition, funds would be provided on a one-time basis in 2009-10 and 2010-11.

[Act 28 Section: 979]

16. PROGRAM ENHANCEMENT PLAN [LFB Paper 220]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$1,376,900	- \$2,000	\$1,374,900
FED	- 1,074,000	- 118,100	- 1,192,100
PR	- 760,800	0	- 760,800
Total	- \$457,900	- \$120,100	- \$578,000

Governor: Reduce funding by \$231,000 (\$686,400 GPR, -\$537,000 FED, and -\$380,400 PR) in 2009-10 and \$226,900 (\$690,500 GPR, -\$537,000 FED, and -\$380,400 PR) in 2010-11 for the Department's child welfare program enhancement plan. Base funding for the plan is \$5,458,300 (\$1,117,200 GPR, \$3,960,700 FED, and \$380,400 PR). Federal funding is available under Title IV-E and Title IV-B. Program revenue funding is from federal TCM funds.

The plan is a comprehensive child welfare program improvement plan to address deficiencies identified in the initial federal child and family services review of Wisconsin. The plan: (a) establishes quality assurance reviews of local child welfare agencies, including

continuous quality improvement (CQI) activities; (b) expands the training system for child welfare staff; and (c) creates a resource center to support foster care and adoption activities. The increase in GPR funds would partially offset the reduction of federal and program revenue.

Joint Finance/Legislature: Reduce funding by \$61,500 (-\$2,000 GPR and -\$59,500 FED) in 2009-10 and by \$58,600 FED in 2010-11 to reflect DCF's reallocation of funding to support the program enhancement plan in order to continue to fund CQI activities and to reflect more recent estimates of federal matching funds under Title IV-E.

17. MILWAUKEE CHILD WELFARE COLLECTIONS REESTIMATE

PR	\$1,820,600
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Governor/Legislature: Provide \$910,300 annually to reflect a reestimate of the revenues from Milwaukee child welfare collections. These collections consist of revenue from child support, SSI, and Social Security Administration survivor and disability payments for children in out-of-home care, which are collected and retained by the state to offset the cost of providing out-of-home care to those children. No specific expenditures are budgeted with the increase in this revenue. These payments are typically used to offset unanticipated out-of-home care costs in Milwaukee County, as well as other unanticipated Milwaukee child welfare activities.

18. COMMUNITY SERVICES BLOCK GRANT [LFB Paper 221]

FED	\$26,822,100
PR	- 14,656,400
Total	\$12,165,700

Joint Finance/Legislature: Provide \$19,493,900 FED and -\$7,328,200 PR in 2009-10 and \$7,328,200 FED and -\$7,328,200 PR in 2010-11 to reflect the following: (a) transfer of \$7,328,200 annually from the interagency and intra-agency aids appropriation in DCF's children and family services program to the federal block grant aids appropriation in DCF's children and family services program to reflect that these funds are federal community services block grant (CSBG) funds, rather than program revenue funds; and (b) the receipt of additional one-time federal stimulus CSBG funds under the ARRA in the amount of \$12,165,700 in 2009-10, which would be eliminated from the program supplements appropriation created for stimulus funds and would, instead, be budgeted directly in DCF.

The federal CSBG program provides states and Indian tribes with funds to lessen poverty in communities. The funds are used to assist the needs of low-income individuals, including the homeless, migrants, and the elderly, and must be used to address: (a) employment; (b) education; (c) better use of available income; (d) housing; (e) nutrition; (f) emergency services; or (g) health. The CSBG Act mandates that states pass through 90% of the funds allocated to eligible entities, and up to 5% can be used by states and Indian tribes for administrative costs.

Under state law, at least 90% of CSBG funds are distributed to community action agencies. Community action programs assist poor persons to: (a) secure and retain employment; (b) improve their education; (c) make better use of available income; (d) obtain and maintain adequate housing and a suitable living environment; (e) secure needed transportation; (f) obtain emergency assistance; (g) participate in community affairs; and (h) use more effectively other

available programs.

The federal ARRA provides additional CSBG funding for states in federal fiscal year 2009. It is estimated that Wisconsin will receive \$12,165,700 in additional CSBG funding. None of the additional funds may be used for administrative expenditures. However, states may reserve 1% for benefits enrollment coordination activities relating to the identification and enrollment of eligible individuals and families in benefit programs. The remaining 99% must be passed through to community action agencies.

19. BRIGHTER FUTURES

Joint Finance: Require DCF to distribute \$55,000 annually to the Gay Straight Alliance for Safe Schools, Inc., from the amounts appropriated for the brighter futures program in counties other than Milwaukee County.

Brighter futures funding is provided to programs to accomplish all of the following: (a) prevent and reduce the incidence of youth violence and other delinquent behavior; (b) prevent and reduce the incidence of youth alcohol and other drug use and abuse; (c) prevent and reduce the incidence of child abuse and neglect; (d) prevent and reduce the incidence of nonmarital pregnancy and increase the use of abstinence as a method of preventing nonmarital pregnancy; and (e) increase adolescent self-sufficiency by encouraging high school graduation, vocational preparedness, improved social and other interpersonal skills and responsible decision making.

Senate: Delete provision.

Conference Committee/Legislature: Require DCF to distribute \$55,000 annually to Diverse & Resilient, Inc. (rather than to the Gay Straight Alliance for Safe Schools, Inc.) from the amounts appropriated for the Brighter Futures program. Specify that one-half of the grant (\$27,500) would be from the amount allocated for Milwaukee County, and one-half would be from the amount allocated for counties other than Milwaukee County.

[Act 28 Section: 989f]

20. NOTICE TO RELATIVES

Joint Finance/Legislature: Require notice to relatives when a child is taken into custody and disclosure of information to relatives for the purpose of facilitating a relationship or placement.

Specify that if present at a hearing for a child in custody, a parent must provide the names and other identifying information of three relatives or family friends who are at least 18 years of age whom the court could consider as placements for the child. Require county departments of human/social services, or DCF in Milwaukee County, to make a reasonable effort to provide each parent with the opportunity to provide this information if the parent does not provide this information at the hearing.

Require the court at a hearing for a child in custody to order a county department, or DCF in Milwaukee County, to conduct a diligent search in order to locate and provide notice to any adult relative of the child and any individual who is an adult and who is recommended by the child's parent as a placement option within 30 days after the date of the hearing unless the child is returned to his or her home within that time period. Specify that a county department or DCF may not provide notice to a relative or other individual if the county department or DCF has reason to believe that it would be dangerous to the child or to the parent if the child were placed with that individual. Define "adult relative" to mean a child's grandparent, great-grandparent, aunt, uncle, or sibling, whether by blood, marriage, or legal adoption, who is at least 18 years of age.

Require the notice to include all of the following: (a) a statement that the child has been removed from the custody of the child's parent; (b) a statement that the child may need a temporary or permanent placement outside of his or her home and an explanation of how the individual may request having the child placed with him or her; (c) an explanation of the programs and services that may be available to the individual if the child is placed with him or her including foster care payments, kinship care payments, assistance with health care needs, child care assistance, and nutrition assistance; (d) a description of the types of expenses the individual may incur if the child is placed in his or her home and whether and when the individual may be reimbursed for those expenses; and (e) an explanation of how to receive notice of future proceedings relating to the child if the individual provides contact information to the county department or DCF.

Modify the requirements of a permanency plan to include a statement as to what efforts were made to comply with the order to conduct a diligent search to locate and to provide notice to any adult relative or other recommended adult family friends who have been identified by the child's parent or the child as potential placements for the child, as well as a statement as to why placement with a relative or other individual identified by the child's parent or the child is not safe or appropriate if the child is not placed with that relative or individual.

Specify that confidentiality requirements do not prohibit an agency from disclosing information to a relative of a child placed outside of his or her home only to the extent necessary to facilitate the establishment of a relationship between the child and the relative or placement with the relative, and that reports and records may be disclosed for this purpose. Specify that a relative for confidentiality and disclosure purposes includes a relative whose relationship is derived through a parent of the child whose parental rights are terminated.

Veto by Governor [B-5]: Delete provision.

[Act 28 Vetoed Sections: 919p, 921h, 958p, 1086f, 1101c, 3290n, 3290p, 3292h, 3327p, and 3339j]

21. CHILD SAFETY ALARMS IN CHILD CARE VEHICLES

Joint Finance/Legislature: Modify the provisions of 2009 Wisconsin Act 19 to delete

language allowing a grace period for child care providers to install child safety alarms in child care vehicles. Instead, require child care providers to have child care safety alarms installed in their child care vehicles beginning August 1, 2009, or on the day after publication of the 2009-11 biennial budget bill, whichever is later. Specify that other provisions of Act 19 relating to violations and penalties, the requirement that DCF promulgate rules, and the requirement for DCF to make information available to affected child care providers would also take effect on August 1, 2009, or on the day after publication of the 2009-11 biennial budget bill, whichever is later.

However, the provision related to submitting proposed rules to Legislative Council staff no later than the first day of the sixth month beginning after the effective date and the provision authorizing DCF to promulgate emergency rules take effect on the day after publication of Act 19.

Act 19 requires a child care provider or contractor of a child care provider that is the owner or lessee of a child care vehicle to have a child safety alarm, approved by DCF, installed in the child care vehicle before that vehicle is placed in service. The child safety alarm is required to be properly maintained and in good working order each time the child care vehicle is used for transporting children to or from a child care provider. Any person who violates this provision is subject to a fine of not more than \$1,000 or imprisoned for not more than one year in the county jail, or both. In addition, any person who removes, disconnects, tampers with, or otherwise circumvents the operation of the child safety alarm (except for the purpose of testing, repairing, maintaining, replacing, or disposing of a malfunctioning alarm) or shuts off an alarm without first inspecting the vehicle to ensure no child is left unattended in a vehicle is guilty of a Class I felony. Also, DCF may impose a sanction or penalty as a violation of licensing requirements. Unless modified as discussed above, these provisions take effect on the first day of the 12th month beginning after publication. In addition, there is a grace period such that these provisions first apply to child care providers and child care vehicles on the first day of the third month beginning after the effective date. The publication date of Act 19 is June 12, 2009.

[Act 28 Sections: 3416g thru 3416j]

22. APPROPRIATION FOR TRIBAL FUNDS [LFB Paper 222]

	Jt. Finance (Chg. to Base)	Legislature (Chg. to Gov)	Net Change
PR	\$0	-\$200,000	-\$200,000

Joint Finance: Modify the interagency and intra-agency local assistance appropriation in DCF's children and family services program from a continuing appropriation to an annual appropriation and conform the appropriation language to other appropriations that receive tribal gaming revenue by requiring the following language: "The amounts in the schedule to be used for unexpected or unusually high-cost out-of-home care placements of Indian children by tribal courts. All moneys transferred from the appropriation account under s. 20.505(8)(hm)21 shall be credited to this appropriation account. Notwithstanding s. 20.001(3)(a), the

unencumbered balance on June 30 of each year shall revert to the appropriation account under s. 20.505(8)(hm)."

In addition, amend DOA's Indian gaming receipts appropriation under s. 20.505(8)(hm)21 to read, "The amount transferred to s. 20.437(1)(kz) shall be the amount in the schedule under s. 20.437(1)(kz).

Senate: In addition to the Joint Finance provisions, reduce funding by \$25,000 annually to reflect that Indian gaming revenue that had been appropriated for high-cost out-of-home care placements for American Indian tribes in DCF would, instead, be appropriated in DHS for the Wisconsin diabetes prevention and control program for American Indian populations.

Also, modify this appropriation to authorize DCF to transfer up to \$50,000 annually to DOC to place American Indian juveniles in out-of-home care. Create a PR continuing appropriation in DOC for receipt of transferred funding. The exact amount transferred in each fiscal year would be determined by the DOA Secretary.

Conference Committee/Legislature: Delete Senate provision. Instead, in addition to the Joint Finance provisions, reduce funding by \$100,000 annually to reflect that Indian gaming revenue that had been appropriated for high-cost out-of-home care placements for American Indian children in DCF would, instead, be appropriated as follows: (a) \$25,000 annually in DHS to the Wisconsin diabetes prevention and control program for American Indian populations; and (b) \$75,000 annually in DOC for high-cost out-of-home care placements for American Indian juveniles. Funding for high-cost out-of-home care placements for American Indian children in DCF would total \$395,000 annually, rather than \$495,000 annually.

In addition, authorize DCF to reimburse tribes and county departments of human/social services for unexpected or unusually high-cost out-of-home care placements of Indian children by tribal courts and define "unusually high-cost out-of-home care placements" as the cost to a tribe or to a county department of out-of-home care placements of Indian children by tribal courts that exceeds \$50,000 in a fiscal year.

[Act 28 Sections: 478j, 586t, and 979v]

23. FOSTER CHILDREN AND FOSTER PARENT BILLS OF RIGHTS

Senate/Legislature: Create a bill of rights for foster children and a bill of rights for foster parents as follows:

Foster Children's Bill of Rights. Beginning January 1, 2010, require DCF, all county departments of human/social services, and licensed child welfare agencies to respect the following rights of all foster children: (a) to live in a safe, healthy, and comfortable home where he or she is treated with respect; (b) to be free from physical, sexual, emotional, or other abuse or corporal punishment; (c) to receive adequate and healthy food and adequate clothing; (d) to receive medical, dental, vision, and mental health services; (e) to be free from the administration of medication or chemical substances, unless authorized by a physician; (f) to contact family

members, unless prohibited by court order; (g) to visit and contact siblings, unless prohibited by court order; (h) to contact DCF, a county department, or a licensed child welfare agency regarding violations of rights, to speak to representatives of those agencies confidentially, and to be free from threats or punishments for making complaints; (i) to make and receive confidential telephone calls and send and receive confidential mail and electronic mail, if electronic mail is available at his or her placement; (j) to attend religious services and activities of his or her choice; (k) to manage personal income, consistent with the child's age and developmental level, unless prohibited by the case plan; (l) to not be locked in any room; (m) to attend school and participate in extracurricular, cultural, and personal enrichment activities, consistent with the child's age and developmental level; (n) to work and develop job skills at an age-appropriate level that is consistent with state and federal law; (o) to have social contacts with people outside of the child welfare system, such as teachers, church members, mentors, and friends; (p) to attend court hearings and speak to the judge; (q) to have storage space for private use; (r) to review his or her own permanency plan if he or she is over 12 years of age and to receive information about his or her permanency plan and any changes to the plan; (s) to be free from unreasonable searches of personal belongings; (t) to have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnicity, ancestry, national origin, religion, sex, sexual orientation, mental or physical disability, or human immunodeficiency virus status; and (u) at 16 years of age or older, to have access to information regarding the educational options available, including the prerequisites for vocational and postsecondary education options and information regarding financial aid for postsecondary education.

Specify that DCF, a county department, or a licensed child welfare agency must provide the child with a written copy of these rights (a bill of rights) in the child's primary language when a child is placed in a foster home. In addition, the child must be informed of these rights orally using language or means that are age-appropriate and appropriate to the child's developmental level to ensure that the child understands the meaning of these rights.

For children in a foster home placement on December 31, 2009, a written copy of the bill of rights must be provided no later than March 1, 2010.

Foster Parent's Bill of Rights. Beginning January 1, 2010, require DCF, all county departments, and licensed child welfare agencies to respect the following rights of all foster parents: (a) to be treated with dignity, respect, and consideration as a professional member of the child welfare team; (b) to be given training prior to receiving children in the home and appropriate ongoing training to meet the foster parent's needs and improve the foster parent's skills; (c) to be informed of how to contact the appropriate agency in order to receive information and assistance to access supportive services for children in the foster parent's care; (d) to receive timely financial reimbursement commensurate with the care needs of the child as specified in the permanency plan; (e) to be provided a clear, written understanding of the child's permanency plan and case plan concerning the placement of a child in the foster parent's home; (f) to be provided a fair, timely, and impartial investigation of complaints concerning the foster parent's licensure, to be provided with the opportunity to have a person of the foster parent's choosing present during the investigation, and to be provided due process during the

investigation; (g) to receive information that is necessary and relevant to the care of the child at any time during which the child is placed with the foster parent; (h) to be notified of scheduled meetings and provided with information relating to the child's case management in order to actively participate in the case planning and decision-making process regarding the child; (i) to be informed of decisions made by the court or agency regarding the child; (j) to provide input concerning the child's case plan and to have that input given full consideration in the same manner as information presented by any other professional on the team and to communicate with other professionals who work with the foster child within the context of the team, including therapists, physicians, and teachers; (k) to be given, in a timely and consistent manner, any information a case worker has regarding the child and the child's family which is pertinent to the care and needs of the child and to the making of a case plan for the child; (l) to be given clear instruction on disclosure of information concerning the child and the child's family; (m) to be given reasonable written notice of any changes to the child's permanency plan, plans to remove the child from the placement, and the reasons for removal from the placement, except under circumstances when the child is in imminent risk of harm; (n) to be notified in a timely and complete manner of all court hearings and the rights of the foster parent at the hearing; (o) to be considered as a placement option when a foster child who was formerly placed with the foster parents reenters foster care, if that placement is consistent with the best interest of the child and other children in the home; and (p) to have timely access to any administrative or judicial appeal processes and to be free from acts of harassment and retaliation by any other party when exercising the right to appeal.

Specify that DCF, a county department, or a licensed child welfare agency must provide a foster parent with a written copy of these rights (a bill of rights) in his or her primary language, if possible, when the foster parent is issued a foster care license or renews a foster care license.

Veto by Governor [B-1]: Delete provision.

[Act 28 Vetoed Sections: 1051n, 1051o, 9108(6f), and 9408(5f)]

Economic Support and Child Care

1. W-2 AND TANF RELATED REVENUES AND EXPENDITURES [LFB Paper 223]

Governor: Table 1 shows the Wisconsin Works (W-2) and temporary assistance for needy families (TANF) related revenue estimates and expenditures recommended by the Governor. These items are addressed in detail in the entries that follow according to the number listed in the right-hand column of the table.

Revenues Available for W-2 and TANF Related Programs

As shown, the administration estimates total revenues for W-2 and TANF related programs at \$623,365,500 in 2009-10 and \$603,457,800 in 2010-11. Overall, total revenues would

increase by \$56,966,100 in 2009-10 and \$37,058,400 in 2010-11 compared to the amount available in 2008-09. These increases primarily reflect the receipt of TANF contingency funds in 2009-10, federal stimulus funds under the federal American Recovery and Reinvestment Act (ARRA) of 2009, and additional GPR funding.

The federal TANF contingency fund provides additional funding for TANF-related programs during times of economic downturns if the state: (a) is a needy state; and (b) submits a request for contingency funds during an eligible month. In order to receive these funds, the state must meet maintenance of effort and matching requirements. The state has been determined to be a needy state based on recent increases in the FoodShare caseload and has been awarded \$62,900,000 in additional TANF contingency funds in federal fiscal year (FFY) 2008-09. Of these funds \$15,725,000 is available in state fiscal year 2009-10 for TANF related programs. The other \$47,175,000 was allocated for TANF related programs under 2009 Wisconsin Act 2.

In addition, Act 2 reduced GPR funding for TANF related programs by \$22,529,000 in 2008-09 to increase the general fund balance in that year. However, this GPR funding is needed for the maintenance of effort requirement for the receipt of TANF contingency funds. Therefore, the bill would provide \$22,529,000 GPR for TANF related programs in 2009-10 that must be expended by September 30, 2009, to meet the maintenance of effort requirement. Other GPR increases fund new initiatives described in the entries below.

The federal ARRA provides additional child care funding for states. It is estimated that Wisconsin's share of these funds will be \$15,246,700 annually.

State funding would include \$190,457,200 (\$174,031,000 GPR, \$7,286,500 PR, and \$9,139,700 SEG) in 2009-10 and \$168,676,200 (\$153,166,500 GPR, \$6,370,000 PR, and \$9,139,700 SEG) in 2010-11. The program revenue includes the state's share of aid to families with dependent children (AFDC) overpayment recoveries, child support collections that are assigned to the state by public assistance recipients, and W-2 agency filing fees. The segregated revenue is from the Department of Administration's public benefits funding.

Federal funding is estimated at \$432,908,300 in 2009-10 and \$434,781,600 in 2010. In addition to the TANF contingency funds and federal ARRA funds noted above, federal funds include monies from the TANF block grant, CCDBG block grant, recoveries of overpayments to W-2 recipients, and carryover of the ending TANF balance from 2008-09.

It should be noted that Congress has reauthorized the federal TANF program through September 30, 2010, at the same funding levels. The budget bill assumes the federal TANF program would continue beyond that date at the same funding levels through the end of the 2009-11 biennial budget.

Expenditures for W-2 and TANF Related Programs

Under the Governor's recommendations, overall expenditures for W-2 and TANF related programs would be \$606,049,000 in 2009-10 and \$594,693,700 in 2010-11. These amounts include all funds, and represent an increase from the base budget of \$39,461,900 in 2009-10 and

\$28,106,600 in 2010-11. The increases reflect new initiatives, reestimates, and increased funding for existing programs, which are described in the entries below. Expenditures include: W-2 cash grants, wage subsidies, and other employer reimbursements; child care subsidies; benefits for the kinship care program, the caretaker supplement, and emergency assistance; state administration and other support services; grants to the Boys and Girls Clubs; expenditures for other programs; and repayment of federal funds.

Federal law allows the state to carry forward unexpended TANF funding without fiscal year limitation. The projected TANF balance at the end of the 2009-11 biennium would be \$8,764,100, which could be carried over into the 2011-13 biennium.

TABLE 1

W-2 and TANF Related Revenues and Expenditures Under the Governor's Budget Bill

			<u>Change to Base</u>		<u>Item #</u>
	<u>2009-10</u>	<u>2010-11</u>	<u>2009-10</u>	<u>2010-11</u>	
Revenues					
State General Purpose Revenue in DCF (GPR)	\$174,031,000	\$153,166,500	\$23,919,800	\$3,055,300	27
AFDC Overpayment Recoveries (PR)	297,900	292,900	87,500	82,500	27
W-2 Agency Filing Fees (PR)	900	1,000	400	500	27
TANF Contingency Funds (FED)	15,725,000	0	15,725,000	0	27
Child Care Block Grant Stimulus Funds (FED)	15,246,700	15,246,700	15,246,700	15,246,700	27
Overpayment Recoveries (FED)	2,500,000	2,530,000	305,100	335,100	27
TANF Block Grant (FED)	314,499,400	314,499,400	0	0	
Child Care Block Grant (FED)	84,480,700	85,189,000	1,618,600	2,326,900	27
Public Benefits Funding (SEG)	9,139,700	9,139,700	-92,300	-92,300	27
Child Support Collections (PR)	6,987,700	6,076,100	-301,200	-1,212,800	27
TANF Carryover (FED)	<u>456,500</u>	<u>17,316,500</u>	<u>456,500</u>	<u>15,697,900</u>	
Total Revenues	\$623,365,500	\$603,457,800	\$56,966,100	\$37,058,400	
Expenditures					
W-2 Agency Contracts					
Benefits	\$44,283,000	\$45,947,500	\$890,800	\$2,555,300	7, 8
Administration	10,701,100	10,701,100	0	0	
Services	38,471,500	38,471,500	0	0	
Child Care					
Direct Child Care Subsidies	\$375,736,400	\$375,736,400	\$20,384,400	\$20,384,400	9
Child Care State Administration	3,487,100	3,796,000	1,861,300	2,170,200	11, 17, 19
Quality Care for Quality Kids	6,329,400	7,038,300	1,018,400	1,727,300	13
Day Care Licensing	4,985,300	4,985,300	184,700	184,700	15
Other Benefits					
Kinship Care Benefits and Assessments	\$23,892,400	\$23,903,500	\$550,100	\$561,200	20
Caretaker Supplement for Children of SSI Recipients	29,899,800	29,933,200	-194,900	-161,500	21
Emergency Assistance	7,000,000	6,000,000	1,000,000	0	22
Administrative Support					
State Administration	\$15,939,000	\$16,040,800	-\$486,200	-\$384,400	18, 19
Kinship Care Administration	237,500	237,500	0	0	
Fraud Prevention/Program Integrity	605,500	605,500	0	0	
Other Support Services					
Children First	\$1,140,000	\$1,140,000	\$0	\$0	
Grant Programs					
Boys and Girls Clubs	\$350,000	\$350,000	\$0	\$0	
Expenditures in Other Programs					
Earned Income Tax Credit	\$6,664,200	\$6,664,200	\$0	\$0	
Social Services Block Grant	13,420,500	13,420,500	0	0	
Child Welfare Safety Services	6,700,700	6,700,700	1,069,400	1,069,400	23
Child Welfare Prevention Services	1,489,600	1,489,600	0	0	
Milwaukee Child Welfare/WISACWIS	1,532,100	1,532,100	0	0	
Repayment of Federal Funds					
AFDC Overpayment	<u>\$13,183,900</u>	<u>\$0</u>	<u>\$13,183,900</u>	<u>\$0</u>	24
Total Expenditures	\$606,049,000	\$594,693,700	\$39,461,900	\$28,106,600	
Ending Balance	\$17,316,500	\$8,764,100			

Joint Finance: Table 2 shows the W-2 and TANF related revenue estimates and expenditures adopted by the Joint Committee on Finance.

As shown, total revenues for W-2 and TANF related programs are estimated at \$668,310,400 in 2009-10 and \$619,207,800 in 2010-11. Compared to the Governor's proposal, these numbers represent an increase of \$44,944,900 in 2009-10 and \$15,750,000 in 2010-11. These increases reflect reestimates of the CCDBG, W-2 agency filing fees, and assigned child support collections. They also reflect additional TANF stimulus funds under the ARRA for increased W-2 benefits, additional TANF carryover funds from 2008-09 to 2009-10, and additional public benefits funding.

Overall expenditures for W-2 and TANF related programs would be \$615,789,500 in 2009-10 and \$619,199,200 in 2010-11. These amounts represent an increase to the Governor's bill of \$9,740,500 in 2009-10 and \$24,505,500 in 2010-11. The net increase results from adding funds to W-2 benefits, child care, and kinship care, and reducing funds for other programs, which are described below in separate entries.

There would be an estimated balance in TANF funding of \$8,600 on June 30, 2011, under the Joint Finance proposal.

TABLE 2

W-2 and TANF Related Revenues and Expenditures Under the Joint Committee on Finance

	<u>Joint Finance</u>		<u>Change to Governor</u>		<u>Item #</u>
	<u>2009-10</u>	<u>2010-11</u>	<u>2009-10</u>	<u>2010-11</u>	
Revenues					
State General Purpose Revenue in DCF (GPR)	\$185,075,200	\$137,842,900	\$11,044,200	-\$15,323,600	24, 27
AFDC Overpayment Recoveries (PR)	297,900	292,900	0	0	27
W-2 Agency Filing Fees (PR)	1,000	1,000	100	0	27
TANF Contingency Funds (FED)	15,725,000	0	0	0	27
Child Care Block Grant Stimulus Funds (FED)*	0	0	-15,246,700	-15,246,700	27
TANF Stimulus Funds (FED)	4,222,400	1,379,800	4,222,400	1,379,800	27
Overpayment Recoveries (FED)	2,500,000	2,530,000	0	0	27
TANF Block Grant (FED)	314,499,400	314,499,400	0	0	
Child Care Block Grant (FED)	86,266,600	86,266,600	1,785,900	1,077,600	27
Public Benefits Fund (SEG)	18,279,400	18,279,400	9,139,700	9,139,700	27
Child Support Collections (PR)	6,127,800	5,594,900	-859,900	-481,200	27
TANF Carryover (FED)*	<u>35,315,700</u>	<u>52,520,900</u>	<u>34,859,200</u>	<u>35,204,400</u>	
Total	\$668,310,400	\$619,207,800	\$44,944,900	\$15,750,000	
Expenditures					
W-2 Agency Contracts					
Benefits	\$49,139,400	\$51,229,600	\$4,856,400	\$5,282,100	2, 7, 8
Administration	8,247,000	8,247,000	-2,454,100	-2,454,100	3
Services	38,471,500	35,471,500	0	-3,000,000	3, 10
Child Care					
Direct Child Care Subsidies	\$384,987,600	\$402,496,800	\$9,251,200	\$26,760,400	3, 9, 10
Child Care State Administration	2,770,800	3,125,800	-716,300	-670,200	11, 17, 19
Quality Care for Quality Kids	5,384,600	5,384,600	-944,800	-1,653,700	13, 14
Day Care Licensing	5,763,900	5,763,900	778,600	778,600	15, 17
Other Benefits					
Kinship Care Benefits and Assessments	\$24,435,000	\$24,435,000	\$542,600	\$531,500	20
Caretaker Supplement for Children of SSI Recipients	29,899,800	29,933,200	0	0	21
Emergency Assistance	6,500,000	6,000,000	-500,000	0	22
Administrative Support					
State Administration	\$15,399,900	\$15,505,700	-\$539,100	-\$535,100	18, 19
Kinship Care Administration	235,100	235,100	-2,400	-2,400	18
Fraud Prevention/Program Integrity	605,500	605,500	0	0	
Other Support Services					
Children First	\$1,140,000	\$1,140,000	\$0	\$0	
Grant Programs					
Boys and Girls Clubs	\$350,000	\$350,000	\$0	\$0	
Expenditures in Other Programs					
Earned Income Tax Credit	\$6,664,200	\$6,664,200	\$0	\$0	
Social Services Block Grant	13,420,500	13,420,500	0	0	
Child Welfare Safety Services	6,350,300	6,350,300	-350,400	-350,400	23
Child Welfare Prevention Services	1,489,600	1,489,600	0	0	
Milwaukee Child Welfare/WISACWIS	1,350,900	1,350,900	-181,200	-181,200	28
Repayment of Federal Funds					
AFDC Overpayment	<u>\$13,183,900</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	24
Total Expenditures	\$615,789,500	\$619,199,200	\$9,740,500	\$24,505,500	
Ending Balance	\$52,520,900	\$8,600			

*TANF carryover reestimate includes all funds from the ending balance in 2008-09 of \$4,822,300 plus the entire CCDBG stimulus funds under the ARRA.

Senate/Legislature: Overall revenues and expenditures remain the same as under the Joint Finance provisions. However, under the Senate provisions, as approved by the Legislature, an additional \$9,139,700 GPR annually is provided, and a corresponding \$9,139,700 SEG from public benefits is reduced from overall revenues. Table 3 shows W-2 and TANF related revenue estimates and expenditures as approved by the Legislature and Act 28. Items, including the revenue changes, are described separately in the sections following the table according to the item number listed in the right-hand column of the table.

TABLE 3

W-2 and TANF Related Revenues and Expenditures Under the Legislature/Act 28

	<u>Act 28</u>		<u>Change to Jt. Finance</u>		<u>Item #</u>
	<u>2009-10</u>	<u>2010-11</u>	<u>2009-10</u>	<u>2010-11</u>	
Revenues					
State General Purpose Revenue in DCF (GPR)	\$194,214,900	\$146,982,600	\$9,139,700	\$9,139,700	24, 27
AFDC Overpayment Recoveries (PR)	297,900	292,900	0	0	27
W-2 Agency Filing Fees (PR)	1,000	1,000	0	0	27
TANF Contingency Funds (FED)	15,725,000	0	0	0	27
Child Care Block Grant Stimulus Funds (FED)*	0	0	0	0	27
TANF Stimulus Funds (FED)	4,222,400	1,379,800	0	0	27
Overpayment Recoveries (FED)	2,500,000	2,530,000	0	0	27
TANF Block Grant (FED)	314,499,400	314,499,400	0	0	
Child Care Block Grant (FED)	86,266,600	86,266,600	0	0	27
Public Benefits Fund (SEG)	9,139,700	9,139,700	-9,139,700	-9,139,700	27
Child Support Collections (PR)	6,127,800	5,594,900	0	0	27
TANF Carryover (FED)*	<u>35,315,700</u>	<u>52,520,900</u>	<u>0</u>	<u>0</u>	
Total	\$668,310,400	\$619,207,800	\$0	\$0	
Expenditures					
W-2 Agency Contracts					
Benefits	\$49,139,400	\$51,229,600	\$0	\$0	2, 7, 8
Administration	8,247,000	8,247,000	0	0	3
Services	38,471,500	35,471,500	0	0	3, 10
Child Care					
Direct Child Care Subsidies	\$384,987,600	\$402,496,800	\$0	\$0	3, 9, 10
Child Care State Administration**	2,770,800	3,125,800	0	0	11, 17, 19
Quality Care for Quality Kids	5,384,600	5,384,600	0	0	13, 14
Day Care Licensing	5,763,900	5,763,900	0	0	15, 17
Other Benefits					
Kinship Care Benefits and Assessments	\$24,435,000	\$24,435,000	\$0	\$0	20
Caretaker Supplement for Children of SSI Recipients	29,899,800	29,933,200	0	0	21
Emergency Assistance	6,500,000	6,000,000	0	0	22
Administrative Support					
State Administration**	\$15,399,900	\$15,505,700	\$0	\$0	18, 19
Kinship Care Administration	235,100	235,100	0	0	18
Fraud Prevention/Program Integrity	605,500	605,500	0	0	
Other Support Services					
Children First	\$1,140,000	\$1,140,000	\$0	\$0	
Grant Programs					
Boys and Girls Clubs	\$350,000	\$350,000	\$0	\$0	
Expenditures in Other Programs					
Earned Income Tax Credit	\$6,664,200	\$6,664,200	\$0	\$0	
Social Services Block Grant	13,420,500	13,420,500	0	0	
Child Welfare Safety Services	6,350,300	6,350,300	0	0	23
Child Welfare Prevention Services	1,489,600	1,489,600	0	0	
Milwaukee Child Welfare/WISACWIS	1,350,900	1,350,900	0	0	28
Repayment of Federal Funds					
AFDC Overpayment	<u>\$13,183,900</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	24
Total Expenditures	\$615,789,500	\$619,199,200	\$0	\$0	
Ending Balance**	\$52,520,900	\$8,600			

*TANF carryover reestimate includes all funds from the ending balance in 2008-09 of \$4,822,300 plus the entire CCDBG stimulus funds under the ARRA.

**Amounts reflect statutory allocations and do not reflect the 2% wage adjustments or furlough reductions. With these reductions, the balance at the end of 2010-11 is \$610,400.

2. **W-2 CASH BENEFITS ALLOCATION** [LFB Paper 224]

FED	\$12,176,900
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Joint Finance/Legislature: Provide \$5,278,000 in 2009-10 and \$6,898,900 in 2010-11 for payments to W-2 participants in subsidized employment positions, trial job and real work, real pay subsidies, and caretaker of newborn infant grants under current law. Benefits funding for the current W-2 program would total \$48,670,200 in 2009-10 and \$50,291,100 in 2010-11. These amounts do not include funding for benefits for at-risk pregnant women, which is described in further detail below. Funding would be provided for the last six months of the 2006-2009 W-2 agency contracts (July 1, 2009, through December 31, 2009) and the first 18 months of the 2010-2011 W-2 agency contracts (January 1, 2010, through June 30, 2011). The last six months of the 2010-2011 W-2 agency contracts would be funded in the 2011-13 biennial budget.

With the Committee's action to adopt the Governor's recommendation to extend W-2 benefits to unmarried pregnant women who do not have children and who are in their third trimester of an at-risk pregnancy, W-2 benefits would total \$49,139,400 in 2009-10 and \$51,229,600 in 2010-11.

In addition, require DCF to include in the 2010-2011 W-2 agency contracts a provision that prohibits the W-2 agency from requiring a W-2 applicant or participant to conduct a job search prior to actual participation in W-2 such that the effect is to delay, during the job search, the individual's participation in and receipt of benefits under W-2.

[Act 28 Sections: 1228 and 9108(8q)]

3. **W-2 AGENCY CONTRACTS -- ADMINISTRATION AND SERVICES** [LFB Paper 224]

FED	-\$7,908,200
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Joint Finance/Legislature: Reduce funding by \$2,454,100 in 2009-10 and \$5,454,100 in 2010-11 to reflect the following: (a) an increase of \$3,000,000 annually for W-2 services; (b) a decrease of \$2,454,100 annually for local administration of W-2 based on average expenditures from January, 2008, through March, 2009; and (c) a transfer of \$3,000,000 in 2009-10 and \$6,000,000 in 2010-11 from the W-2 agency services allocation to the direct child care services allocation for Wisconsin Shares eligibility determinations.

W-2 services funding would total \$38,471,500 in 2009-10 and \$35,471,500 in 2010-11 for the last six months of the 2006-2009 W-2 agency contracts and the first 18 months of the 2010-2011 W-2 agency contracts.

Funding for local administration of W-2 would total \$8,247,000 annually for the last six months of the 2006-2009 W-2 agency contracts and the first 18 months of the 2010-2011 W-2 agency contracts.

W-2 services and local administration funding for the last six months of the 2010-2011 W-2 agency contracts would be provided in the 2011-13 biennial budget.

[Act 28 Sections: 1228g and 1228i]

4. W-2 PROGRAM CHANGES [LFB Paper 225]

Governor: Modify the W-2 program requirements, effective on the later of October 30, 2009, or the 30th day after publication of the budget bill, regarding the maximum time limit for receipt of benefits, the maximum time limit for participation in each employment position, and the maximum hours required for employment versus education and training activities as follows:

Maximum Time Limit for Receipt of Assistance. Specify that the total number of months in which an individual or any adult member of the individual's W-2 group receives assistance under a subsidized W-2 employment position, under another program from Wisconsin or another state funded with TANF dollars, or under the former job opportunities and basic skills (JOBS) program (on or after October 1, 1996) may not exceed the 60-month federal time limit, whether or not consecutive.

Under current state law, the length of time an adult in a W-2 group may receive benefits is limited to 60 months. The months do not have to be consecutive. The time limit begins on the date when the individual has attained the age of 18 and applies to the total number of months in which the individual has actively participated in the JOBS program (on or after October 1, 1996) under prior law, has received benefits under a subsidized W-2 employment position, or has received benefits in Wisconsin or any other state that were funded by federal TANF dollars.

Although under federal law, there is a 60-month time limit, federal law is based on the length of time the individual receives assistance, while current state law is based on the length of time an individual participates in a subsidized W-2 employment position or other TANF program. Expenditures that are classified as "assistance" under federal law include cash payments; vouchers; other forms of benefits designed to meet a family's ongoing basic needs such as food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses; and supportive services such as child care and transportation for families that are not employed. This provision would conform state law to federal law.

Maximum Time Limit for Subsidized W-2 Employment Positions. Eliminate the current 24-month limits on the amount of time an individual may participate in each of the subsidized employment positions under W-2.

Under current law, a W-2 participant may participate in a trial job for a maximum of three months, with an opportunity for a three-month extension under circumstances determined by the W-2 agency. An individual may participate in more than one trial job, but generally may not exceed a total of 24 months of participation in all trial job placements, which need not be consecutive.

An individual may participate in a community service job for a maximum of six months, with an opportunity for a three-month extension under circumstances approved by DCF. An individual may participate in more than one community service job, but generally may not exceed a total of 24 months of participation in all community service job placements, which need not be consecutive.

An individual may participate in a transitional placement for a maximum of 24 months, which need not be consecutive.

DCF, or the W-2 agency with DCF's approval, may grant an extension of the 24-month limit for each W-2 subsidized employment position on a case-by-case basis. For trial job and community service job participants, the participant must have made all appropriate efforts to find unsubsidized employment and local labor market conditions must preclude a reasonable job opportunity for that participant, as determined by the agency and approved by DCF. For community service jobs, the W-2 agency with DCF's approval must also determine that no trial job opportunities are available.

Maximum Hours for Subsidized Employment Activities. Specify that a W-2 agency could not require a participant in a community service job, technical college placement, or transitional placement to spend more than 40 hours per week in combined activities of education, training, and work.

Under current law, the W-2 agency may require a community service job participant to work up to 30 hours per week and to participate in educational and training activities for up to 10 hours per week, for a total of 40 hours per week. For technical college placements, the participant may be required to work up to 25 hours per week and participate in education and training activities for up to 15 hours per week, for a total of 40 hours per week. For transitional placements, participants may be required to engage in work (and assigned counseling activities) for up to 28 hours per week and to participate in education and training activities for up to 12 hours per week, for a total of 40 hours per week. The bill would eliminate the distinction between the maximum number of hours for work activities and the maximum number of hours for educational and training activities. Instead, the bill would create a maximum of 40 hours per week for all activities.

These provisions would first apply to individuals participating in W-2 on October 30, 2009, or on the 30th day after publication of the budget bill, whichever is later.

Senate/Legislature: Delete the provision that would specify that the total number of months in which an individual or any adult member of the individual's W-2 group receives assistance may not exceed the 60-month federal time limit. Instead, the current law time limit of 60 months based on the length of time an individual participates in a subsidized W-2 employment position or other TANF-related program would remain.

[Act 28 Sections: 1157 thru 1161, 1162 thru 1170, 1173, 1176, 1180, 1183, 1186, and 9308(4)]

5. W-2 SANCTIONS FOR REFUSING TO PARTICIPATE [LFB Paper 226]

Governor: Modify the sanction for refusing to participate in a W-2 employment position, specify procedures for determining nonparticipation, and modify requirements before taking action that would result in a 20% or more reduction in the participant's benefits or in termination of the participant's eligibility to participate in W-2, effective on October 30, 2009, or

on the 30th day after publication of the budget bill, whichever is later, as described below:

Sanction for Nonparticipation. Modify the sanction for nonparticipation in a W-2 employment position such that if a participant, or an individual in the participant's W-2 group, refuses to participate (as determined under guidelines promulgated by DCF), then the participant would be ineligible to participate in the W-2 program for three months.

Under current law, if a participant refuses to participate three times (or if an individual in the participant's W-2 group refuses to participate three times) in any W-2 employment component, the participant is ineligible to participate in that component. The participant is eligible to participate in any other appropriate W-2 employment position component for which the participant has not refused to participate three times. According to current administrative rules, a participant is considered to have refused to participate if he or she: (a) expresses verbally or in writing to a W-2 agency that he or she refuses to participate; (b) fails to appear for an interview with a prospective employer or, if the participant is in a W-2 transitional placement, fails to appear for an assigned activity without good cause; (c) voluntarily leaves appropriate employment or training without good cause; (d) loses employment as a result of being discharged for cause; (e) refuses to accept a bona fide offer of employment; or (f) demonstrates through other behavior or action, as determined by the W-2 agency financial and employment planner, that he or she refuses to participate.

Determining Nonparticipation Without Good Cause. Require DCF to promulgate rules that specify guidelines for determining when a participant, or individual in the participant's W-2 group, who engages in behavior considered to be a refusal (described above) is actually demonstrating a refusal to participate.

Specify that when determining a participant is ineligible to participate in the W-2 program as a sanction for nonparticipation, the W-2 agency would have to: (a) determine whether the failure of the participant or individual to participate is because the participant or individual refuses to participate or is unable to participate; (b) ensure that the services offered to the participant or individual are appropriate for him or her; and (c) determine whether good cause exists for the failure to participate.

Conciliation Period for Compliance. Require a W-2 agency, if the W-2 agency determines that a participant or individual has refused to participate without good cause, to allow the participant or individual a conciliation period during which he or she would have to participate in all assigned activities unless good cause exists that prevents compliance during the conciliation period. Require DCF to establish, by rule, the length of time for a conciliation period.

Requirements Before 20% Benefit Reduction or Termination of W-2 Eligibility. Modify current procedures that are required before taking any action against a participant that would result in a 20% or more reduction in the participant's benefits or in termination of the participant's eligibility to participate in W-2. Specify that the procedures would require the W-2 agency to: (a) first, explain to the participant orally in person or by phone, or make reasonable attempts to

explain to the participant orally in person or by phone, the proposed action and the reasons for the proposed action; (b) second, after providing the explanation under (a), provide written notice of the proposed action and of the reasons for the proposed action to the participant; and (c) third, after providing the oral explanation and written notification, allow the participant a reasonable time to rectify the deficiency, failure, or other behavior to avoid the proposed action, if the participant was not already afforded a conciliation period.

Under current law, written notice must be provided first, followed by an oral explanation, and then time to rectify the deficiency, failure, or other behavior.

These provisions would first apply to individuals participating in W-2 on October 30, 2009, or on the 30th day beginning after publication of the budget bill, whichever is later.

Joint Finance/Legislature: Prohibit DCF from promulgating any rules regarding sanctions under W-2 for refusing to participate as emergency rules.

[Act 28 Sections: 1185 thru 1190, 9308(4), and 9408(7)]

6. ELIMINATE LEARNFARE [LFB Paper 227]

Governor: Eliminate the Learnfare program effective on the later of October 30, 2009, or the 30th day beginning after publication of the budget bill.

Under current law, dependent children age six through 17 in a W-2 group that includes a participant in a trial job, community service job, or transitional placement are subject to the Learnfare school attendance requirement unless otherwise exempt. Each child must be enrolled in school, or must have been enrolled in the immediately preceding semester. In addition, minor parents, habitual truants (absent from school without an acceptable excuse for part or all of five or more school days during a semester), dropouts, and returning dropouts must participate in case management services.

The W-2 agency is required to verify enrollment during a case review. If the children and parent do not provide all information necessary for the W-2 agency to verify enrollment, the parent is not eligible for a W-2 employment position. In addition, a financial penalty may be imposed if a child fails to meet the enrollment requirement or does not cooperate with case management services without good cause. According to administrative rules, the penalty is a reduction in the W-2 participant's cash benefit of \$50 per month per penalty, not to exceed \$150 per month. The penalty is imposed each month until the child complies with the Learnfare requirements.

The bill would eliminate the Learnfare program and the following related provisions: (a) the requirement for county departments of human/social services to make payments for training for Learnfare participants, former participants, or potential participants; (b) meeting school attendance requirements under Learnfare as an acceptable activity for the receipt of a child care subsidy (make attending school an acceptable activity instead); (c) the requirement

for studies on the effectiveness of Learnfare; and (d) alternative educational programs for Learnfare pupils.

The bill would not adjust funding for W-2 to reflect that the penalty for failing to comply with Learnfare requirements would be eliminated.

Senate/Legislature: Delete provision.

7. BENEFITS FOR PREGNANT WOMEN [LFB Paper 228]

GPR	\$1,407,700
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Governor/Legislature: Provide \$469,200 in 2009-10 and \$938,500 in 2010-11 to extend W-2 grants, beginning January 1, 2010, in the amount of \$673 per month, to women who do not have children and who are in their third trimester of an at-risk pregnancy. Under current law, custodial parents of children who are 12 weeks old or younger are eligible to receive these grants.

Eligibility would be limited to an unmarried woman who: (a) would be eligible for W-2 except that she is not a custodial parent of a dependent child; and (b) is in the third trimester of a pregnancy that is medically verified and shown by medical documentation to be at risk, such that the woman is unable to participate in the workforce. A W-2 agency could not require such women to participate in any W-2 employment positions. Receipt of a grant under this provision would not constitute participation in a W-2 employment position for purposes of the time limit on program participation.

As under current law, the bill would make all other pregnant women, whose pregnancy is medically verified, and who would be eligible for W-2 except that they are not custodial parents of a dependent child, eligible for employment training and job search assistance services provided by a W-2 agency.

These provisions would take effect on January 1, 2010, and would first apply to individuals who are determined to be eligible for W-2 on that date.

[Act 28 Sections: 1174 thru 1179, 1181 thru 1182e, 1216, 1228, 9308(10i), and 9408(10i)]

8. CARETAKER OF A NEWBORN INFANT (CNI) GRANTS [LFB Paper 229]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$2,038,400	-\$2,038,400	\$0

Governor: Provide \$421,600 in 2009-10 and \$1,616,800 in 2010-11 to reflect an extension of the amount of time an eligible custodial parent of an infant could receive a monthly W-2 grant from 12 weeks, under current law, to 26 weeks. The funding includes \$765,400 in 2009-10 and \$2,166,000 in 2010-11 for cash benefits, which would be partially offset by a reduction in child care funding of \$343,800 in the first year and \$549,200 in the second year to reflect that

individuals would be caring for their infants an additional 14 weeks, instead of engaging in work and training activities, and may not need child care.

Extension of Eligibility. Under current law, a person who meets the eligibility requirements of a W-2 employment position, and who is a custodial parent of a child who is 12 weeks old or less, may receive a monthly grant of \$673, unless another adult member of the W-2 group is participating in, or is eligible to participate in, a W-2 employment position, or is employed in unsubsidized employment.

Under the bill, if a custodial parent meets these eligibility requirements to receive a CNI grant and had participated in a W-2 employment position for at least three months before receiving a CNI grant, then the custodial parent would be allowed to receive the monthly CNI grant until the child reaches the age of 26 weeks.

Participation for Purposes of Time Limit. Under current law, receipt of a CNI grant does not constitute participation for purposes of time limits imposed on TANF and W-2 employment positions if the child was born not more than 10 months after the date the participant was first determined to be eligible for AFDC or a W-2 employment position. For a child born more than 10 months after the date the participant was first determined to be eligible for AFDC or a W-2 employment position, receipt of the grant does constitute participation unless the child was conceived as a result of a sexual assault or incest, which has been reported to a physician and law enforcement authorities.

Under the bill, receipt of a CNI grant would constitute participation for purposes of the time limit for all recipients unless the child was conceived as a result of a sexual assault or incest, which has been reported to a physician and law enforcement authorities.

Initial Applicability and Effective Dates. This extension of CNI grants would first apply to individuals participating in W-2 on January 1, 2010. In addition, receipt of CNI grants would first constitute participation for purposes of the time limit on January 1, 2010.

Joint Finance/Legislature: Delete provision.

9. CHILD CARE SUBSIDIES AND COST SAVING MEASURES [LFB Paper 230]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$15,246,700	\$0	\$15,246,700
FED	<u>25,522,100</u>	<u>27,011,600</u>	<u>52,533,700</u>
Total	\$40,768,800	\$27,011,600	\$67,780,400

Governor: Provide \$20,384,400 (\$15,246,700 GPR and \$5,137,700 FED) in 2009-10 and \$20,384,400 FED in 2010-11 for direct child care services under the Wisconsin Shares program, including funding for child care subsidies, local administration, on-site child care at job centers and counties, and migrant child care. Funding for the Wisconsin Shares program under the bill would total \$375,736,400 annually. Under 2009 Wisconsin Act 2, the same amount (\$20,384,400)

was allocated as additional funding for Wisconsin Shares in 2008-09. As a result, funding for Wisconsin Shares in 2008-09 totals \$375,736,400. The bill would cap funding for Wisconsin Shares at the 2008-09 level over the 2009-11 biennium.

In addition, authorize or require DCF to implement a number of cost saving measures for the Wisconsin Shares program to ensure that expenditures for the program would not exceed the amounts budgeted. The administration estimates costs for Wisconsin Shares under current law would total \$394,170,900 in 2009-10 and \$414,005,000 in 2010-11. The following cost saving measures would produce estimated savings of \$18,434,500 in 2009-10 and \$38,268,600 in 2010-11 as described below.

Freeze Provider Reimbursement Rates. Prohibit DCF from increasing the maximum reimbursement rates for child care providers in 2009, 2010, and 2011. Provider reimbursement rates are the maximum hourly rates, with a maximum weekly ceiling, that may be paid to a provider who cares for a child participating in Wisconsin Shares and vary throughout the state based on where the provider is located. Reimbursement rates have not been increased since 2006. This provision would retain the provider reimbursement rates established in 2006.

Increase Copayments. Require DCF to increase copayments before April 1, 2010, such that the estimated savings to the Wisconsin Shares program would be \$1,520,000 in 2009-10 and \$4,200,000 in 2010-11. Permit DCF to achieve these savings without adjusting all categories under its copayment schedule by the same percentage. Authorize DCF to make these copayment increases without promulgating rules.

In addition, authorize DCF to increase copayments by up to 10%, excluding any increases for cost-of-living adjustments.

Copayments are paid by the parents, which results in savings to the child care subsidies program. Under the schedule used by DCF, the weekly copayment amount varies based on the family's size and income and the number of children in subsidized care.

Waiting List. Authorize DCF to implement a waiting list for the receipt of a child care subsidy to produce savings of \$1,093,000 in 2009-10 and \$1,175,600 in 2010-11. An applicant on a waiting list would not receive a child care subsidy unless the available funding was sufficient to allow the applicant to receive a subsidy.

Attendance-Based Reimbursements. Require DCF to implement, beginning January 1, 2010, an attendance-based rate structure for reimbursement of child care providers. The administration anticipates savings of \$12,500,000 in 2009-10 and \$26,250,000 in 2010-11 due to the implementation of attendance-based reimbursements.

Under current law, licensed child care providers are reimbursed based on authorized units of service. Authorized units of service are the number of hours authorized for each child to be in child care, rather than the hours actually used. As a result, child care providers may be paid for hours the child is not attending.

All certified child care providers are reimbursed based on the actual attendance of the child. In addition, licensed child care providers may be reimbursed based on attendance if the child's schedule varies widely from week to week (these licensed providers receive a 10% rate increase for each child to whom this applies to account for absent days) or if the provider has significantly over-reported attendance in the past.

The bill would modify current law to require all licensed and certified child care providers to be reimbursed based on attendance of the child, beginning January 1, 2010.

Income Eligibility. Require court-ordered child or family support payments received by an individual to be used in calculating gross income in determining the individual's eligibility for a child care subsidy under the Wisconsin Shares program. The administration indicates potential savings of \$3,321,500 in 2009-10 and \$6,643,000 in 2010-11 due to a lower caseload from fewer individuals being eligible and from higher copayment amounts for those who are eligible.

Under current law, an individual's gross family income must be at or below 185% of the federal poverty level (200% once receiving a subsidy) in order for the person to be eligible for a child care subsidy. If the applicant is a foster parent, subsidized guardian, or interim caretaker, then the biological or adoptive family must have gross income at or below 200% of the federal poverty level. Finally, if the applicant is a court-ordered kinship care relative, then the biological or adoptive family must have gross income at or below 200% of the federal poverty level. Child support payments are excluded from the definition of gross income.

In addition, according to administrative rule, copayments are paid by the parents based on the family's size and income and the number of children in subsidized care.

Under the bill, court-ordered child or family support payments would have to be considered when determining gross income of an applicant for a child care subsidy, which would have an effect on eligibility and the required copayment amount. No other changes would be made to income eligibility requirements.

This provision would first apply to eligibility and copayment determinations made on October 1, 2009, or on the bill's general effective date, whichever is later. For individuals already receiving a subsidy on October 1, 2009, or the bill's general effective date, whichever is later, this provision would first apply when continued eligibility determinations are made on April 1, 2010.

The following table shows the projected costs of child care subsidies without the cost savings measures, each cost saving measure, and the total allocation for child care subsidies in 2009-10 and 2010-11.

Child Care Subsidies Under AB 75

	<u>2009-10</u>	<u>2010-11</u>
Estimated Cost of Child Care Subsidies Under Current Law	\$394,170,900	\$414,005,000
Cost Saving Measures		
Increased Copayments	\$1,520,000	\$4,200,000
Implementation of a Waiting List	1,093,000	1,175,600
Attendance-Based Reimbursements	12,500,000	26,250,000
Changes to Income Eligibility	<u>3,321,500</u>	<u>6,643,000</u>
Total Cost Saving Measures	\$18,434,500	\$38,268,600
Child Care Subsidies Allocation Under AB 75	\$375,736,400	\$375,736,400

Joint Finance: Provide an additional \$6,251,200 FED in 2009-10 and \$20,760,400 FED in 2010-11 to reflect: (a) a more recent estimate of child care subsidy payments under current law (-\$7,573,500 in 2009-10 and -\$11,361,800 in 2010-11); (b) a reduction to reflect the state takeover of administering the Wisconsin Shares program in Milwaukee County (-\$484,800 in 2009-10 and -\$646,400 in 2010-11); (c) the elimination or modification of the Governor's proposed cost-saving measures (\$18,434,500 in 2009-10 and \$38,268,600 in 2010-11); and (d) adopting a cost saving measure that would adjust the number of hours authorized for a child to utilize child care (-\$4,125,000 in 2009-10 and -\$5,500,000 in 2010-11).

Cost-Saving Measures Under AB 75. Eliminate and restore funding for the following cost-saving measures: (a) increased copayments (\$1,520,000 in 2009-10 and \$4,200,000 in 2010-11); (b) an attendance-based reimbursement policy (\$12,500,000 in 2009-10 and \$26,250,000 in 2010-11); and (c) a waiting list (\$1,093,000 in 2009-10 and \$1,175,600 in 2010-11). In addition, modify the provision to freeze provider reimbursement rates such that the freeze would no longer apply, beginning June 30, 2011. Finally, modify the provision to include court-ordered child or family support payments in calculating gross income in determining eligibility for Wisconsin Shares to only include the payments in the calculations if the amount of child support exceeds \$1,250 per month (\$3,321,500 in 2009-10 and \$6,643,000 in 2010-11).

Adjustment of Authorized Hours. Require DCF to do all of the following with respect to establishing and adjusting the number of authorized hours per child if reimbursement to a child care provider under Wisconsin Shares is based on authorized hours of child care: (a) track a child's hourly usage of child care authorizations over a six-week period; (b) reduce the authorized hours of child care for the child to 90% of the maximum number of hours of child care that the child attended during that six-week period if the child's hourly usage is less than 60% of the authorized hours of child care in each of the three consecutive two-week periods; (c) provide written notice of the proposed adjustment to the child's parents, the child's child care provider, and the applicable county department or agency; and (d) provide a grace period of six weeks after the number of authorized hours is reduced, during which time the child care subsidy amount paid to the child care provider for the child would remain the same as before the reduction in authorized hours was made.

In addition, exclude the following from the calculation of a child's hourly usage: (a) one week per year of vacation time for the child's child care provider; (b) one week per year of sick time for the child's child care provider; and (c) two weeks per year of vacation time for the child's parents with the child.

Finally, require DCF to promulgate rules that specify how the requirements of the adjustment of authorized hours cost-saving measure would be implemented.

Senate/Legislature: Limit the number of hours that a child may receive child care under Wisconsin Shares to 12 hours per day. However, limit the maximum hours to 16 hours per day if a Wisconsin Shares participant provides written documentation of work and transportation requirements that exceed 12 hours per day to the Wisconsin Shares caseworker. Finally, require notice to be provided to the child care provider and to the Wisconsin Shares participant four weeks before the maximum number of hours that a child may receive child care under Wisconsin Shares is reduced to 12 hours or less per day due to the failure to provide the written documentation that more than 12 hours per day is needed.

Veto by Governor [B-7]: Modify the adjustment of authorized hours cost-saving measure under the Joint Finance provisions to eliminate the requirement that usage must be less than 60% of the authorized hours of child care in each of the three consecutive two-week periods and to eliminate the length of the grace period as six weeks. Instead, the number of authorized hours of child care for a child will be reduced to 90% of the maximum number of hours of child care that the child attended during a six-week period if the child's hourly usage is less than 60% of the authorized hours of child care during that six weeks. In addition, the length of the grace period after the veto is not specified. However, the Governor, in his veto message, indicates that he will request DCF to implement a two-week grace period, rather than the six-week grace period under AB 75 as passed by the Legislature.

[Act 28 Sections: 1207 thru 1210, 1214, 1214a, 1238, and 9308(8)]

[Act 28 Vetoed Section: 1214a]

10. LOCAL ADMINISTRATION OF CHILD CARE SUBSIDIES [LFB Paper 231]

	Governor (Chg. to Base)		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
FED	\$0	0.00	\$9,000,000	7.00	\$9,000,000	7.00

Governor: Modify local administration of the child care subsidy program as follows:

Certification of Child Care Providers. Authorize DCF to contract with W-2 agencies, child care resource and referral agencies, or other agencies to certify day care providers under the Wisconsin Shares program in a particular geographic region or for a particular Indian tribal unit. Require county departments of human/social services to certify child care providers under Wisconsin Shares if DCF does not contract for that service in a particular geographic

region or for a particular Indian tribal unit.

Authorize county departments that certify child care providers to charge a fee to cover the costs of certifying providers. In addition, authorize agencies that contract with DCF to certify child care providers to charge a fee specified by DCF to supplement amounts provided under the contract for certifying child care providers.

Under current law, certification of child care providers is done by the county department or similar tribal body. No changes were made to certification standards.

Local Administration. Require a county department, or a W-2 agency, child care resource and referral agency, or some other agency that DCF contracts with to determine eligibility for child care subsidies in a particular geographic region or for a particular Indian tribal unit, to also administer the child care subsidy program. In administering the child care subsidy program, the county department or contracted agency would have to: (a) determine an individual's liability for copayments; (b) determine and authorize the amount of child care for which an individual may receive a subsidy; (c) annually perform a survey of market child care rates, as directed by DCF, and determine maximum reimbursement rates, if DCF so directs; (d) assist individuals who are eligible for child care subsidies to identify available child care providers and select appropriate child care arrangements; and (e) at intervals, or as otherwise required by DCF, review and redetermine the financial and nonfinancial eligibility of individuals receiving child care subsidies.

Under current law, W-2 agencies are required to determine eligibility for child care subsidies and to refer individuals who have been determined eligible to a county department for child care assistance. County departments and Indian tribes administer the child care subsidy program and do all of the following: (a) determine a parent's copayment; (b) provide a voucher to individuals for the payment of child care services or otherwise reimburse child care providers; (c) set maximum reimbursement rates for day care providers; (d) certify day care providers that are not licensed by the state; and (e) assist eligible individuals to identify and select appropriate child care. Need for service and eligibility must be redetermined at least every six months.

In most counties, the county department is also the W-2 agency. However, in Milwaukee County and a number of other counties, the W-2 agency is a private entity under contract with DCF. In these counties, two separate agencies are involved in determining eligibility and providing child care assistance. Under the bill, the child care program would be administered by a single entity in each county.

Department Contract Requirements. Require DCF to allocate funds to a contract for the administration of the child care subsidy program in the same proportion as the geographic region's or Indian tribal unit's proportionate share of all statewide subsidy authorizations and eligibility redeterminations in the 12-month period before the start of the contract period, to the extent practicable.

Require DCF to allocate to each contract at least \$20,000 per year for the administrative

responsibilities for each geographic region or Indian tribal unit.

Require DCF to allocate to the contract not less than 95% of the amount allocated to the contract in the previous year, unless the geographic region or Indian tribal unit is not comparable or total funding available for all contracts is lower than the total amount available in the previous year, if DCF renews a contract for a subsequent year.

Authorize DCF to redistribute, within any contract period, unexpended contract balances for a county department or contracted agency to another county department or contracted agency that reports expenditures in excess of their original contract total for the period.

Under current law, the cost to administer the child care subsidy program at the local level may not exceed 5% of the total amount of child care subsidy funds distributed in the current year, 5% of the total amount distributed in the preceding year, or \$20,000, whichever is greater.

Joint Finance/Legislature: Provide \$3,000,000 in 2009-10 and \$6,000,000 in 2010-11 from the W-2 services allocation to the direct child care services allocation to reflect that eligibility determinations under Wisconsin Shares would no longer be required by W-2 agencies and may be performed by an agency or county department other than a W-2 agency. The funding would be allocated with other funds for local administration of Wisconsin Shares.

In addition, modify the bill to reflect that local administration of Wisconsin Shares in Milwaukee County would have to be administered differently than other county departments under AB 75 due to the state takeover of these duties from Milwaukee County as part of a settlement agreement.

Make the following changes for local administration of child care in Milwaukee County:

Child Care Administration in Milwaukee County

Authorize DCF to contract with the Milwaukee County enrollment services unit in DHS to do any of the following: (a) determine eligibility of individuals for a child care subsidy; (b) determine an individual's liability for copayments; (c) determine and authorize the amount of child care for which an individual may receive a subsidy; or (d) at intervals, or as otherwise required by DCF, review and redetermine the financial and nonfinancial eligibility of individuals receiving child care subsidies. In addition, authorize DCF to establish its own child care provider services unit (similar to the Milwaukee County enrollment services unit in DHS) to perform these functions.

Child Care Provider Services Unit

Authorize DCF to establish a child care provider services unit in Milwaukee County to perform any of the following administrative functions under Wisconsin Shares (in addition to the services listed under "Child Care Administration in Milwaukee County" above): (a) certify day care providers; (b) provide child care program integrity services; (c) annually perform a survey of market child care rates, if DCF so directs; and (d) assist individuals who are eligible for child care subsidies to identify available child care providers and select appropriate child care arrangements.

In addition, authorize DCF to enter into a contract with Milwaukee County that provides for Milwaukee County to perform any of the administrative functions for this unit. Require DCF to reimburse Milwaukee County for all approved, allowable costs that are incurred by the county under a contract with DCF from the direct child care subsidies allocation.

Require DCF to allocate available funds under the direct child care subsidies allocation for agencies contracted to administer Wisconsin Shares in proportion to the number of certified providers, applications for certification, previously experienced certification costs, estimated certification costs, or such other measures as DCF determines.

Employees of the Child Care Provider Services Unit

Specify that supervisory personnel in the unit must be state employees and that nonsupervisory staff performing services for the unit may be a combination of state employees and Milwaukee County employees. Require the unit to maintain no fewer represented authorized full-time employee positions than the number of represented full-time employee positions that were authorized on February 1, 2009, for performance of the same types of services.

Authorize DCF to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, discipline, and adjust grievances with respect to, and authorize state supervisory employees to supervise, county employees performing services for the unit. Require DCF to use the same process and procedures that are used for the classified service of the state civil service system, specifically including the use of probationary periods. Require county employees performing services for the unit to be subject to the same residency requirements that apply to other Milwaukee County employees under Milwaukee County civil service rules. Permit DCF to enter into a memorandum of understanding with the certified representative of Milwaukee County employees performing services for the unit and to unilaterally resolve a dispute as to hours or conditions of employment that remain between DCF and the certified representative if good faith efforts to resolve the dispute fail. Specify that this decision is appealable to the Employment Relations Commission.

Require Milwaukee County to perform all administrative tasks related to payroll and benefits for the Milwaukee County employees performing services for the unit.

Specify that all of the following would apply to an employee who is appointed to a state employee position in the unit, and who, immediately prior to his or her appointment, was a county employee: (a) the employee must serve any applicable probationary period, but would have his or her seniority with the state computed by treating the employee's total service with the county as state service; (b) annual leave for the employee would accrue using the employee's state service computed under (a); (c) the employee would be allowed to continue to participate in the Milwaukee County retirement system, but must exercise this option in writing no later than 10 days after the employee is appointed to a state employee position, on a form provided by DCF, and this decision would be irrevocable during the period that the employee holds a state employee position in the unit; (d) the DCF Secretary would pay, on behalf of the employee, all required employer contributions under the Milwaukee County retirement system; (e) sick leave would

accrue with the state by treating the employee's unused balance of sick leave accrued with Milwaukee County as sick leave accrued in state service for the same period, if the employee is able to provide adequate documentation in accounting for sick leave used during the accrual period with Milwaukee County, and sick leave that is transferred would not be subject to a right of conversion upon death or termination of creditable service for payment of health insurance benefits on behalf of the employee or the employee's dependents. Require all unit employees to be in the unclassified service. Specify that unit employees are eligible for group health insurance coverage.

Require a collective bargaining agreement that covers municipal employees performing services for the unit to contain a provision that permits the terms of the agreement to be modified with respect to hours and conditions of employment by a memorandum of understanding. Specify that this provision first applies to any Milwaukee County employee who is covered by a collective bargaining agreement that contains provisions inconsistent with this requirement on the date the collective bargaining agreement expires or is extended, modified, or renewed, whichever comes first.

Transition Plan

Require Milwaukee County and DCF to begin the transition of services that would be provided by the unit on the bill's general effective date and to cooperate in the transition. Require DCF to develop a transition plan that includes the reporting, exchange of information, and staff deployment that DCF needs and that Milwaukee County must provide for the transition. In addition, require the DOA Secretary to resolve any disagreement between Milwaukee County and DCF.

Require Milwaukee County to transfer, by January 15, 2010, to DCF all records in the possession of Milwaukee County that are related to the administrative functions that would be performed by the unit. Specify that DCF and Milwaukee County must jointly identify those records and jointly develop and implement a plan for the orderly transfer of the records.

Require Milwaukee County to continue to perform the functions that would be performed by the unit during calendar year 2009, as provided under any contracts requiring those services until DCF notifies Milwaukee County that it is prepared to assume responsibility. Require Milwaukee County and DCF to contract with respect to any services that DCF requires Milwaukee County to perform to assist DCF in performing the services that would be provided by the unit.

Require DCF and Milwaukee County to identify the standards required for operation of Wisconsin Shares in Milwaukee County and to initiate discussions regarding who would be required to operate Wisconsin Shares in Milwaukee County in the future and how the program should be operated.

Increase the authorized positions for DCF by 7.0 FED positions, which would be funded by the child care development block grant to perform duties under Wisconsin Shares.

Overpayment Recoveries

Prohibit a Milwaukee County employee or officer under DCF's supervision from retaining 15% of public benefits that are recovered due to the efforts of the employee or officer. Specify that if Milwaukee County establishes a program to investigate suspected fraudulent activities of W-2 participants and Wisconsin Shares participants and recovers incorrect payments, then these overpayment recoveries would be credited to DCF's child care and temporary assistance overpayment recovery appropriation. Exempt Milwaukee County from the requirement to advise both DCF and DHS of the date on which the program was established and of any amounts recovered.

Licensing Fees

Create two new continuing appropriations for licensing fees to replace one annual appropriation. The first appropriation in the children and families program would consist of licensing fees from licensing child welfare agencies, foster homes, group homes, and shelter care facilities, and would be used for the costs of licensing these child welfare providers. The second appropriation in the economic support program would consist of licensing fees from licensing day care providers, and would be used for the costs of licensing child care providers. Specify that the unencumbered balance in the child welfare licensing appropriation attributable to day care licensing fees would be transferred to the day care licensing appropriation on January 1, 2010.

[Act 28 Sections: 476h, 493d, 493f, 775r, 794r, 805, 839p, 844, 849, 1053d thru 1056d, 1071d, 1073d, 1075d, 1077d, 1079d, 1147, 1190p, 1191, 1201, 1207 thru 1210, 1212 thru 1213, 1256g thru 1256p, 1262m, 1265m, 1376g, 1463r, 2220, 2225p, 2490h, 2548d, 3416fm, 9108(8f), 9208(3f), 9308(2f), 9308(12f), 9316(1x), 9408(6), and 9408(14f)]

11. CHILD CARE PROGRAM INTEGRITY [LFB Papers 232 and 236]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$1,000,000	-\$1,000,000	\$0
FED	<u>786,800</u>	<u>112,400</u>	<u>899,200</u>
Total	\$1,786,800	-\$887,600	\$899,200

Governor: Provide \$837,200 (\$500,000 GPR and \$337,200 FED) in 2009-10 and \$949,600 (\$500,000 GPR and \$449,600 FED) in 2010-11 to expand and enhance state oversight of the Wisconsin Shares child care subsidy program.

Licensed Child Care Attendance Monitor System. Provide \$500,000 GPR annually to implement an automated system to monitor child care attendance in licensed child care centers that receive reimbursement under the Wisconsin Shares program. The design of this system has not been fully developed, but may include a "swipe card" system that could link automated payments to child care providers who would use the swipe card system or could link payments for FoodShare, child support, or TANF benefits to the same card that monitors attendance in the

swipe card system. DCF recently issued a request for information to vendors to find out more about how the system could work and how much it would cost to implement.

Under Wisconsin Shares, an eligible parent may choose a child care provider from: (a) a licensed day care center; (b) a certified day care provider (either Level I or Level II); or (c) a day care program provided or contracted for by a school board. A day care center that provides care for four or more children under the age of seven must be licensed by DCF. Day care providers that are not required to be licensed by the state or established by a school board, but are reimbursed under Wisconsin Shares, must be certified by the county department of social/human services or similar tribal body.

Although not specified in the bill, information provided by DOA indicates that the system would only apply to licensed child care providers who receive reimbursement under Wisconsin Shares.

Program Integrity Unit. Provide \$337,200 FED in 2009-10 and \$449,600 FED in 2010-11 to expand and enhance state oversight of Wisconsin Shares in the Department's program integrity unit. The program integrity unit is responsible for: (a) ensuring that parents and providers receiving state child care subsidies comply with state and federal statutes and rules; (b) monitoring billing and attendance activity; and (c) implementing overpayment prevention strategies.

Funding would provide ongoing support for 5.0 positions authorized under 2009 Wisconsin Act 2 as follows: (a) salaries (\$203,800 in 2009-10 and \$271,700 in 2010-11); (b) fringe benefits (\$95,900 in 2009-10 and \$127,900 in 2010-11); and (c) supplies and travel (\$37,500 in 2009-10 and \$50,000 in 2010-11). Although funding is provided for only nine months in 2009-10, the administration indicates that funding should be provided for all 12 months. As a result, funding would total \$449,600 annually.

The following 5.0 positions were added to the program integrity unit under Act 2: (a) a balance of state coordinator (to cover areas outside of Milwaukee County); (b) a central office coordinator/data specialist; (c) two field positions, with at least one located in Milwaukee County; and (d) a fraud specialist or investigator.

Joint Finance/Legislature: Reduce funding by \$387,600 (-\$500,000 GPR and \$112,400 FED) in 2009-10 and by \$500,000 GPR in 2010-11 to expand and enhance state oversight of the Wisconsin Shares child care subsidy program as follows:

Licensed Child Care Attendance Monitor System. Reduce funding by \$500,000 GPR annually to reflect that these funds would be placed in the Committee's general program supplementation appropriation.

Require DCF to request these funds under s. 13.10 of the statutes to implement a "swipe card" system to electronically record and monitor child care attendance in licensed child care facilities that receive reimbursement under Wisconsin Shares. Require DCF, as part of the request, to provide a detailed plan of how the swipe card system would work and how the funds, if released, would be spent.

Program Integrity Unit. Increase funding by \$112,400 FED in 2009-10 to reflect 12 months of funding for the additional 5.0 positions added under 2009 Act 2, rather than nine months under AB 75.

Additional Program Integrity Measures. Expand the current child care fraud statutes to authorize DCF or a local entity administering the Wisconsin Shares child care subsidy program to refuse to pay a child care provider for child care if either of the following applies to the child care provider, employee, or person living on the premises where child care is provided: (a) the person has been convicted of a felony or misdemeanor that DCF or the local administering entity determines substantially relates to the operation of a business; or (b) DCF or the local administering entity reasonably suspects that the person has intentionally and egregiously violated any provision under the Wisconsin Shares program or any rule related to the program.

Prohibit DCF from distributing payments under the Wisconsin Shares program for child care services that are provided for a child by a child care provider who employs either the parent of the child or a person who resides with the child unless: (a) the child care provider is licensed; and (b) at least 60% of the children for whom the child care provider is providing care are qualifying children. Specify that payments could not be suspended under this provision if, within six weeks of falling below the 60% threshold, the child care provider is able to fill vacant slots or otherwise alter the mix of children being cared for so that the 60% threshold for qualifying children is met.

Define a qualifying child to be: (a) a child who is not a child of an employee of the child care provider; and (b) a child who does not reside with an employee of the child care provider.

Require a child care provider to maintain a written record of the daily hours of attendance of each child for whom a subsidy is provided under the Wisconsin Shares program, including the actual arrival and departure times, for each child for at least three years after the child's last day of attendance, regardless of whether the child care provider is still receiving or eligible to receive payments under the Wisconsin Shares program.

Require DCF to establish, by rule, policies and procedures permitting the Department to do all of the following if a child care provider submits false, misleading, or irregular information to the Department or if a provider fails to comply with the terms of the Wisconsin Shares program and fails to provide to DCF's satisfaction an explanation for the noncompliance: (a) recoup payments made to the child care provider; (b) withhold payments to be made to the child care provider; and (c) impose a forfeiture on the child care provider.

Veto by Governor [B-8]: Eliminate the requirement that a violation be intentional and egregious in order for DCF or a local entity administering the Wisconsin Shares child care subsidy program to be able to refuse to pay a child care provider. As a result, DCF or a local administering entity may refuse to pay a child care provider if a child care provider, employee, or person living on the premises where child care is provided violates any provision under the

Wisconsin Shares program or any rule related to the program.

[Act 28 Sections: 1138d, 1138f, 1213f, 1214b thru 1214k, 1230, 1239, and 9108(9k)]

[Act 28 Vetoed Sections: 1138f and 1214f]

12. LOCAL FRAUD INVESTIGATION AND OVERPAYMENT RECOVERY

Governor/Legislature: Modify local W-2 and child care fraud investigation programs as follows:

Establishment of a Local Fraud Investigation Program. Under current law, county departments of human/social services and tribal governing bodies may establish a program to investigate suspected fraudulent activity by W-2 and Wisconsin Shares participants and to recover incorrect payments that result from fraudulent activity.

The bill would also authorize W-2 agencies to establish such a program and would limit the authority to establish such programs to county departments, W-2 agencies, and tribal governing bodies that administer the W-2 program. In addition, if county departments, W-2 agencies, or tribal governing bodies establish a fraud investigation program, they would have to advise both DCF and DHS of the date the program was established and any amounts recovered as a result of the program.

Fraud Recoveries. Under current law, a county department or tribal governing body that establishes a fraud investigation program must pay to DCF: (a) 50% of all fraud recoveries during the first month in which any fraud recoveries are made; (b) 66% of all fraud recoveries during the second month in which any fraud recoveries are made; and (c) 100% of all fraud recoveries after the second month.

The bill would instead authorize county departments, W-2 agencies, or tribal governing bodies that establish a fraud investigation program to retain all fraud recoveries received. In addition, the program revenue appropriation created in DCF for local fraud recoveries would be deleted.

Fraud Recovery Expenditures. Under current law, DCF is required to spend all W-2 fraud recoveries received from county departments and tribal governing bodies on W-2 and all Wisconsin Shares fraud recoveries on Wisconsin Shares.

The bill would require county departments, W-2 agencies, and tribal governing bodies that establish fraud investigation programs to spend any amounts recovered to pay cash benefits to W-2 participants. Federal law requires any TANF/CCDBG overpayment recoveries to be used for cash assistance.

These provisions would first apply to moneys recovered by a county department, a W-2 agency, or a tribal governing body on the bill's general effective date.

Modify DCF Fraud Investigation Program. Modify DCF's public assistance overpayment

recovery and fraud and error reduction appropriation to allow expenditure of the state's share of overpayment recoveries to investigate fraud relating to AFDC, rather than to reduce error and fraud relating to AFDC under current law, for any activities to reduce payment errors in the W-2 program, and for costs associated with collection of public assistance payments. In addition, authorize expenditures for the Department's fraud investigation program from the TANF block grant, CCDBG, and the TANF/CCDBG overpayment recovery appropriations.

[Act 28 Sections: 489, 494, 1257 thru 1262, 1263 thru 1265, 1266, and 9308(2)&(2f)]

13. CHILD CARE QUALITY RATING SYSTEM [LFB Paper 234]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
FED	\$2,745,700	-\$2,745,700	\$0

Governor: Provide \$1,018,400 in 2009-10 and \$1,727,300 in 2010-11 to establish a child care quality rating system. Of these amounts, \$192,300 in 2009-10 and \$44,300 in 2010-11 would support information technology changes and \$826,100 in 2009-10 and \$1,683,000 in 2010-11 would support rating assessments and technical assistance.

Require DCF to provide a child care quality rating system that rates the quality of child care of a licensed child care provider that receives reimbursement under Wisconsin Shares or of any child care provider that volunteers for rating. The bill would require DCF to rate the quality of child care of licensed child care providers that receive reimbursement under Wisconsin Shares by June 30, 2011.

Require DCF to make the rating information available to parents, guardians, and legal custodians of children who receive or would receive care and supervision from a child care provider that is rated under the system. Specify that DCF would have to post this rating information on its Internet site.

Joint Finance/Legislature: Reduce funding by \$1,018,400 in 2009-10 and \$1,727,300 in 2010-11 to reflect that DCF is authorized to create a quality rating system, but is provided no funding and must return to the Committee with a specific plan for the system under a 14-day passive review process. Require DCF to submit a specific plan for the implementation of the quality rating system to the Committee by June 30, 2011.

Specify that the plan must include: (a) various options for the design of the rating system, with every option requiring certified child care providers to be included in the rating system; (b) various options for quality assurance monitoring under the quality rating system; (c) details of the estimated expenditures that would be made in providing the quality rating system, including the estimated expenditures that would be made for financial incentives to encourage child care providers to achieve a higher rating under the quality rating system; (d) the information and training that would be provided to child care providers participating in the quality rating system, including specific steps for quality improvement that are not limited merely to new licensure or certification requirements; (e) a description of how the quality rating

system would ensure that the information provided under the rating system would be made accessible, and presented in a way that is useful, to the child care providers that are rated under the rating system and the parents, guardians, and legal custodians of children who are recipients, or prospective recipients, of care and supervision from those providers; (f) the process of ongoing evaluation of the quality rating system, which must include a requirement for DCF to consider the input of child care providers and other participants in the programming provided of child care providers; and (g) any other information that is relevant to the implementation and administration of the quality rating system.

[Act 28 Sections: 1057 and 9108(7f)]

14. QUALITY CARE FOR QUALITY KIDS [LFB Paper 233]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
FED	\$0	\$147,200	\$147,200

Governor: Eliminate the requirement that DCF spend no more than the minimum amount required under federal law to improve the quality and availability of child care.

The bill would require DCF to distribute these funds as follows: (a) at least \$3,475,000 annually for child care scholarships; (b) at least \$1,225,000 annually for child care resource and referral services; and (c) \$4,985,300 annually for day care licensing activities. The amounts under (a) and (b) for scholarships and resource and referral services are the same as current law; the amount under (c) for licensing is an increase of \$184,700 annually (shown in the item below). As under current law, DCF would have discretion to allocate any remaining funds for technical assistance, the local pass-through program, and the child care information center.

Joint Finance/Legislature: Provide \$73,600 annually for the child care resource and referral services. Require DCF to distribute a minimum of \$1,298,600 annually for child care resource and referral services and a minimum of \$5,763,900 annually for day care licensing. The day care licensing amounts include \$184,700 annually (shown in the "Licensing of Child Care Providers" entry) and \$778,600 annually (shown in the "Child Care State Administration" entry).

In addition, prohibit DCF from transferring any of the TANF block grant to the CCDBG. As a result, the minimum amount required to be spent on quality availability and improvement programs would be less than would otherwise be required if a portion of the TANF block grant were transferred to the CCDBG.

[Act 28 Sections: 1193 thru 1200c and 1240]

15. LICENSING OF CHILD CARE PROVIDERS

FED	\$369,400
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Governor/Legislature: Provide \$184,700 annually for the licensing and monitoring of

family and group day care facilities. The increase in funding reflects adjusted base funding and standard budget adjustments. Licensing activities are funded from the CCDBG, general purpose revenue, licensing fees, and the social services block grant.

[Act 28 Sections: 1196 and 1239]

16. CHILD CARE LICENSING FEES [LFB Paper 235]

PR	\$980,000
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Governor/Legislature: Provide \$490,000 annually to reflect an increase in child care licensing fees. No specific expenditures are budgeted with the increase in revenue. These fees are typically used to offset expenditures in the licensing office that exceed the amounts budgeted. DCF indicates that these fees may also be used to update technology used in monitoring child care facilities.

Under current law, a day care center that provides care and supervision for four to eight children must pay a biennial licensing fee of \$60.50 to DCF. A day care center that provides care and supervision for nine or more children must pay a biennial fee of \$30.25, plus a biennial fee of \$10.33 per child, based on the number of children that the center is licensed to serve.

The bill would increase the biennial fee per child for a day care center that provides care and supervision for nine or more children from \$10.33 per child to \$16.94 per child. All other licensing fees would remain the same.

This provision would first apply to a day care center license issued or continued on the bill's general effective date.

[Act 28 Sections: 1052, 1241, and 9308(11)]

17. CHILD CARE STATE ADMINISTRATION

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
FED	\$1,557,200	\$1,058,300	\$2,615,500

Governor: Provide \$778,600 annually to reflect the transfer of funding from the state administration of public assistance programs and costs of overpayment collections allocation to the child care state administration and child care licensing activities allocation to support additional child care and licensing activities.

With additional adjustments for child care program integrity, standard budget adjustments, and compensation and health reserves, funding for child care state administration would total \$3,487,100 in 2009-10 and \$3,796,000 in 2010-11.

Joint Finance/Legislature: Increase funding by \$449,900 in 2009-10 and \$608,400 in 2010-

11 to reflect: (a) a transfer of funds from the direct child care services allocation to the child care state administration and child care licensing activities allocation due to the state takeover of local administration of Wisconsin Shares in Milwaukee County (\$484,800 in 2009-10 and \$646,400 in 2010-11); and (b) a 1% reduction for the state administration of Wisconsin Shares and child care licensing (-\$34,900 in 2009-10 and -\$38,000 in 2010-11).

[Act 28 Sections: 1238 and 1239]

18. STATE ADMINISTRATION OF PUBLIC ASSISTANCE PROGRAMS [LFB Paper 236]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
FED	-\$871,500	-\$1,079,000	-\$1,950,500

Governor: Decrease funding by \$398,900 in 2009-10 and \$472,600 in 2010-11 for state administration of public assistance programs by making the following adjustments: (a) reduce funding due to the elimination of a project position (-\$68,700 in 2010-11); (b) transfer funding from the state administration of public assistance programs and costs of overpayment collections allocation to the child care state administration and child care licensing activities allocation to support additional child care and licensing activities (-\$778,600 annually); and (c) other increased expenditure authority (\$379,700 in 2009-10 and \$374,700 in 2010-11).

With additional adjustments due to standard budget adjustments and compensation and health reserves, funding for state administration of public assistance programs would total \$15,939,000 in 2009-10 and \$16,040,800 in 2010-11. This funding does not include state administration of the child care subsidy program or the kinship care program.

Joint Finance/Legislature: Reduce funding by \$541,500 in 2009-10 and \$537,500 in 2010-11 to reflect: (a) a 1% reduction for state administration of public assistance programs (-\$159,400 in 2009-10 and -\$160,400 in 2010-11); (b) a 1% reduction for state administration of the kinship care program (-\$2,400 annually); and (c) other decreased expenditure authority for state administration (-\$379,700 in 2009-10 and -\$374,700 in 2010-11).

[Act 28 Sections: 1229, 1243, and 1249]

19. COMPENSATION AND HEALTH INSURANCE RESERVES

FED	\$291,500
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Governor/Legislature: Reduce funding by \$54,000 in 2009-10 and increase funding by \$345,500 in 2010-11 in federal TANF funds to reflect compensation and health insurance reserve amounts. The funds would be held in reserve to supplement administrative costs, if necessary, for pay-plan and health insurance increases for DCF employees.

[Act 28 Sections: 1229 and 1239]

20. KINSHIP CARE [LFB Paper 223]

Governor: Increase funding by \$550,100 in 2009-10 and \$561,200 in 2010-11 for the kinship care program to reflect a reestimate of the number of families anticipated to use the program. The program provides monthly payments of \$215 per child to certain individuals caring for relative children. The total allocation under the bill would be \$23,892,400 in 2009-10 (\$22,420,200 for benefits and \$1,472,200 for assessments) and \$23,903,500 in 2010-11 (\$22,430,500 for benefits and \$1,473,000 for assessments). The fiscal effect of this item is shown under the "Children and Families" section.

Joint Finance/Legislature: Provide additional funding of \$542,600 in 2009-10 and \$531,500 in 2010-11 for the kinship care program to reflect more recent estimates of the number of families anticipated to use the program. The total allocation under the bill would be \$24,435,000 annually (\$22,909,300 for benefits and \$1,525,700 for assessments). The fiscal effect of this item is shown under the "Children and Families" section.

[Act 28 Section: 1245]

21. CARETAKER SUPPLEMENT

FED	- \$356,400
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Governor/Legislature: Decrease TANF funding by \$194,900 in 2009-10 and \$161,500 in 2010-11 for benefits and administration of the caretaker supplement for children of recipients of SSI, administered by DHS. TANF funding under the bill would total \$29,899,800 in 2009-10 and \$29,933,200 in 2010-11, including \$28,354,900 annually for benefits and \$1,544,900 in 2009-10 and \$1,578,300 in 2010-11 for administration. The benefits amounts are based on reestimates of caseloads under the program.

[Act 28 Section: 1246]

22. EMERGENCY ASSISTANCE [LFB Paper 237]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
FED	\$1,000,000	- \$500,000	\$500,000

Governor: Provide \$1,000,000 in 2009-10 to increase funding for the emergency assistance program to reflect increased demand for the program, which provides assistance to needy persons in cases of fire, flood, natural disaster, energy crisis, homelessness, or impending homelessness. Funding for the program would total \$7,000,000 in 2009-10 and \$6,000,000 in 2010-11.

Require DCF to establish the amount of aid to be granted. Under current law, DCF must establish the maximum amount of aid to be granted, except for cases of energy crisis, per family

member based on the amount of TANF or TANF maintenance of effort funding available.

Require DCF to publish the maximum amounts in the Wisconsin Administrative Register if DCF does not establish the amounts by rule. Under current law, DCF must publish the maximum amount it establishes and annual changes to the maximum amount in the Wisconsin Administrative Register.

These provisions would take effect on January 1, 2010, and would first apply to determinations of emergency assistance aid payment amounts that are made on that date.

Joint Finance/Legislature: Reduce funding by \$500,000 in 2009-10 and delete the following provisions: (a) require DCF to establish the amount of aid to be granted; and (b) require DCF to publish the maximum amounts in the Wisconsin Administrative Register if DCF does not establish the amounts by rule. As a result, DCF must establish the maximum amount of aid to be granted, except for cases of energy crisis, per family member based on the amount of TANF or TANF maintenance-of-effort funding available and publish the maximum amount and annual changes to the maximum amount in the Wisconsin Administrative Register. Funding for emergency assistance would total \$6,500,000 in 2009-10 and \$6,000,000 in 2010-11.

[Act 28 Section: 1232]

23. CHILD WELFARE SAFETY SERVICES [LFB Paper 223]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
FED	\$2,138,800	- \$700,800	\$1,438,000

Governor: Provide \$1,069,400 annually to reflect a reestimate of the costs to support child welfare safety services in Milwaukee County based on recent caseload and expenditure data. Funding for the services would total \$6,700,700 annually. This item is also shown as a program revenue increase under the Milwaukee child welfare item. The TANF revenue is transferred to a program revenue-service appropriation for Milwaukee child welfare in the children and family services program.

Joint Finance/Legislature: Reduce funding by \$350,400 annually to reflect more recent estimates of the costs to support child welfare safety services in Milwaukee County. Funding for the services would total \$6,350,300 annually.

[Act 28 Sections: 1247 and 1248]

24. AFDC OVERPAYMENT LIABILITY [LFB Paper 238]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$0	\$13,183,900	\$13,183,900
FED	<u>13,183,900</u>	<u>- 13,183,900</u>	<u>0</u>
Total	\$13,183,900	\$0	\$13,183,900

Governor: Provide \$13,183,900 in 2009-10 to repay the federal government for previously failing to pay the federal share of AFDC overpayment recoveries.

In addition, create a sum sufficient GPR appropriation to pay any remaining liability to the federal government for AFDC overpayments liability. Repeal this appropriation on July 1, 2011. No funding has been allocated for this appropriation. It is expected that the principal amount owed plus interest would be paid under the TANF program. Should the amount allocated in the TANF program be insufficient to repay all of the interest accrued, this GPR sum sufficient appropriation would pay the remaining interest amount.

When the federal TANF program replaced the former AFDC program in 1996, there was some confusion as to what states should do with the AFDC overpayment recoveries collected from AFDC recipients who had received more benefits than they were entitled to. The Administration for Children and Families (ACF), in the U.S. Department of Health and Human Services, issued conflicting guidance. One of the instructions from ACF suggested that states could retain the federal share of the AFDC overpayment recoveries and use the funds in their TANF programs. A subsequent program instruction rescinded that prior instruction and clearly indicated that states must pay the federal share of AFDC overpayment recoveries. ACF then sought repayment of the federal share of AFDC overpayment recoveries that the state failed to pay during that time period. Although the state appealed this decision, it was determined that the state owed \$10.7 million, with an additional \$4.0 million in interest that continues to accrue.

Joint Finance/Legislature: Provide \$13,183,900 GPR in 2009-10 and reduce funding by \$13,183,900 FED in 2009-10 to ensure that the AFDC overpayment liability is repaid with state funding. The GPR funds would be transferred from the TANF maintenance-of-effort appropriation in 2010-11 on a one-time basis to the new sum sufficient GPR appropriation created to pay the AFDC overpayment liability by in 2009-10. The reduction in GPR from the TANF maintenance-of-effort appropriation is reflected in the "TANF Revenue Adjustments" entry below.

[Act 28 Sections: 483, 484, 1226, 1227, 1235, 1236, and 9408(2)]

25. ADJUSTMENT TO TANF-RELATED APPROPRIATION

PR	- \$3,284,400
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Governor/Legislature: Reduce funding by \$1,642,200 annually to reflect reduced spending authority in the interagency and intra-agency programs appropriation. This

reduction estimates actual spending in DCF after the appropriation was transferred from DWD. The appropriation in DWD had supported positions related to job service and reemployment services, which were not transferred to DCF. In addition, the reduction reflects a reestimate of revenue received from DHS to pay for its share of programming and overpayment collections work performed by DCF related to medical assistance and FoodShare.

26. ELIMINATE PROGRAM REVENUE-SERVICE FUNDING FOR LICENSING OF CHILD CARE PROVIDERS

	Funding	Positions
FED	\$0	62.08
PR	- 9,970,600	- 62.08
Total	- \$9,970,600	0.00

Governor/Legislature: Reduce funding by \$4,985,300 PR annually and convert 62.08 PR positions to 62.08 FED positions, beginning in 2009-10, to reflect the elimination of program revenue-service funding for the licensing and monitoring of family and group day care facilities. Instead, day care licensing activities would be funded directly from the CCDBG appropriation, rather than from CCDBG funding transferred to a program revenue-service appropriation.

27. TANF REVENUE ADJUSTMENTS [LFB Papers 223 and 239]

	Governor (Chg. to Base)	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR	\$7,282,300	-\$14,424,900	\$18,279,400	\$11,136,800
FED	2,159,800	- 10,427,900	0	- 8,268,100
PR	- 992,500	- 1,341,000	0	- 2,333,500
SEG	0	18,279,400	- 18,279,400	0
Total	\$8,449,600	-\$7,914,400	\$0	\$535,200

Governor: Increase funding by \$16,874,500 (\$7,282,300 GPR, \$9,630,200 FED, and -\$38,000 PR) in 2009-10 and decrease funding by \$8,424,900 (-\$7,470,400 FED, and -\$954,500 PR) in 2010-11 to reflect: (a) an increase in GPR in 2009-10 to meet the maintenance of effort requirements for receipt of TANF contingency funds; (b) a reestimate of funding generated from the state's share of AFDC overpayment recoveries; (c) a reestimate of the state's share of child support collections used to fund W-2; (d) an increase in TANF funding to replace revenue lost from the reduction in program revenue; and (f) modifications to federal funds to reflect the receipt of TANF contingency funds and federal economic stimulus CCDBG funds.

In addition, create a continuing appropriation for the receipt of federal economic stimulus CCDBG funds to be expended for CCDBG-related purposes, and include this appropriation in the monies used to fund TANF-related programs.

Joint Finance: Decrease funding by \$16,606,900 (-\$1,218,100 GPR, -\$23,668,700 FED, -\$859,800 PR, and \$9,139,700 SEG) in 2009-10 and increase funding by \$8,692,500 (-\$13,206,800 GPR, \$13,240,800 FED, -\$481,200 PR, and \$9,139,700 SEG) in 2010-11 to reflect: (a) a reduction of GPR funds in 2010-11 to correspond to the increase of GPR funds in 2009-10 to repay the AFDC overpayment liability; (b) a reestimate of the state's share of child support collections used to

fund W-2; (c) a reestimate of revenue generated from W-2 agency filing fees; (d) an increase in the amount of public benefits funding to support W-2 and TANF-related programs; (e) modifications to federal funds to replace decreases in GPR and program revenue; (f) receipt of all of the federal CCDBG stimulus funds in 2009-10; (g) an overall increase in federal funds due to a reestimate of the CCDBG and additional TANF stimulus funds; and (h) additional GPR decreases.

Senate/Legislature: Provide \$9,139,700 GPR annually and reduce funding by \$9,139,700 SEG annually to reflect that additional GPR would replace additional public benefits funding to support W-2 and TANF-related programs.

[Act 28 Section: 498]

28. CHILD WELFARE INFORMATION SYSTEM [LFB Paper 210]

FED	-\$362,400
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Joint Finance/Legislature: Reduce funding by \$181,200 annually for the electronic Wisconsin statewide child welfare information system (eWISACWIS), which is the automated child welfare system that assists case workers and administrators in managing child welfare services, including intake, assessment, eligibility determinations, case management, court processing, financial reporting, and administration. The TANF funds support the portion of implementation and ongoing support costs of the system that are related to the kinship care program. This reduction reflects the 1% reduction to the children and family interagency and intra-agency programs under the "Departmentwide" section, which results in a 1% reduction to eWISACWIS and less funding transferred from the TANF block grant to BMCW for this purpose.

[Act 28 Section: 1229]

29. COLLECTIVE BARGAINING FOR DAY CARE PROVIDERS

Joint Finance/Legislature: Authorize, under Subchapter I (Employment Peace) to Chapter 111 (Employment Relations), a single collective bargaining unit for a certified or licensed day care provider who provides care and supervision for not more than eight children who are not related to the day care provider. Include a certified or licensed day care provider who provides care and supervision for not more than eight children who are not related to the day care provider in the definition of employee under Subchapter I. With respect to such day care providers, define the employer as the state, counties, and other administrative entities involved in regulation and subsidization of the day care providers. Modify the definitions in Subchapter I of "fair-share agreement," "maintenance of membership agreement," and "referendum" to reflect the inclusion of such day care providers and the labor organization representing them.

Provide, as a nonstatutory provision, that the terms of the Memorandum of Agreement between DHS, the Department of Workforce Development, and the Wisconsin Child Care Providers Together, American Federation of State, County and Municipal Employees, AFSCME Councils 40 and 48, AFL-CIO, entered into on July 21, 2008, would remain in effect until the

earlier of June 30, 2011, or the date on which a collective bargaining agreement is ratified between an employer, as specified above, and a labor organization representing the day care providers. Provide that, upon ratification of the collective bargaining agreement, the collective bargaining agreement would supersede the Memorandum of Agreement with regard to wages, hours, and conditions of employment of the employees.

[Act 28 Sections: 2216g thru 2216y and 9156(2f)]

30. LICENSED CHILD CARE SEARCH DATABASE

Joint Finance/Legislature: Require DCF to make available on its Internet site, as part of the licensed child care search database, a specific description of any violation committed by a licensed child care provider and a description of any steps taken by the provider to correct the violation.

[Act 28 Section: 1056t]

31. SUBSIDIZED PRIVATE SECTOR EMPLOYMENT

Senate/Legislature: Create a subsidized private sector employment position program as part of the W-2 program.

Effective January 1, 2011, subject to compliance with federal law, require DCF to establish and administer a subsidized private sector employment program, as part of the W-2 program, for work in projects that DCF determines would serve a useful public purpose or projects the cost of which would be partially or wholly offset by revenue generated from such projects. Specify that an individual could participate in a subsidized private sector employment position for a maximum of six months, with an opportunity for an extension. Require participants in subsidized private sector employment positions to be paid benefits, defined as compensation in the form of the state or federal minimum wage, whichever is higher, for each hour actually worked in a subsidized private sector employment position, up to 20 hours per week. In addition, provide a participant in a subsidized private sector employment position a monthly grant of \$25.

Require DCF to begin operation of this program only if the DCF Secretary: (a) structures the subsidized private sector employment program in such a manner that the total cost for a participant in the program does not exceed what the total cost would be for the participant in a community service job (CSJ) under W-2; (b) determines that the cash flow to a participant in the subsidized private sector employment program, including the advance payment of any tax credit, is not less than what the cash flow would be to the participant in a CSJ; and (c) determines that administering the subsidized private sector employment program is permitted under federal law or under a waiver of federal law, or an amendment to a waiver, approved by the U.S. Department of Health and Human Services (DHHS) for the operation of W-2.

Specify that if a federal waiver, or an amendment to a waiver, under (c) above, is

necessary, that the DCF Secretary must request the waiver, or an amendment to a waiver, from DHHS no later than September 30, 2009, to permit the DCF Secretary to administer the subsidized private sector employment program. Specify that if the DCF Secretary determines that administering the subsidized private sector employment program would require changes to the TANF block grant program, then the DCF Secretary must pursue the necessary changes to the federal legislation.

Require DCF to promulgate rules for the establishment and administration of the subsidized private sector employment program. Authorize DCF to promulgate emergency rules before the effective date of any permanent rules without having to provide evidence that emergency rules would be necessary for the preservation of the public peace, health, safety, or welfare or having to provide a finding of emergency.

Veto by Governor [B-6]: Delete the limit of 20 hours per week as the maximum number of hours a participant in a subsidized private sector employment position may be compensated. In addition, delete the monthly grant of \$25. As a result, participants in subsidized private sector employment positions will be paid benefits, defined as compensation in the form of the state or federal minimum wage, whichever is higher, for each hour actually worked in a subsidized private sector employment position.

[Act 28 Sections: 1161c, 1172c, and 1173c]

[Act 28 Vetoed Section: 1173c]

32. TRANSITIONAL JOBS DEMONSTRATION PROJECT

Senate/Legislature: Require DCF to conduct a demonstration project, beginning January 1, 2010, that offers transitional jobs to low-income adults. Specify that in order to be eligible for the demonstration project, an individual must satisfy all of the following criteria: (a) be at least 21 years of age, but not more than 64 years of age; (b) be ineligible for W-2; (c) have an annual household income below 150% of the federal poverty level; (d) be unemployed for at least four weeks; and (e) be ineligible to receive unemployment insurance benefits.

Require DCF to provide up to 2,500 transitional jobs under the demonstration project. Specify that the jobs must be allocated among Milwaukee County, Dane County, Racine County, Kenosha County, Rock County, Brown County, and other regions of the state, as determined by DCF, in the same proportion as the total number of W-2 participants is allocated among those counties and other regions as of June 30, 2009.

In addition, require DCF to seek federal funds to pay for the cost of operating the demonstration project, and authorize DCF to conduct the project only to the extent that DCF obtains federal funds.

Finally, require DCF to promulgate rules for the operation of the demonstration project.

[Act 28 Section: 1216k]

33. RACINE COUNTY CHILD CARE FACILITY PILOT PROGRAM

Assembly: Direct DCF to provide a grant of \$128,500 GPR annually to a child care facility in Racine County to supplement the salaries of staff who have at least an associate degree in early childhood education or child care, such that the salary would be a minimum of \$12.50 per hour, under a two-year pilot program beginning July 1, 2009, or the next contract renewal date thereafter.

Specify that the child care facility participating in the pilot program must meet the following qualifications: (a) not less than 80% of the children receiving care and supervision have family incomes that do not exceed 150% of the federal poverty level; (b) not less than 50% of the staff have been awarded the child development associate credential from the Council for Professional Recognition; (c) has a favorable rating on the early childhood environment rating scale or the infant/toddler environment rating scale; (d) employs a staff member to oversee curriculum development; (e) funds the provision of lesson plan supplies; (f) employs a staff member to provide family support for the families of children receiving care and supervision, including referrals to agencies providing services for families, emergency funds, parent education, and crisis management; (g) provides developmental assessments of the children receiving care and supervision; (h) provides programming to support the social and emotional growth and development of the children receiving care and supervision; (i) has no, or only minor, violations of statutes, rules, or other licensing requirements, as determined by DCF; and (j) provides benefits, such as vacation pay, sick leave, personal leave, and health insurance, for staff.

Finally, require DCF to evaluate the pilot program and to submit a report of the evaluation to the appropriate standing committees of the Legislature and to the Governor no later than December 1, 2011. Specify that the evaluation must determine whether the increased compensation provided under the pilot program was effective in improving staff retention and the quality of the child care provided at the child care facility participating in the pilot program.

Senate/Legislature: Delete provision.

34. W-2 AGENCY REQUIREMENTS

Governor: Eliminate community steering committees and children's services networks under the W-2 program, as described below.

Under current law, DCF is authorized to award a contract to any person to administer the W-2 program in a geographical area determined by DCF on the basis of a competitive process approved by the Department of Administration.

The contracts must contain specific requirements for each W-2 agency. One requirement is for each W-2 agency to establish a community steering committee to participate in the implementation of the W-2 program including: advising the agency; helping to identify available employment and training opportunities; creating and encouraging others to create subsidized jobs and on-the-job training; fostering and guiding entrepreneurial efforts of participants; providing mentors; identifying child care needs; and coordinating with the council on workforce investment. Each committee consists of at least 12, but not more than 15, individuals. The committee must appoint a chairperson who represents business interests.

Another requirement is for each W-2 agency to establish a children's services network to provide information about community resources available to dependent children in W-2 groups.

The bill would eliminate the requirement to establish a community steering committee and a children's services network. Instead, the bill would require W-2 agencies, through contract language, to provide: (a) information and services aimed at connecting W-2 applicants and participants with their communities and the resources available, including job creation, employer and job connections, mentorships, child care services and providers, the local workforce investment board, charitable food and clothing centers, subsidized and low-income housing, and transportation subsidies; and (b) information and services aimed at connecting youth and their parents with schools, career development services, and workforce development programs, including the youth apprenticeship program and the Wisconsin covenant scholars program. In addition, the bill would require W-2 agency contracts to include descriptions of the information and services the W-2 agency would be required to provide under (a) and (b) and how the information and services would be provided to applicants and participants. Any requirements under current law for a community steering committee or a children's services network would now be performed by the W-2 agency. W-2 agencies in Milwaukee County, rather than the children's services networks in Milwaukee County, would now be required to nominate two members to the Milwaukee child welfare partnership council from different geographical areas in Milwaukee County and nominate any replacement from the geographical area of the member who is being replaced according to a rotating order of succession determined by the W-2 agencies.

In addition, the bill would eliminate the requirement for a W-2 agency to consult with, or work with, a technical college district board for a technical college program placement to: (a) determine that the technical college education program is likely to lead to employment; and (b) monitor the participant's progress in the technical college education program and the effectiveness of the program in leading to employment.

These provisions would take effect, and would first apply to individuals participating in W-2, on the later of October 30, 2009, or the 30th day beginning after publication of the budget bill.

Provisions relating to the appointment of members to the Milwaukee child welfare partnership council would first apply to members who would be appointed for terms beginning

after the expiration of the terms of the current members of the council who were nominated by a children's services network in Milwaukee County.

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

Child Support

1. CHILD SUPPORT ENFORCEMENT PROGRAM OVERVIEW

The costs of administering the child support program in Wisconsin are supported by a combination of federal funds, state general purpose revenue, county tax revenue, program revenue collected from service fees, interest on balances in the support collections trust fund, and unclaimed child support. The largest source of funding for child support enforcement activities comes from the federal government in the form of federal child support incentive payments and federal matching funds.

The federal government distributes child support incentive payments to states in order to encourage and reward state programs that perform in a cost-effective and efficient manner. States must compete against each other for incentive dollars. These funds support both state operations of child support enforcement activities in DCF and child support enforcement activities performed by counties through contracts with DCF.

Prior to enactment of the federal Deficit Reduction Act (DRA) of 2005, states could claim 66% federal child support matching funds if they reinvested their federal incentive payments into child support enforcement activities. Therefore, an expenditure of \$1 of federal incentive payments would generate a match of \$1.94, and fund nearly \$3 of child support enforcement expenditures. The federal DRA eliminated the ability to receive federal matching funds for federal incentive payments, beginning October 1, 2007.

As a result of the inability to receive federal matching funds for federal incentive payments expended on child support enforcement activities, both DCF and counties lost substantial federal funding for child support activities. To partially offset this reduction, 2007 Wisconsin Act 20 provided additional state funds through increased GPR, an increase in the centralized receipt and disbursement (CR&D) fee paid by support obligors, and a new annual fee on recipients of child support. For county child support enforcement activities, additional GPR was provided under Act 20 of \$2,750,000 in 2007-08 and \$5,500,000 in 2008-09.

The federal American Recovery and Reinvestment Act (ARRA) of 2009 provides for the temporary reinstatement of the ability to receive federal matching funds for federal incentive payments for the period of October 1, 2008, through September 30, 2010. Beginning October 1, 2010, the federal DRA's provision that eliminated the ability to receive federal matching funds for federal incentive payments will be reinstated. The fiscal effect of these federal changes is

reflected in the funding for child support enforcement activities described below.

2. FEDERAL AND STATE FUNDS FOR CHILD SUPPORT ENFORCEMENT ACTIVITIES
 [LFB Papers 240 and 241]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR Opening Balance	\$0	\$2,750,000	\$2,750,000
GPR	-\$11,000,000	\$4,250,000	-\$6,750,000
FED	30,000,000	- 861,400	29,138,600
PR	<u>0</u>	<u>5,774,900</u>	<u>5,774,900</u>
Total	\$19,000,000	\$9,163,500	\$28,163,500

Governor: Provide \$9,500,000 (-\$5,500,000 GPR and \$15,000,000 FED) annually to reflect federal stimulus funds under the federal ARRA due to the temporary reinstatement of the ability to match federal child support incentive payments and the reduction of GPR funds that had been provided to offset the federal DRA elimination of the ability to match federal child support incentive payments.

Under current state law, DCF distributes the state's award of federal child support incentive payments to counties as follows: (a) the amount of federal incentive payments awarded to the state if the award is less than \$12,340,000; or (b) \$12,340,000 plus 30% of the amount awarded to the state that exceeds \$12,340,000. DCF may retain 70% of the federal child support incentive payments awarded to the state that exceed \$12,340,000 to support state child support enforcement activities. Finally, counties may receive state supplemental payments of \$5,500,000 annually and receive the federal matching funds on these state payments. Due to the federal ARRA, both the state and counties will receive federal matching funds on the child support incentive payments from October 1, 2008, through September 30, 2010.

The state received federal incentive payments of \$13.5 million in 2008-09 from the federal fiscal year (FFY) 2007 award of incentive payments. It is estimated that the state will receive \$13.3 million in 2009-10 and \$13.0 million in 2010-11 in federal incentive payments. As noted, the state will receive federal child support matching funds from October 1, 2008, through September 30, 2010.

The bill would make no changes to the state share of federal incentive payments or the federal match on the state share of federal incentive payments. Changes to funding for child support enforcement activities by counties are described below.

State Incentive Payments to Counties. Reduce funding by \$5,500,000 GPR annually to reflect the elimination of state incentive payments to counties for the 2009-11 biennium. Because counties would be able to receive federal matching funds for federal child support incentive payments from October 1, 2008, through September 30, 2010, the bill would eliminate state incentive payments during the 2009-11 biennium.

Federal Match on County Child Support Expenditures. Increase funding by \$15,000,000 FED annually to reflect the estimated net increase of federal matching funds on child support incentive payments less the federal matching funds on state incentive GPR payments.

Joint Finance/Legislature: Increase the 2009-10 general fund opening balance by \$2,750,000 to reflect that unspent state incentive payments to counties would lapse to the general fund in 2008-09. Unspent funding of \$2,750,000 GPR is due to the reinstatement of the ability to receive federal matching funds for federal child support incentive payments under the ARRA.

In addition, increase expenditure authority by \$5,355,800 (\$2,769,300 FED and \$2,586,500 PR) in 2009-10 and \$3,807,700 (\$4,250,000 GPR, -\$3,630,700 FED, and \$3,188,400 PR) in 2010-11 for state and county child support enforcement activities. These amounts reflect the following:

Carryover Funds for State Operations. Increase funding by \$4,183,600 (\$2,586,500 PR and \$1,597,100 FED) in 2009-10 and \$3,188,400 PR in 2010-11 to reflect the amount of funds available, but unexpended, at the end of 2008-09 that would be carried over to 2009-10, and the amount of funds available, but unexpended, at the end of 2009-10 that would be carried over to 2010-11.

State Share of Federal Incentive Payments. Reduce funding by \$440,300 FED in 2009-10 and \$690,900 FED in 2010-11 to reflect revised estimates of the state's share of federal incentive payments. The state share of federal incentive payments would total \$538,400 in 2009-10 and \$287,800 in 2010-11.

Federal Match on State Child Support Expenditures. Increase funding by \$2,802,700 FED in 2009-10 and \$2,316,300 FED in 2010-11 in federal matching funds for state child support expenditures. Federal matching funds on state child support expenditures would total \$15,920,400 in 2009-10 and \$15,434,000 in 2010-11.

County Share of Federal Incentive Payments and Federal Match on County Child Support Expenditures. Reduce funding by \$1,190,200 FED in 2009-10 and \$5,256,100 FED in 2010-11 to reflect that counties would receive a smaller federal child support incentive payment, would only receive matching funds for federal child support incentive payments under the ARRA from October 1, 2008, through September 30, 2010, and would receive matching funds for state incentive payments. The estimated federal child support incentive payment amount for counties would be \$12,614,100 in 2009-10 and \$12,539,200 in 2010-11. The estimated amount for federal matching funds would total \$24,486,300 in 2009-10 and \$20,420,400 in 2010-11.

State Incentive Payments to Counties. Increase funding by \$4,250,000 GPR in 2010-11 for state supplemental incentive payments to partially offset the reduction in federal funds due to the inability to match funds for federal child support incentive payments after September 30, 2010. Create a continuing GPR appropriation for state supplemental incentive payments.

However, require that if federal legislation reinstates the ability to match federal child support incentive payments at a rate of 66% or more, then state supplemental payments would be funded with program revenue from child support assigned to the state by certain public

assistance recipients. If payments are made from assigned child support, then the state may provide these payments only if the state receives a federal incentive payment that is less than \$12,340,000, and the total of federal incentive payments and state supplemental funding would not be able to exceed \$12,340,000, with state supplemental payments capped at \$5,690,000.

Finally, require DCF to include a provision in the child support contracts with local child support agencies, beginning with the calendar year 2011 contracts, that specifies if federal legislation is enacted, on or after the date on which the contract begins, that allows the ability to match federal child support incentive payments at a rate of 66% or more, then DCF would not pay state supplemental incentive payments with GPR beginning on the effective date of the federal legislation.

[Act 28 Sections: 482c, 1268b thru 1268k, and 9108(8c)]

3. INCENTIVE PAYMENTS TO LOCAL CHILD SUPPORT AGENCIES FOR IDENTIFICATION OF MA COVERED CHILDREN WITH OTHER HEALTH INSURANCE COVERAGE [LFB Paper 242]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$0	\$600,000	\$600,000
FED	1,164,800	0	1,164,800
PR	<u>600,000</u>	<u>- 600,000</u>	<u>0</u>
Total	\$1,764,800	\$0	\$1,764,800

Governor: Provide \$882,400 (\$300,000 PR and \$582,400 FED) annually to reflect payments to child support agencies as an incentive for child support agencies to identify children who are receiving medical assistance benefits, yet already have other health insurance coverage or have access to other health insurance coverage.

Authorize DCF to disclose to DHS information it possesses or obtains that would assist DHS to identify children with MA coverage who have health insurance coverage or access to health insurance coverage. Prohibit disclosure of this information for any purpose not connected with the administration of this provision.

The fiscal estimate assumes that \$300,000 annually in MA administrative funding would be transferred from DHS to DCF. The \$300,000 amount assumes that the incentive payment would be \$100 per child identified and that 3,000 children per year would be identified. These payments would be appropriated as program revenue in DCF, and passed along to the local child support agencies. The \$100 incentive payment is not specified in the bill.

At the time the bill was introduced, it was assumed that counties could claim 66% federal matching funds for child support enforcement activities (\$582,400 per year). However, it was subsequently determined that these PR funds transferred from DHS are not eligible for federal matching funds. As a result, the federal funding of \$582,400 annually provided under the bill would not be available for local child support enforcement activities. Additional information is

provided in an item under "Medical Assistance -- Administration and FoodShare," under "Health Services."

Joint Finance/Legislature: Provide \$300,000 GPR annually and reduce funding by \$300,000 PR annually to reflect that general purpose revenue would be appropriated directly in DCF to fund MA incentive payments to county child support agencies, rather than transfer funding from DHS to DCF. As a result, counties would be able to claim 66% federal matching funds for child support enforcement activities (\$582,400 FED annually).

[Act 28 Sections: 487p, 1268p, and 1377]

4. CHILD SUPPORT DISTRIBUTION CHANGE FOR PRE- ASSISTANCE ARREARAGES

PR	- \$188,700
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Governor/Legislature: Reduce funding by \$80,900 in 2009-10 and \$107,800 in 2010-11 to reflect that less assigned child support would be collected as a result of a child support distribution change for pre-assistance arrearages.

Eliminate the requirement, beginning October 1, 2009, or the day after publication of the bill, whichever is later, that a person applying for or receiving kinship care payments, long-term kinship care payments, caretaker supplement payments, or any assistance under W-2 assign to the state any right to child support or maintenance that has accrued at the time of application for payments or assistance. As a result, a person who applies for or receives kinship care payments, long-term kinship care payments, caretaker supplement payments, or assistance under W-2 would be required to assign any right to child support or maintenance that accrues only during the time that any payment or assistance is received.

Require, effective October 1, 2009, or the day after publication of the bill, whichever is later, the release of any assignment of child support or maintenance made to the state for amounts that accrued at the time of application for kinship care payments, long-term kinship care payments, caretaker supplement payments, or any assistance under W-2.

Under current law, recipients of kinship care payments, long-term kinship care payments, caretaker supplement payments, and assistance under W-2 must assign to the state the right to collect any child support obligations that accumulated before the family received welfare as well as support that came due while the family received payments or assistance, not to exceed the total amount of assistance provided.

Under the federal DRA, states can no longer require TANF recipients to assign to the state the right to collect any child support obligations that accumulated before the family received welfare. The provision must be implemented no later than October 1, 2009. In addition, states may eliminate all existing assigned child support arrearages for AFDC and TANF recipients for child support that accrued before the family received assistance. The bill would exercise this option with respect to TANF recipients and eliminate all existing assigned child support arrearages for TANF recipients for child support that accrued before the family received

assistance.

[Act 28 Sections: 997, 1000, 1155, 1369, 9108(1), and 9408(1)&(14)]

5. CHILD SUPPORT DISTRIBUTION CHANGE FOR FORMER TANF RECIPIENTS

Governor/Legislature: Require DCF, beginning January 1, 2010, to pay to an individual all past-due child support or maintenance that DCF collects on behalf of the individual who formerly participated in, but is no longer participating in, W-2, or who formerly received, but no longer receives, caretaker supplement payments, that accrued while the individual participated in W-2 or received caretaker supplement payments.

Under current state law, when an individual participates in W-2 or receives caretaker supplement payments, the individual must assign to the state the right to child support or maintenance payments that accrued before applying for W-2 or caretaker supplement payments and to child support or maintenance that accrues while participating in W-2 or receiving caretaker supplement payments.

These assigned child support or maintenance payments that accrue while an individual participated in W-2 or received caretaker supplement payments (because the obligor failed to make the payments while the individual participated in W-2 or received caretaker supplement payments) may be collected by the state after the individual is no longer participating in W-2 or receiving caretaker supplement payments. Of the amounts collected, the state pays the federal share of the assigned collections (approximately 59%) to the federal government and passes through the state share (approximately 41%) to the individual.

Under the federal DRA, states have the option to pass through all arrearages that accumulated while an individual participated in W-2 or received caretaker supplement payments, if the individual is no longer participating in W-2 or receiving caretaker supplement payments, without having to pay the federal share on these amounts. As a result, the individual would receive 100% of any assigned child support or maintenance payments that are collected and that accrued while the individual participated in W-2 or received caretaker supplement payments. The bill would implement this option.

This provision would first apply to arrearages collected on January 1, 2010.

[Act 28 Sections: 1156, 1371, 9308(9), 9322(7)(a), and 9422(12)(a)]

6. CHILD SUPPORT PASS-THROUGH [LFB Paper 243]

Governor: Require DCF, beginning on the bill's general effective date, to pass through 75% of child support or maintenance assigned to the state for individuals applying for or participating in W-2 or receiving caretaker supplement payments.

Under current federal law, child support collected on behalf of families who have never

received public assistance must be distributed to the family. However, in the case of families receiving assistance from the state, the state must: (a) first pay to the federal government the federal share of support collected; and (b) retain, or distribute to the family, the remaining amount collected. The federal share is based on the federal financial participation rate for the Medicaid program in effect during the year in which the collections were made (currently about 59% in Wisconsin).

Under current state law, the state first pays the federal government its share of the assigned child support collected and then passes the remainder of the support collected through to the W-2 participant or caretaker supplement recipient. Therefore, families receive 41% of assigned child support collected. Under the bill's provisions, families who have assigned child support or maintenance to the state because they are applying for or participating in W-2 or receiving caretaker supplement payments would receive 75% of any support the state collects, rather than 41% under current law.

Under the federal DRA, states have the option to pass through \$100 per month (\$200 per month for a family that has two or more children) without being required to pay the federal share on that amount. Although it appears that current state law would accommodate this provision under the federal DRA, the state has not yet implemented this option. DCF would implement this option on the bill's general effective date. As a result, DCF estimates that the state would not pay additional funds to the federal government for the federal share of assigned support collected due to increasing the pass-through to 75%.

Joint Finance/Legislature: Require this provision to pass through 75% of child support or maintenance assigned to the state for individuals applying for or participating in W-2 or receiving caretaker supplement payments to take effect on October 1, 2010, rather than the bill's general effective date.

[Act 28 Sections: 1155c, 1369c, 9308(8d), and 9408(13d)]

7. CENTRALIZED RECEIPT AND DISBURSEMENT FEE [LFB

PR	- \$354,400
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Paper 240]

Joint Finance/Legislature: Reduce funding by \$177,200 annually to reflect a revised estimate of revenues from the annual CR&D fee. This \$65 annual fee is paid by child support obligors and helps fund the CR&D system, which processes child support, maintenance (alimony), health care expenses, birth expenses, and other child support related payments. With the revised estimate, CR&D fee revenue would total \$10,500,000 annually.

8. CHILD SUPPORT ANNUAL FEE [LFB Paper 240]

PR	- \$1,049,000
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Joint Finance/Legislature: Reduce funding by \$524,500 annually to reflect a revised estimate of the amount of revenue from the annual \$25 child support fee. Pursuant to the federal DRA, states must impose an annual fee of \$25 on each family that never received TANF

benefits and for which the child support program collects at least \$500 in a year. The fee is imposed on an individual receiving child support or family support payments and may be deducted from the support payment. The child support annual fee revenue is used for state operations of the child support enforcement program. With the revised estimate, the child support annual fee revenue would total \$2,200,000 annually.

9. REVENUE FROM UNCLAIMED PAYMENTS [LFB Paper 240]

SEG	- \$638,400
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Joint Finance/Legislature: Reduce funding by \$269,200 in 2009-10 and \$369,200 in 2010-11 to reflect a revised estimate of revenues from child support payments that were not able to be distributed. Child support payments that are unclaimed are used for the child support enforcement program. With the revised estimate, revenues from unclaimed payments are expected to total \$200,000 in 2009-10 and \$100,000 in 2010-11.

10. INTEREST ON BALANCES IN THE SUPPORT COLLECTIONS TRUST FUND [LFB Paper 240]

SEG	- \$140,800
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Joint Finance/Legislature: Reduce funding by \$45,400 in 2009-10 and by \$95,400 in 2010-11 to reflect revised estimates of interest earnings on balances in the support collections trust fund, through which child support payments and other types of court-ordered family support payments pass. As with revenues from the CR&D fee, interest on trust fund balances helps fund operation of the CR&D system. With the revised estimate, interest earnings are estimated at \$150,000 in 2009-10 and \$100,000 in 2010-11.

11. CHILD SUPPORT ACCOUNT STATEMENTS

Joint Finance/Legislature: Require DCF or its designee to offer every individual to whom child support or family support payments are disbursed under the CR&D system the option to receive a paper statement of account that would be sent to the individual whenever money is received on behalf of or disbursed to the individual. In addition, prohibit DCF or its designee from charging the individual a fee for providing the paper statements of account.

[Act 28 Section: 3211p]

CIRCUIT COURTS

Budget Summary							
Fund	2008-09 Base Year Doubled	2009-11 Governor	2009-11 Jt. Finance	2009-11 Legislature	2009-11 Act 28	Act 28 Change Over Base Year Doubled Amount	Percent
GPR	\$183,224,400	\$190,713,100	\$190,713,100	\$190,713,100	\$190,713,100	\$7,488,700	4.1%

FTE Position Summary						
Fund	2008-09 Base	2010-11 Governor	2010-11 Jt. Finance	2010-11 Legislature	2010-11 Act 28	Act 28 Change Over 2008-09 Base
GPR	521.00	527.00	527.00	527.00	527.00	6.00

Budget Change Items

1. STANDARD BUDGET ADJUSTMENTS

GPR	\$7,708,000
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Governor/Legislature: Provide adjustments to the base for full funding of salaries and fringe benefits (\$3,854,000 annually).

2. FULL FUNDING OF PREVIOUSLY APPROVED CIRCUIT COURT BRANCHES

	Funding	Positions
GPR	\$1,122,300	6.00

Governor/Legislature: Provide \$433,100 and 4.0 positions in 2009-10 and \$689,200 and 6.0 positions in 2010-11 for full funding of previous legislation enacted in the 2007-09 legislation session.

The bill would provide funding and positions for new judgeships provided under: (a) 2007 Act 20, which created a new judgeship in Kenosha County beginning on August 1, 2009; and (b) 2007 Act 28, which created a new judgeship in Green County beginning on August 1, 2009 and a new judgeship in Monroe County beginning on August 1, 2010. Each circuit court branch includes a circuit court judge and a court reporter.

3. COURT INTERPRETER REIMBURSEMENT

GPR	\$490,600
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Governor/Legislature: Provide \$171,000 in 2009-10 and \$319,600 in 2010-11 for state reimbursement to counties for court interpreter services, as follows: (a) \$45,000 in 2009-10 and \$91,800 in 2010-11 for projected increase caseload; (b) \$65,600 in 2009-10 and \$104,600 in 2010-11 for projected increased use of certified court interpreters; and (c) \$60,400 in 2009-10 and \$123,200 in 2010-11 to increase the mileage reimbursement rate. Modify statutory language to increase the mileage reimbursement rate for court interpreters from \$0.20 per mile to the state mileage reimbursement rate (currently \$0.485 per mile).

[Act 28 Sections: 3205 and 3234 thru 3236]

4. ACROSS-THE-BOARD 1% REDUCTIONS

GPR	-\$1,832,200
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Governor/Legislature: Delete \$916,100 annually, as part of an across-the-board 1% reduction in most non-federal appropriations. The reductions, by appropriation, are shown below:

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
GPR	Circuit Courts	\$67,009,000	-\$670,100
GPR	Circuit Court Support Payments	18,739,600	-187,400
GPR	Guardian Ad Litem Costs	4,738,500	-47,400
GPR	Court Interpreter Fees	1,125,100	-11,200

5. 2% WAGE ADJUSTMENT AND EMPLOYEE FURLOUGH

Joint Finance/Legislature: Include the Circuit Courts in the elimination of the 2% wage adjustment and state employee furlough. The fiscal impact is identified under the "Supreme Court."

6. DIRECT STATE PAYMENTS FOR COURT INTERPRETER SERVICES PILOT PROJECT

Governor/Legislature: Provide non-statutory authority for a two-year pilot project, beginning on September 1, 2009, or on the effective date of the budget bill (whichever is later) to directly pay the costs of court interpreters for circuit courts located in Judicial Administrative District 7. Modify statutory language to allow the direct payments of costs for the project.

Under the pilot project, Judicial Administrative District 7 office would assume responsibility for the scheduling of, and financial responsibility for, court interpreters in all 12 counties. Participating counties would sign a memorandum of understanding, agreeing to forego state reimbursement payments in exchange for state administration of interpreter services. At the end of the two-year period, the Director of State Courts Office would prepare a

report on the findings of the pilot project, including recommendations on the feasibility of continuing or expanding administering court interpreter payments by this approach.

The state is divided into 10 judicial administrative districts, with Judicial Administrative District 7 encompassing 12 counties: Buffalo, Crawford, Grant, Iowa, Jackson, La Crosse, Monroe, Pepin, Pierce, Richland, Trempealeau, and Vernon. Under current law, each county pays the cost for court interpreters for indigent persons. The state then reimburses counties for interpreter costs associated with certain court proceedings at a rate of then \$40 per hour for certified court interpreters and \$30 per hour for qualified court interpreters.

[Act 28 Sections: 609, 9109(1), and 9409(1)]

7. **EXPUNGING RECORD OF CONVICTION** [LFB Paper 245]

Governor: Modify statutory language to provide that a person is eligible to have his or her record of conviction expunged if: (a) the person was under the age of 25 at the time of the commission of the offense; and (b) the offense was a misdemeanor or non-violent Class H (a maximum sentence of three years confinement and three years extended supervision) or Class I (a maximum sentence of 18 months confinement and two years extended supervision) felony. Provide that the modifications would apply to sentencing orders that occur on the effective date of the subsection.

Under the bill, Class H or I felonies that would be ineligible for expungement are the same offenses defined as "violent offenses" for the purposes of the intensive sanctions program, and would include: (a) battery, substantial battery, aggravated battery; (b) battery to an unborn child, substantial battery to an unborn child, aggravated battery to an unborn child; (c) battery by prisoners; (d) battery by certain committed persons; (e) battery to law enforcement officers, fire fighters, and commission wardens; (f) battery to probation, extended supervision, and parole agents and aftercare agents; (g) battery to jurors; (h) battery to emergency medical care providers; (i) battery or threat to witnesses; (j) battery or threat to a judge; (k) abuse or neglect of patients and residents; (l) battery by person subject to certain injunctions; (m) battery to public officers; (n) battery to technical college district or school district officers and employees; (o) battery to public transit vehicle operator, driver, or passenger; (p) abuse of residents of penal facilities; (q) machine guns and other weapons; (r) tampering with household products; (s) arson with intent to defraud; (t) Molotov cocktails; (u) threats to injure or accuse of crime; (v) damage to property; (w) damage or threat to property of witness; (x) criminal damage, threat, property of judge; and (y) physical abuse of child.

Under current law, the sentencing court may order that the record be expunged upon successful completion of the sentence, if the person was under the age of 21 at the time of the commission of the offense, and the offense for which the person was found guilty was a misdemeanor. The bill would increase the eligibility age to 25 years, and would expand the eligible offenses to include non-violent Class H or I felonies.

Joint Finance: In addition to the Governor's recommendation to exclude violent Class H

or I felonies from the expungement provision, exclude the following felonies: (a) physical abuse of a child (intentionally causing bodily harm); (b) physical abuse of a child (recklessly causing bodily harm to a child by conduct which creates a high probability of great bodily harm); (c) sexual assault of a child by a school staff person or a person who works or volunteers with children; (d) stalking (if the defendant intentionally gains access to certain records in order to facilitate the violation or if the defendant has prior stalking or harassment conviction); and (e) concealing the death of a child.

Senate/Legislature: Modify Joint Finance to specify that, for eligible Class H to I felonies, the expungement of records only applies to first-time felony convictions.

[Act 28 Sections: 3384 thru 3386, and 9309(1)]

8. RECOMPENSE

Joint Finance/Legislature: Delete the victim recompense provisions in the statutes. Further, permit the court to hold any forfeited cash bail for a period of time to be determined by the court. If the defendant is ordered to pay restitution following conviction, the cash bail must first be applied to restitution.

Under current law, the proceeds of forfeited cash bail are first used to provide recompense to a crime victim before it is used for other statutory purposes. The Joint Finance provision would delete current law.

Veto by Governor [A-2]: Delete provision.

[Act 28 Vetoed Sections: 3272m, 3349g, 3349r, 3362m, 3364g, 3364m, 3364r, and 3395t]

9. INCREASED COURT FEES

Senate/Legislature: Include provision to increase the \$5 fee collected by clerks of courts for judgments, writs, executions, liens, warrants, awards, and certificates to \$10. [Revenue is wholly retained by the county or municipality.]

Veto by Governor [A-1]: Delete provision.

[Act 28 Vetoed Section: 3232r]

COMMERCE

Budget Summary							
Fund	2008-09 Base Year Doubled	2009-11 Governor	2009-11 Jt. Finance	2009-11 Legislature	2009-11 Act 28	Act 28 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$50,389,800	\$50,488,900	\$49,241,100	\$46,741,100	\$46,591,100	-\$3,798,700	- 7.5%
FED	144,648,400	144,537,200	161,365,500	161,365,500	161,365,500	16,717,100	11.6
PR	101,410,800	92,417,800	88,096,600	88,096,600	87,846,600	- 13,564,200	- 13.4
SEG	<u>105,703,000</u>	<u>90,331,400</u>	<u>48,783,600</u>	<u>63,633,600</u>	<u>63,633,600</u>	<u>- 42,069,400</u>	<u>- 39.8</u>
TOTAL	\$402,152,000	\$377,775,300	\$347,486,800	\$359,836,800	\$359,436,800	-\$42,715,200	- 10.6%

FTE Position Summary						
Fund	2008-09 Base	2010-11 Governor	2010-11 Jt. Finance	2010-11 Legislature	2010-11 Act 28	Act 28 Change Over 2008-09 Base
GPR	61.80	57.40	59.15	59.15	58.15	- 3.65
FED	54.35	54.20	54.20	54.20	54.20	- 0.15
PR	204.75	207.45	205.45	205.45	205.45	0.70
SEG	<u>73.80</u>	<u>69.55</u>	<u>70.55</u>	<u>70.55</u>	<u>70.55</u>	<u>- 3.25</u>
TOTAL	394.70	388.60	389.35	389.35	388.35	- 6.35

Budget Change Items

Economic Development

1. STANDARD BUDGET ADJUSTMENTS

Governor/Legislature: Provide adjustments of \$249,200 GPR, -\$55,600 FED, -\$2,929,700 PR and -\$881,600 SEG annually. Adjustments are for: (a) turnover reduction (-\$269,700 PR annually); (b) remove non-continuing elements from base (-\$3,000,000 PR and -\$1,000,000 SEG annually), (c) full funding of continuing salaries and fringe benefits (\$188,700 GPR, -\$60,600 FED, \$327,000 PR, and \$60,600 SEG annually); (d) reclassifications (\$5,000 FED, \$5,000 PR, and \$8,200 SEG annually); (d) overtime (\$8,000 PR annually); and (e) full funding of lease costs and directed moves (\$60,500

GPR	\$498,400
FED	- 111,200
PR	- 5,859,400
SEG	<u>- 1,763,200</u>
Total	- \$7,235,400

GPR and \$49,600 SEG annually).

2. ACROSS-THE-BOARD 1% REDUCTIONS [LFB Paper 174]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	- \$466,000	\$0	- \$466,000
PR	- 892,000	10,400	- 881,600
SEG	- 1,015,600	0	- 1,015,600
Total	- \$2,373,600	\$10,400	- \$2,363,200

Governor: Delete \$233,000 GPR, \$446,000 PR, and \$507,800 SEG, annually, as part of an across-the-board 1% reduction in most non-federal appropriations. The reductions, by appropriation, are shown below:

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
Economic Development			
GPR	Operations	\$4,334,400	-\$43,300
GPR	Economic development promotion plans and studies	30,000	-300
GPR	Wisconsin development fund grants, loans	7,098,400	-71,000
GPR	High technology business development corporation grants	250,000	-2,500*
GPR	Main street program	416,900	-4,200
GPR	Manufacturing extension center grants	1,200,000	-12,000
PR	Gifts, grants and proceeds	491,600	-4,900*
PR	Administration of grants and loans	52,100	-500*
PR	Woman-owned business certification	310,000	-3,100
PR	Wisconsin development fund repayments	4,050,000	-40,500
PR	Gaming economic diversification loan repayments	350,000	-3,500
PR	Manufactured housing rehabilitation and recycling	70,000	-700
PR	Clean air compliance assistance	238,500	-2,400*
PR	American Indian economic development technical assistance	94,000	-900
PR	American Indian liaison and marketing	114,500	-1,100
SEG	Brownfields redevelopment administration	220,300	-2,200
SEG	Brownfields grant program	7,000,000	-70,000
SEG	Renewable energy grants and loans	15,000,000	-150,000
SEG	Renewable energy grants and loans administration	59,000	-600*
Housing			
GPR	Housing operations	655,500	-6,500
GPR	Housing grants and loans	3,300,300	-33,000
GPR	Mental health for homeless individuals	45,000	-500
GPR	Shelter for homeless and transitional housing grants	1,506,000	-15,100
PR	Housing program services	200,000	-2,000
PR	Housing services from state agencies	500,000	-5,000
PR	Funding for the homeless	500,000	-5,000
Safety and Buildings			
GPR	Private sewage system replacement grants	2,999,000	-30,000
PR	Safety and buildings operations	18,025,500	-180,300*
PR	Gifts and grants	18,000	-200
PR	Auxiliary services	25,000	-300
PR	Interagency agreements	128,200	-1,300
PR	Fire dues distribution	14,870,000	-148,700
PR	Fire prevention and fire dues administration	709,300	-7,200

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
	Environmental Regulatory Services		
SEG	Petroleum inspection operations	\$5,628,100	-\$56,300*
SEG	PECFA awards	20,000,000	-200,000
SEG	PECFA administration	2,872,000	-28,700
	Administrative Services		
GPR	Operations	1,466,700	-14,600*
PR	Gifts, grants and proceeds	12,000	-100
PR	Sale of materials or services	42,200	-400
PR	Administrative services	3,798,800	-37,900*

*Due to other budget items, the final funding level for this appropriation does not represent a 1% reduction.

Joint Finance/Legislature: Restore the following gifts and grants funding annual amounts: (a) \$4,900 in economic development; (b) \$200 in safety and buildings; and (c) \$100 in administrative services.

3. FUNDING AND POSITION REDUCTIONS [LFB Paper 175]

	<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	-\$2,627,200	- 2.40	\$1,962,000	0.75	-\$665,200	- 1.65
FED	0	0.90	0	0.00	0	0.90
PR	- 249,000	- 1.30	0	0.00	- 249,000	- 1.30
SEG	<u>- 432,800</u>	<u>- 3.25</u>	<u>0</u>	<u>0.00</u>	<u>- 432,800</u>	<u>- 3.25</u>
Total	-\$3,309,000	- 6.05	\$1,962,000	0.75	-\$1,347,000	- 5.30

Governor: Delete \$1,313,600 GPR, 2.4 GPR positions, \$124,500 PR, 1.3 PR positions, \$216,400 SEG, and 3.25 SEG positions annually to eliminate vacant positions, decrease grant and loan appropriations, and downsize and relocate certain programs. In addition 0.9 FED position would be provided. The annual reductions, by appropriation, are shown below:

- a. General program operations--economic and community development. Delete \$382,500 GPR and 1.9 GPR positions.
- b. Economic development promotion plans and studies. Delete \$1,500 GPR.
- c. Wisconsin development fund grants and loans. Delete \$554,900 GPR.
- d. High-technology business development corporation. Delete \$12,500 GPR.
- e. Main street program. Delete \$20,900 GPR.
- f. Manufacturing extension center grants. Delete \$60,000 GPR.
- g. Federal aid, state operations. Provide 0.9 FED position.

h. Administration of brownfields redevelopment activities. Delete \$13,400 SEG and 0.25 SEG position.

i. General program operations -- housing assistance. Delete \$58,000 GPR and 0.50 GPR position.

j. Private sewage system replacement and rehabilitation grants. Delete \$150,000 GPR.

k. Safety and Buildings operations. Delete \$104,100 PR and 1.0 PR position.

l. PECFA (petroleum storage environmental cleanup fund awards) administration. Delete \$203,000 SEG and 3.0 SEG positions.

m. General program operations -- executive and administrative services. Delete \$73,300 GPR.

n. Administrative services. Delete \$20,400 PR and 0.3 PR position.

Joint Finance/Legislature: Restore \$922,600 GPR annually as follows: (a) \$216,700 for economic and community development general program operations; (b) \$1,500 for economic development promotion plans and studies; (c) \$354,900 for Wisconsin development fund grants and loans; (d) \$12,500 for high-technology business development corporation; (e) \$20,900 for main street program; (f) \$60,000 for manufacturing extension center grants; (g) \$32,800 for housing assistance general program operations; (h) \$150,000 for private sewage system replacement and rehabilitation grants; and (i) \$73,300 for executive and administrative services general program operations. Further, restore \$58,400 GPR and 0.75 position annually to administer relocation assistance under the state's eminent domain (condemnation) law.

4. AGENCY 5.135% BUDGET REDUCTIONS

Joint Finance/Legislature: Delete \$3,467,600 annually relating to increased agency across-the-board reductions. The reductions are generally equivalent to 5.135% of base level funding. The annual reductions include \$1,196,500 GPR, \$1,457,100 PR, and \$814,000 SEG. Reduction amounts would be as follows:

GPR	- \$2,393,000
PR	- 2,914,200
SEG	- 1,628,000
Total	- \$6,935,200

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
GPR	Economic development program operations	\$4,334,400	-\$222,600
GPR	Economic development promotion, plans and studies	30,000	-1,500
GPR	Wisconsin development fund; grants, loans, reimbursements, and assistance	7,098,400	-364,500
GPR	High-technology business development corporation	250,000	-12,800
GPR	Main street program	416,800	-21,400
GPR	Manufacturing extension center grants	1,200,000	-61,600
PR	Wisconsin development fund, administration of grants and loans	52,100	-2,700
PR	Woman-owned business certification processing fees	310,000	-15,900
PR	Wisconsin development fund, repayments	4,050,000	-208,000
PR	Gaming economic development and diversification; repayments	350,000	-18,000
PR	Rural economic development loan repayments	120,100	-6,200
PR	Manufactured housing rehabilitation and recycling; program revenue	70,000	-3,600
PR	American Indian economic development; technical assistance	94,000	-4,800
PR	American Indian economic liaison and grants specialist	114,500	-5,900
SEG	Brownfields redevelopment activities; administration	220,300	-11,300
SEG	Brownfields grant program; environmental fund	7,000,000	-359,500
SEG	Wisconsin development fund, administration; recycling fund	59,000	-3,000
GPR	Housing program operations	655,500	-33,700
GPR	Housing grants and loans	3,300,300	-169,500
GPR	Shelter for homeless and transitional housing grants	1,506,000	-77,300
GPR	Mental health for homeless individuals	45,000	-2,300
PR	Housing program services; other entities	200,000	-10,300
PR	Funding for the homeless	500,000	-25,700
PR	Housing program services	500,000	-25,700
GPR	Private sewage system replacement and rehabilitation	2,999,000	-154,000
PR	Auxiliary services	25,000	-1,300
PR	Safety and building operations	18,025,500	-925,600
PR	Interagency agreements	128,200	-6,600
SEG	Safety and building operations; petroleum inspection fund	5,628,100	-289,000
SEG	Diesel truck idling reduction grant administration	72,100	-3,700
SEG	Petroleum storage environmental remedial action; administration	2,872,000	-147,500
GPR	Administration program operations	1,466,700	-75,300
PR	Sale of materials or services	42,200	-2,200
PR	Administrative services	3,789,800	-194,600

5. ELIMINATE 2% GENERAL WAGE ADJUSTMENT

Joint Finance/Legislature: Delete \$459,900 (all funds) annually relating to the roll-back of 2% general wage adjustments that were scheduled to take effect on June 7, 2009. The reductions include \$72,000 GPR, \$54,100 FED, \$249,000 PR, and \$84,800 SEG.

GPR	- \$144,000
FED	- 108,200
PR	- 498,000
SEG	- 169,600
Total	- \$919,800

6. STATE EMPLOYEE FURLOUGH

Joint Finance/Legislature: Delete \$704,800 (all funds) annually relating to the requirement that state employees take eight days of

GPR	- \$220,600
FED	- 165,400
PR	- 763,400
SEG	- 260,200
Total	- \$1,409,600

unpaid annual leave (furlough) in each year of the 2009-11 biennium. The reductions include \$110,300 GPR, \$82,700 FED, \$381,700 PR, and \$130,100 SEG.

7. WISCONSIN VENTURE FUND [LFB Paper 250]

	Governor (Chg. to Base)	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
PR	\$2,632,000	\$140,000	-\$2,500,000	\$272,000

Governor: Provide \$1,316,000 GPR annually to create the Wisconsin venture fund to provide capital connections and venture seed grants to eligible institutions. Commerce could award a capital connections grant to fund projects that did any of the following:

- a. Expanded access for Wisconsin business ventures and entrepreneurs to existing capital networks.
- b. Created or runs a network to connect Wisconsin business ventures and entrepreneurs with available capital.
- c. Created an activity, event, or strategy to connect Wisconsin business ventures and entrepreneurs with available capital.

Commerce could award a venture seed grant to an eligible institution to match funds raised by the institution for funding a new business or determining proof of concept and feasibility of a new business idea, if the Department determined the award of a grant would increase the amount of funding for new businesses or would leverage private investment and facilitate the creation of jobs in this state.

"Eligible institution" would be defined as a research institution or nonprofit organization involved in economic development. The proceeds of a grant awarded from the Wisconsin venture fund would be required to be used to provide funding as proposed by the institution in the institution's application. Funding would be provided from a newly created GPR appropriation. In the executive budget book, the Governor indicates that funding for the Wisconsin venture fund would be provided by a \$30 increase in the securities agent and investment advisor representative license fee (see "Financial Institutions" for additional information).

Commerce would be required to promulgate administrative rules for the program. The Department would specifically be required to establish by rule a Wisconsin venture fund advisory council, which would make recommendations to Commerce regarding all of the following:

- a. A process by which Commerce, the Department of Financial Institutions, and other qualified persons could review proposals.
- b. The maximum amount of capital connections or venture seed grant that could be

awarded.

- c. Requirements that applicants for grants secure funding from sources other than the state, to match a portion of the amount of a grant awarded from the Wisconsin venture fund.
- d. Monitoring of projects funded by grants, including monitoring of job creation.

Joint Finance: Include provision, but restore \$70,000 GPR in annual funding to reflect restoration of certain 5% GPR reductions recommended by the Governor. In addition, the Department would be required to make annual grants of \$60,000 to the Wisconsin Angel Network (WAN). Commerce would have to enter into an agreement with WAN that specified the uses for the grant proceeds and auditing and reporting requirements, and to promulgate administrative rules related to administering the grants. The Department could promulgate emergency rules without the funding of an emergency. Total annual funding for the Wisconsin venture fund would be \$1,386,000 GPR.

Conference Committee/Legislature: Delete \$1,250,000 GPR annually from the Wisconsin Venture Fund. Annual funding of \$136,000 GPR remains, including the annual grant of \$60,000 to the Wisconsin Angel Network (WAN).

[Act 28 Sections: 196, 3074m, 3075, and 9110(16u)]

8. FILM PRODUCTION TAX CREDITS PROGRAM CHANGES [LFB Paper 215]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$940,000	- \$940,000	\$0

Governor: Sunset the film production services and film production company investment tax credits by disallowing any tax credit claims for tax years beginning after December 31, 2008. Film tax credits claimed for tax years beginning before January 1, 2009, could be carried forward to tax years beginning after December 31, 2008. To replace the film tax credits, a film project grants program would be created with annual funding of \$470,000 GPR annually. Commerce would be authorized to award a film project grant for a film-related or video-related project that created long-term jobs in the state, and would be required to promulgate administrative rules necessary to administer the program.

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 income and corporate income and franchise taxes. Sunset of the tax credits would eliminate funding for the GPR appropriation used for refundable tax credit claims.

Joint Finance/Legislature: Delete provision. Instead:

- a. Repeal the current film production services tax credit and create a new refundable

film production services tax credit equal to:

1. 25% of salaries, wages and/or contract payments to all Wisconsin residents, including actors that work on a production in Wisconsin. The salaries and wages of individuals with compensation from the production in excess of \$250,000 would be excluded from the credit. An additional 3% tax credit would be provided for salaries and wages and contract payments to Wisconsin residents living in economically distressed areas.

2. 20% of salaries, wages, and/or contract payments to all nonresidents up to a maximum of \$20,000 per worker. Above-the-line expenses (such as nontechnical crew members standard to the industry, producers, writers, casting directors and actors) and salaries and wages of individuals with compensation from the production in excess of \$250,000 would be excluded.

3. 25% of non-labor production expenses incurred in Wisconsin.

b. At least 35% of the project's total budget would have to be spent in Wisconsin. The amount of credits that could be allocated to a project would be limited to \$10.0 million.

c. The film production company investment tax credit would be modified as follows:

1. An entity would be eligible for the credit if the purpose of the investment was for the making of accredited productions.

2. Existing companies could claim the credit.

3. The credit would be refundable and a sum sufficient appropriation would be created to pay credit claims.

4. The total amount of credits that could be allocated to a project would be \$10.0 million.

d. "Production expenditures" would mean any expenditures that were incurred in Wisconsin and directly used to produce an accredited production, including expenditures for set construction and operation, wardrobes, make-up, clothing accessories, photography, sound recording, sound synchronization, sound mixing, lighting, editing, film processing, film transferring, special effects, visual effects, renting or leasing facilities or equipment, renting or leasing motor vehicles, food, lodging, and any other similar expenditures as determined by the Department.

e. "Accredited production" would mean a film, video, broadcast advertisement, or television production, as approved by Commerce, for which the aggregate salary and wages included in the cost of the production for the period ending 12 months after the month in which the principal filming or taping of the production begins exceeded \$100,000 for a production that is 30 minutes or longer of \$50,000 for a production that was less than 30 minutes. "Accredited production" would also mean an electronic game, as approved by Commerce, for which the aggregate salary and wages included in the cost of the production for the period ending 36

months after the month in which the principal programming, filming, or taping of the production begins exceeded \$100,000. An "accredited production" would not include any of the following, regardless of production costs: (a) news, current events, or public programming or program that includes weather or market reports; (b) a talk show; (c) a production with respect to a questionnaire or contest; (d) a sports event or sports activity; (e) a gala presentation or awards show; (f) a finished production that solicits funds; (g) a production for which the company is required under 18USC 2257 to maintain records with respect to a performer portrayed in a single media or multimedia program; (h) a production produced primarily for industrial, corporate, or institutional purposes.

f. In order to claim a production services or production company investment tax credit for purchases of products, the products would have to be purchased from a Wisconsin vendor.

g. An application fee equal to 2% of the budget requested or \$5,000, whichever amount is less, would be required to be paid to the Department.

h. Commerce would be required to submit an annual report to the Joint Finance Committee. The report would include the number of entities receiving tax credits, total expenditures associated with the credits made in the state and the location expenditures were made in counties and municipalities, and the total number of individuals employed on the accredited projects. The Department would be required to use financial tracking forms and permits standard to the industry.

i. The total number of production services and production company tax credits that could be claimed during the 2009-11 biennium would be \$1,500,000 in 2009-10 and in 2010-11. There would be no limit beginning in 2011-12.

j. All changes would be effective for tax years beginning after December 31, 2008.

Compared to the bill, these provisions would reduce the Department's annual expenditures by \$470,000 GPR due to the repeal of the film projects grant program. However, the refundable tax credits would increase expenditures by \$1,500,000 GPR each year, and the sum-sufficient appropriation for the refundable tax credits would be increased by this amount (see General Fund taxes -- Income and Franchise Taxes).

Veto by Governor [C-7]: The Governor's partial veto would:

a. Reduce the annual statewide limit on film production services and film production company investment tax credits to \$500,000 annually. The partial veto reduces annual Chapter 20 expenditure authority for the film production company services tax credit from \$1,500,000 to \$500,000, and the Governor requested that the Secretary of Administration reestimate annual film tax credit expenditures at this amount. In addition, the film production company investment tax credit appropriation would be converted from a sum sufficient to an annual appropriation. (See General Fund Taxes --Income and Franchise Taxes.)

b. Delete the film production services tax credit for 20% of salaries, wages, and/or contract payments to nonresidents.

c. Delete the film production services additional tax credit for 3% of salaries, wages and/or contract payments to Wisconsin residents living in economically distressed areas.

d. Delete the \$10 million limit on the amount of tax credits that could be allocated to a project under the film production services and production company investment tax credits.

e. Eliminate the requirement that the salaries and wages for 12 months included in the cost of production must exceed \$100,000 for a production of 30 minutes or longer for that production to be an "accredited production." As a result, salaries and wages would have to be \$50,000 for all productions, regardless of length.

f. Delete the requirement that Commerce file an annual report to the Joint Committee on Finance that includes information related to the film tax credits.

[Act 28 Sections: 1579x, 1580x thru 1580yh, 1580yk thru 1580ym, 1589b, 1591v, 1591w, 1593b, 1659y thru 1660g, 1660i, 1660j, 1660k, 1676d, 1676e, 1677b, 1725w thru 1726yg, 1726yj, 1726yk, 1726yL, 1740d, 1740e, and 1741b]

[Act 28 Vetoed Sections: 176 (as it relates to s. 20.835(2)(bL)&(bm)), 621m, 1579x, 1580yj, 1580yk, 1659y, 1660h, 1660i, 1725w, 1726yh, 1726yj, and 3070m]

9. FORWARD INNOVATION FUND AND DELETED PROGRAMS [LFB Paper 252]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$62,400	\$97,800	\$160,200

Governor: Eliminate the rural economic development (RED), minority business development (MBD), and community-based economic development (C-BED) financial assistance programs, and create the forward innovation fund as shown in the following table.

<u>Program</u>	<u>Annual Amount</u>
Forward Innovation Fund	\$1,410,000
High-technology Business Development	100,000
Women's Business Initiative Corp.	94,000
Community-Based Economic Development	-712,100
Rural Economic Development	-606,500
Minority Business Development	<u>-254,200</u>
Total Annual Change to Base	\$31,200

The bill includes the following related provisions:

a. Delete \$606,500 GPR annually and eliminate the rural economic development program. The Rural Economic Development Board would also be eliminated. RED grant or loan repayments could be deposited in the RED program revenue repayments appropriation only up to June 30, 2009, and the funds would be used to make grants and loans under the newly created forward innovation fund program.

b. Delete \$254,200 GPR annually and eliminate the minority business development program. The Minority Business Development Board would also be eliminated. MBD grant and loan repayments could be deposited in the MBD program revenue repayments appropriation only up to June 30, 2009, and the funds would be used to make grants and loans under the newly created forward innovation fund program.

c. Delete \$712,100 GPR annually and eliminate the community-based economic development (C-BED) program.

d. Provide \$94,000 GPR annually in a new GPR appropriation to make grants to the woman's business initiative corporation (WBIC). Commerce could make grants to WBIC to fund its operating costs if all of the following applied: (a) WBIC submitted a plan to Commerce for each grant detailing the proposed use of the grant and the Secretary of Commerce approved the plan; (b) WBIC entered into a written agreement with the Department that specified the conditions for use of the grant proceeds, including reporting and auditing requirements; (c) WBIC agreed in writing to provide services to individuals throughout the state; and (d) WBIC agreed 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. (These are current law requirements for WBIC to receive a grant from C-BED.)

e. Provide an additional \$100,000 GPR annually for high-technology business development corporation grants.

f. Eliminate the Development Finance Board and replace it with the 11-member Economic Policy Board. The Economic Policy Board would be responsible for approving most Wisconsin Development Fund (WDF) grants and loans and consulting with the Department in implementing and administering the Forward Innovation Fund program. The Economic Policy Board's required membership would be the same as the Development Finance Board's required membership, and would include the Secretaries of the Departments of Commerce and Workforce Development (DWD) (or designees), the Director of the Wisconsin Technical College System (WTCS) (or designee), and six members appointed by the Governor for two-year terms representing the scientific, technical, labor, small business, minority business, and financial business communities in the state. In addition, the Board would include two legislative members, one appointed by the Speaker of the Assembly, and one by the Majority Leader of the Senate. The six appointed members of the Board would be confirmed by the Senate.

g. Statutory cross references to the C-BED definition of "technology-based incubator", under municipal redevelopment corporation and blight and slum clearance law, would be deleted and the current law definition would be recreated under the municipal law provisions.

"Technology-based incubator" would mean a facility that provided a new or expanding technically-oriented business with all of the following: (a) office and laboratory space; (b) shared clerical and other support service; and (c) managerial and technical assistance.

h. Statutory requirements related to investment or deposit of MBD funds by the state Investment Board and under public depository laws would be deleted. The statutory cross reference to the MBD definition of "minority owned business", under the renewable energy grant and loan program would be changed to reference the same definition of "minority business" under minority business certification provisions.

i. A statutory cross reference to the RED definition of "job" under trunk highways, facilities economic assistance and development program provisions would be deleted. The current law definition would be recreated under the facilities economic assistance and development program provisions and would mean a position providing full-time equivalent employment. "Job" would not include initial training before an employment position began.

j. A statutory cross reference to the MBD definition of "professional services" under the gaming economic diversification grant and loan program would be deleted. The definition would be recreated under gaming grants and loans program provisions. "Professional services" would be defined to include: (a) preparing preliminary feasibility studies, feasibility studies, or business and financial plans; (b) providing a financial package; (c) performing engineering studies, appraisals, or marketing assistance; and (d) providing related legal, accounting, or managerial services.

k. Provide \$1,410,000 GPR annually in a new GPR biennial appropriation for forward innovation fund program grants and loans. A separate, continuing program revenue repayments appropriation would be created for repayments of forward innovation fund grants and loans, and for repayments of MBD and RED grants and loans made after July 1, 2009. Funds in the repayments appropriation would be used to make forward innovation fund grants and loans.

To receive an award under the program an eligible recipient would submit an application to Commerce. Upon receipt of an application from an eligible recipient, the Department could consider any of the following in determining whether to award a grant or make a loan:

1. Whether the eligible activity proposed to be conducted by the eligible recipient served a public purpose.

2. Whether the eligible activity proposed to be conducted by the eligible recipient would retain or increase employment in this state.

3. Whether the eligible activity proposed to be conducted by the eligible recipient was likely to occur without the grant or loan.

4. Whether and the extent to which the eligible activity proposed to be conducted by the eligible recipient would contribute to the economic growth of this state and the well-being

of residents of this state.

5. Whether the eligible activity proposed to be conducted by the eligible recipient would be located in an economically distressed area.

6. The economic condition of the community in which the eligible activity proposed to be conducted by the eligible recipient was proposed to occur.

7. The potential of the eligible activity proposed to be conducted by the eligible recipient to promote the employment of minority group members.

8. Any other criteria established by the Department by administrative rule, including the types of projects that are eligible for funding and the types of eligible projects that will receive priority.

After consulting with the Economic Policy Board, Commerce would be authorized to make a grant or loan from the forward innovation fund appropriations to "eligible recipients" for "eligible activities." An "eligible recipient" would include any of the following: (1) a business or small business; (2) the governing body of a municipality; (3) a community-based organization; (4) a cooperative or association incorporated or organized under state law; (5) a local development corporation; or (6) a nonprofit organization whose primary purpose is to promote the economic development of, or community development in a particular area or region in the state. "Eligible activities" that could receive awards would include: (1) the start-up, expansion, or retention of minority businesses; (2) the start-up, expansion, or retention of businesses in economically distressed areas; (3) innovative proposals to strengthen inner cities; (4) innovative proposals to strengthen communities in rural municipalities; (5) innovative programs to strengthen clusters; (6) innovative proposals to strengthen entrepreneurship.

Commerce, in cooperation with the Economic Policy Board, would be required to encourage small businesses to apply for grants and loans by ensuring that there were no undue impediments to their participation and by actively encouraging small businesses to apply for grants and loans. The Department would have to do all of the following: (1) publish and disseminate information about projects that may be funded by a grant or loan and about procedures for applying for grants and loans; (2) simplify the application and review procedures for small businesses so that they would not impose unnecessary administrative burdens on small businesses; and (3) assist small businesses in preparing applications for grants and loans.

In each biennium, Commerce would be authorized to expend or encumber up to a total of 1% of the moneys appropriated the forward innovation fund program for that biennium for any of the following: (1) evaluations of proposed technical research projects; and (2) evaluation costs, collection costs, foreclosure costs, and other costs associated with administering the program's loan portfolio, excluding staff salaries. The Department could also charge a grant or loan recipient an origination fee of not more than 2% of the grant or loan amount if the grant or loan equaled or exceeded \$100,000. All origination fees collected would be deposited into the WDF administration appropriation.

The Economic Policy Board would be required to develop a policy relating to obtaining reimbursement of grants and loans provided under the program. The policy could provide that reimbursement be obtained through full repayment of the principal amount of the grant or loan plus interest, through receipt of a share of future profits from or an interest in a product or process, or through any other appropriate means. The Board would also have to require, as a condition of a grant or loan, that a recipient contribute to a project an amount that was not less than 25% of the amount of the grant or loan (at least 20% of eligible project costs).

Commerce, in consultation with the Economic Policy Board, would be required to promulgate rules that established procedures, policies, and standards for implementing the forward innovation fund program and for awarding grants and making loans under the program. The rules would be required to include all of the following:

1. A statement of the Department's economic development objectives for the program, together with the goals and accountability measures required under current law.
2. The methodology for designating an area as economically distressed. The methodology would have to require the Department to consider the most current data available for the area and for the state on the following indicators: (a) unemployment rate; (b) percentage of families with incomes below the poverty line established under federal law; (c) median family income; (d) median per capita income; (e) average annual wage; (f) real property values; and (g) other significant or irregular indicators of economic distress, such as a natural disaster.
3. Provisions for the development of a biennial plan for awarding grants and making loans under the program, before the commencement of each odd-numbered fiscal year, and for the submission of the biennial plan to the Governor and the Chief Clerk of each house of the Legislature for distribution to the appropriate standing committees .
4. 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 the grants and loans;
5. Conditions applicable to a grant or loan awarded.
6. Procedures for monitoring the use of grants awarded and loans made, including procedures for verification of economic growth, job creation, and the number and percentage of newly created jobs for which state residents are hired.

"Business" would be defined as a company located in this state, a company that has made a firm commitment to locate a facility in this state, or a group of companies at least 80 percent of which are located in this state. "Cluster" would mean a geographic, categorical, horizontal, or vertical concentration of interconnected, interdependent, or synergistic businesses, industries, research centers, or venues for the performance, creation, or display of the arts. "Community-based organization" would mean an organization that is involved in economic development and helps businesses that are likely to employ persons. "Economically distressed area" would be defined as an area designated by Commerce using a methodology established by rule.

"Governing body" would be a county board, city council, village board, or town board.

"Local development corporation" would be defined as any of the following:

1. The elected governing body of a federally recognized American Indian tribe or band in this state or any business created by the elected governing body.
2. A corporation organized under state law that is a nonprofit corporation, as defined under state law, that is at least 51 percent controlled and actively managed by minority group members, and that does all of the following: (a) operates primarily within specific geographic boundaries; (b) promotes economic development and employment opportunities for minority group members or minority businesses within the specific geographic area; and (c) demonstrates a commitment to or experience in promoting economic development and employment opportunities for minority group members or minority businesses.

"Minority business" and "minority group member" would be defined under current law minority business certification provisions. "Municipality" would mean a county, city, village, or town. "Rural municipality" would be any of the following: (a) a municipality that is located in a county with a population density of less than 150 persons per square mile; or (b) a municipality with a population of 6,000 or less. "Small business" would be defined as a business with fewer than 100 employees, including employees of any subsidiary or affiliated organization.

Commerce would be authorized to promulgate emergency rules, without a finding of emergency, that would remain in effect until July 1, 2010, or the date on which permanent rules took effect, whichever was sooner. If the Secretary of Administration required Commerce to prepare an economic impact report for the rules required under the provisions of the act, the Department could submit the proposed rules to the Legislature for review before Commerce completed the economic impact report and before the Department received DOA approval of the report.

Prior Law. The RED, MBD, and C-BED programs are funded through specific appropriations and provide specific types of grants and loans. The Development Finance Board, Rural Economic Development Board, and Minority Business Development Board assist Commerce in administering the WDF, RED, and MBD respectively. The high-technology business development corporation grant program provides grants to the Wisconsin Technology Council.

The RED program provides grants for professional services, entrepreneurial training, and for dairy farm and other agricultural business start-ups, modernizations, and expansions. The program also provides grants and loans for working capital and fixed asset financing in starting or expanding a business, and to pay certain employee relocation and retraining costs. RED is funded from a GPR and a PR loan repayments appropriation. The program is targeted toward agricultural and small business operations in rural communities. Grants and loans generally may not exceed 75% of projects costs. Base level funding of \$606,500 GPR and \$120,100 PR (repayments) is provided.

A nine-member, Rural Economic Development Board approves the grants and loans. The Board consists of the Secretaries of Commerce and Agriculture, Trade and Consumer Protection (or designees); one Senator and one Representative from each party representing rural districts; and three public members appointed by the Governor for staggered, three-year terms. The gubernatorial appointees are required to have experience in operating a business in a rural municipality, and one member must have experience operating a cooperative in a rural municipality.

The MBD program provided the following types of financial assistance to minority group members or minority businesses: (a) early planning and entrepreneurial training grants; (b) business development grants and loans to provide financial assistance to minority group members or minority businesses to fund development projects involving the start-up, expansion or acquisition of minority businesses, or the promotion of economic development and employment opportunities; (c) grants and loans to local development corporations for development projects and local revolving loan fund programs; (d) minority business finance grants and loans to nonprofit organizations or private financial institutions for micro-loans for minority group members and minority-owned businesses; and (e) education and training grants to a nonprofit organization that is a minority business to fund an education and training project. MBD grants and loans can fund up to 75% of project costs, depending on the type of award. Funding is provided through a GPR and PR repayments appropriation. Base level funding of \$254,200 GPR and \$317,200 PR is provided the MBD.

Final approval of MBD awards rested with the Minority Business Development Board. The Board consisted of five persons appointed by the Governor for two-year terms.

The CBED program provided: (a) grants to community-based organizations for local economic development projects and management assistance; (b) grants to business incubators for assistance and operations; (c) economic diversification planning grants to political subdivisions; (d) economic development grants for regional economic development projects; (e) entrepreneurship training grants for disadvantaged and at-risk children, and (f) venture capital development conference grants. Grants may fund up to 75% of project costs, depending on the type of award. Base level funding of \$712,100 GPR annually is currently provided.

The high-technology business development corporation grant program provides an annual grant of \$250,000 GPR (\$335,000 under the bill) to the Wisconsin Technology Council. The Council promotes the development of high-technology businesses in the state. A match of equal to 50% of the state grant is required.

An eleven-member Development Finance Board, which is attached to Commerce, approves most WDF grants and loans. The Board consists of the Secretaries of the Departments of Commerce and Workforce Development (DWD) (or designees), the Director of the Wisconsin Technical College System (WTCS) (or designee), and six members appointed by the Governor for two-year terms representing the scientific, technical, labor, small business, minority business, and financial business communities in the state. In addition, 2007 Wisconsin Act 20 expanded the Board to include two legislative members, one appointed by the Speaker of the

Assembly, and one by the Majority Leader of the Senate. All other appointed members of the Board must be confirmed by the Senate.

Joint Finance/Legislature: Include provisions that eliminate the minority business development and community-based economic development financial assistance programs, and eliminate the Development Finance and Minority Business Development Boards, and create the forward innovation fund and Economic Policy Board with the following modifications:

- a. Retain the rural economic development program (RED) and Rural Economic Development Board, and provide annual funding of \$569,300 GPR for RED grants and loans.
- b. Provide annual funding of \$884,600 GPR for the Forward Innovation Fund.
- c. Provide annual funding of \$99,000 for grants to the Women's Business Initiative Corporation
- d. Require that the Economic Policy Board include a member who is a minority individual who has operated or is operating a minority-owned business.

[Act 28 Sections: 29, 35 thru 37, 201 thru 204, 208 thru 210, 667, 735 thru 737, 748, 1492 thru 1495, 3008, 3009, 3014, 3016, 3033, 3076 thru 3082, 3083 3128, and 9110(8)&(9)]

10. ELIMINATE FUNDING FOR FORWARD WISCONSIN

GPR	- \$640,000
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Governor/Legislature: Delete \$320,000 GPR annually to eliminate state funding for Forward Wisconsin. The aid to Forward Wisconsin GPR appropriation and related statutory provisions would also be eliminated.

Forward Wisconsin is a nonprofit organization that markets Wisconsin to out-of-state companies to attract new business, jobs, and increased economic activity to the state. The organization currently has two full-time positions, offices in Madison and Milwaukee, and an annual budget of about \$640,000. The state provided annual funding of \$320,000 GPR to Forward Wisconsin. State funds were released to match an equal amount of private contributions. State funds were used by Forward Wisconsin for advertising, marketing and promotional activities within the United States related to the economic development of Wisconsin, and for salary, travel, and other expenses directly incurred by the organization in its economic development activities.

[Act 28 Sections: 87, 197, 3010, and 3011]

11. INFORMATION TECHNOLOGY APPLICATIONS DEVELOPMENT [LFB Paper 265]

PR	\$319,900
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Governor/Legislature: Provide expenditure authority of \$57,700 in 2009-10 and \$76,900 in 2010-11 in the Division of Administrative Services to increase and enhance information

technology (IT) work processes. The source of program revenue funding would be fees charged to other divisions for services provided. In addition, expenditure authority of \$78,800 in 2009-10 and \$106,500 in 2010-11 would be provided to the Division of Safety and Buildings operations appropriation, to purchase IT services from the Division of Administrative Services. The source of this program revenue would be fees charged by the Safety and Buildings Division primarily for building code related licenses, plan review; and inspections.

12. ADMINISTRATION OF 2007 WISCONSIN ACT 125

Governor/Legislature: Convert \$128,800 in 2009-10 and \$171,700 in 2010-11, with 2.0 positions from GPR to PR. The PR staff would be to administer the provisions of 2007 Wisconsin Act 125. In addition, Commerce would be authorized to apply the current Wisconsin Development Fund (WDF) 2% loan origination fee to all awards of \$100,000 or more, under the WDF, gaming economic diversification grant and loan program, and the newly created Forward Innovation Fund. The additional fee revenues would be placed in the Department's program revenue appropriation for administration of grants and loans and would fund the PR positions and related expenses. The expanded loan origination fees are expected to generate an additional \$128,800 in 2009-10 and \$171,700 in 2010-11 in program revenues.

	Funding	Positions
PR-REV	\$300,500	
GPR	- \$300,500	- 2.00
PR	<u>300,500</u>	<u>2.00</u>
Total	\$0	0.00

2007 Act 125 requires the Department to perform goal-setting, benchmarking, evaluation, auditing, and verification activities related to economic development programs and awards. The Department must also prepare a comprehensive annual report that explains and monitors Commerce's economic development programs, and submit it to the Joint Legislative Audit Committee and the appropriate Assembly and Senate standing committees. The act did not provide any additional staffing to Commerce. Under prior law, WDF awards of \$200,000 or more are subject to a loan origination fee of 2%.

[Act 28 Sections: 206m, 3029, 3032, 3082, and 3086]

13. GAMING ECONOMIC DIVERSIFICATION PROGRAM REDUCTION

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
PR	- \$1,993,800	- \$224,800	- \$2,218,600

Governor: Delete \$996,900 PR annually from the gaming economic diversification grant and loan program tribal gaming revenues appropriation. Statutory provisions that require an annual grant of \$500,000 to Oneida Small Business, Inc, and Project 2000, and an annual grant of \$150,000 to the Northwest Regional Planning Commission would be repealed. The remaining total annual expenditure authority for the tribal gaming revenues appropriation would be \$1,191,800 PR.

The gaming economic diversification grant and loan program provides financial assistance to businesses that are located in areas affected by American Indian gaming operations. The program provides: (a) early planning grants; and (b) economic diversification grants and loans to fund business projects that help diversify a local economy, so that it is less dependent upon revenue derived from gaming operations. Base level funding is \$2,538,700 PR in 2008-09, provided from tribal gaming revenues received by the state under state-tribal gaming compacts. A program revenue repayments appropriation with base level expenditure authority of \$350,000 PR also provides funding for grants and loans.

Joint Finance/Legislature: Delete an additional \$112,400 PR annually for increased agency across-the-board reductions. In addition, require the Department to make an annual grant of \$1,000,000 in each year of the 2009-11 biennium to the Oneida Seven Generations Corporation from funds encumbered in previous years, but not disbursed for grants to Oneida Small Business Inc., and Project 2000, from the gaming economic diversification grant and loan program. The Department would have to approve project specific plans detailing the proposed use of the grants, and enter into a written agreement with Oneida Seven Generations Corporation that specifies the uses for the grant proceeds and reporting and auditing requirements. Oneida Seven Generations Corporation would also have to provide matching funds of at least 25% of the amount of the grant.

[Act 28 Sections: 214, 3030, 3031, and 9110(16i)]

14. HEALTH PROFESSIONS LOAN ASSISTANCE PROGRAM TRANSFER [LFB Paper 253]

PR	- \$977,400
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Governor: Transfer \$488,700 PR annually and the health professions loan assistance program (HPLAP) and the Rural Health Development Council to the University of Wisconsin Medical School, Office of Rural Health. Two program revenue appropriations for administering the program would be deleted under Commerce. Annual expenditure authority of \$488,700 PR would be provided through a newly created physician and dentist and health care provider loan assistance appropriation under the University of Wisconsin. The source of program revenues would continue to be from tribal gaming revenues. A second program revenue appropriation would be created for penalties and balances transferred from Commerce, and could also be used for loan repayments.

As noted, the Rural Health Development Council would be transferred to the University. The Council would continue its required responsibilities to advise (UW Office of Rural Health) on: (a) matters related to the physician and dentist loan assistance program and the health care provider loan assistance program, and (b) the amount, up to \$25,000, to be repaid on behalf of each health care provider who participates in the health care provider loan assistance program. However, the Council would no longer be required to advise on promulgation of the rules required for the rural hospital loan guarantee program. The bill would also repeal the requirements that the Council make recommendations on the following: (a) ways to improve the delivery of health care to persons living in rural areas of the state that qualify as eligible

practice areas; (b) ways to help communities evaluate the linkage between rural health facilities and economic development for purposes of determining the value of local support for rural health facilities; (c) the coordination of state and federal programs available to assist rural health facilities; (d) a rural health initiative for inclusion in a previous budget.

Any member who was serving on the Rural Health Development Council on the day before the effective date of the bill would continue to serve as a member of the council to the later of the term for which the member was appointed, or until his or her successor was appointed and qualified. On the effective date of the bill, all tangible personal property, including records, of the Department of Commerce that were primarily related to the functions of the rural health development council, as determined by the Secretary of Administration, would be transferred to the University of Wisconsin System. All contracts entered into by Commerce in effect on the effective date of the bill that were primarily related to the functions of the Rural Health Development Council, as determined by the Secretary of Administration, would remain in effect and would be transferred to the University of Wisconsin System. The University of Wisconsin System would be required to carry out any obligations under such a contract until the contract was modified or rescinded by the University to the extent allowed under the contract.

On the effective date of the bill, the assets and liabilities of the Department of Commerce primarily related to the physician and dentist, and health care provider loan assistance programs, as determined by the Secretary of Administration, would become the assets and liabilities of the University of Wisconsin System. All contracts entered into by Commerce in effect on the effective date of the bill that were primarily related to the physician and dentist or health care provider loan assistance programs, as determined by the Secretary of Administration, would remain in effect and would be transferred to the University. The University of Wisconsin System would be required to carry out any obligations under such a contract until the contract was modified or rescinded by the University to the extent allowed under the contract. Any matter pending with Commerce on the effective date of the bill primarily related to the physician and dentist or health care provider loan assistance programs, as determined by the Secretary of Administration, would be transferred to the University of Wisconsin System and all materials submitted to, or actions taken by Commerce with respect to the pending matter would be considered as having been submitted to, or taken by the University. All rules promulgated by Commerce primarily related to the physician and dentist loan or health care provider assistance programs as determined by the Secretary of Administration, that were in effect on the effective date of the bill would remain in effect until their specified expiration date or until amended or repealed by the University of Wisconsin System. All orders issued by Commerce primarily related to the physician and dentist or health care provider loan assistance programs, as determined by the Secretary of Administration, that were in effect on the effective date of the bill would remain in effect until their specified expiration date, or until modified or rescinded by the University. On the effective date of the bill, all tangible personal property, including records, of Commerce that were primarily related to the physician and dentist or health care provider loan assistance programs, as determined by the Secretary of Administration, would be transferred to the University of Wisconsin System.

Prior Law. Commerce administered the Physician and Dentist Loan Assistance Program (PDLAP) and the Health Care Provider Loan Assistance Program (HCPLAP) which provide loan repayments for physicians, dentists, and certain other health care professionals who practice in designated health professional shortage areas. PDLAP repays loans for physicians and dentists, while HCPLAP repays loans for nurse practitioners (NPs), physician assistants (PAs), registered dental hygienists (RDHs), and certified nurse midwives (CNMs). To participate in either program, the health care professional must enter into a written agreement with Commerce to practice at least 32 clinic hours per week, and 45 weeks per year for three years in one or more eligible practice areas in the state. The health care professional must agree to treat patients who are insured, or for whom health benefits are payable under Medicare, medical assistance (MA), or other government programs. The health care professional is eligible for loan repayments from federal matching funding if the individual meets the following requirements: (a) agrees to practice at a public or private nonprofit entity in a health professional shortage area or dental health shortage area as defined under federal law; (b) accepts Medicare assignment as payment in full for services or articles provided; and (c) uses a sliding fee scale or a comparable method of determining payment arrangements for patients who are not eligible for Medicare or medical assistance and who are unable to pay the customary fee for the physician's services.

An eligible practice area is a health professional shortage area (HPSA), a medically underserved area (MUA), or medically underserved population (MUP). Federal criteria are used to designate these areas, which document areas of medical need in a state, county, or community usually measured against a required minimum number of health care professionals per thousand people in the area. An area or population that is designated a HPSA, MUA, or MUP must be a rational service area for the delivery of medical services, and can be defined in terms of entire counties, groups of contiguous counties, minor civil divisions, or census tracts.

Through the PDLAP program, Commerce could repay, on behalf of the physician or dentist, up to \$50,000 over a three-year period in educational loans obtained by the physician or dentist from a public or private lending institution for education in an accredited school of medicine, dentistry, or for postgraduate medical or dental training. The amount of loan repayment cannot exceed 75% of the loan balance. The loans are repaid according to the following schedule: (1) 40% of the principal up to \$20,000 in the first year; (2) 40% of the principal up to \$20,000 in the second year; and (3) 20% of the principal up to \$10,000 in the third year.

Under HCPLAP, Commerce repays, on behalf of health care providers, up to \$25,000 over a three-year period in loans obtained from a public or private lending institution for education related to the health care provider's field of practice. The amount of loan repayment cannot exceed 75% of the loan balance. The loans are repaid according to the following schedule: (1) 40% of the principal up to \$10,000 in the first year; (2) 40% of the principal up to \$10,000 in the second year; and (3) 20% of the principal up to \$5,000 in the third year.

Commerce contracted with the University of Wisconsin for administrative services from the Office of Rural Health of the Department of Professional and Community Development of the University of Wisconsin Medical School.

Base level funding for the PDLAP and HCPLAP programs is \$488,700 PR annually in tribal gaming compact revenues. In addition, \$300,000 in annual federal funding is provided.

Joint Finance/Legislature: Include the provisions that transfer the Health Professions Loan Assistance Program (HPLAP) and the Rural Health Development Council (RHDC) to the University of Wisconsin (UW) System and related annual funding of \$483,800 PR, to be administered by University of Wisconsin Medical School, Office of Rural Health (ORH) with the following modifications:

a. Increase the membership of the RHDC from 13 to 17 by: (1) deleting the representative from the farmers home administration and one representative of private lenders that make loans in rural areas (one representative would remain); (2) including the Secretary of Agriculture Trade and Consumer Protection, and the Secretary of Workforce Development, or designees, a representative of an economic development organization operating in a rural area, and a member of the public from a rural area; and (3) specifying that of the two representatives from rural health care facilities, one must represent a hospital and one must represent a clinic. In addition, there would be two unspecified Board members authorized.

b. Specify that the RHDC make recommendations to the Governor on all of the following: (1) ways to improve the delivery of health care to persons living in rural areas of the state that qualify as eligible practice areas under state law; (2) ways to help communities evaluate and utilize the linkage between rural health facilities and economic development; (3) the coordination of state and federal programs available to assist rural health care service delivery; (4) stronger coordination and maintenance of rural services and delivery systems; and (c) development of mechanisms to reduce shortages of health care providers in rural areas.

c. Recognize the anticipated transfer of federal funding for loan repayments to ORH by increasing annual expenditure authority in the UW System appropriation under s. 20.285 (1) (m) by \$374,100 in 2009-10 and \$300,000 in 2010-11.

d. Modify the statutory appropriation language for a UW system appropriation for HPLAP loan repayments under s. 20.285 (1) (jc) to provide that the appropriation could be used to fund loan repayments and associated costs.

[Act 28 Sections: 40g thru 40m, 43 thru 43g, 211 thru 213, 215, 582, 747d, 1296, 3035 thru 3060, 9110(3),(4),&(5), and 9210(1)]

15. TECHNICAL ADJUSTMENT TO AUTHORIZED POSITIONS

Governor/Legislature: Delete 1.05 FED position authority annually to correct a technical error.

Positions	
FED	- 1.05

16. BROWNFIELDS GRANTS PROGRAM CHANGES

Governor: Provide that Commerce may consider the following criteria in making brownfields grants:

- a. The potential of the project to promote economic development in the area.
- b. The level of financial commitment by the applicant to the project.
- c. The extent and degree of soil and groundwater contamination at the project site.
- d. The adequacy and completeness of the site investigation and remediation plan.
- e. Any other factors considered by the Department to be relevant to assessing the viability and feasibility of the project.

The requirement that the Department assign each criterion a specified weight in awarding grants would be deleted. The requirement that the responsible party be financially unable to pay the costs of brownfields redevelopment would also be eliminated.

The brownfields grants program provides financial assistance to individuals, trustees, municipalities, businesses and nonprofit organizations that conduct brownfields redevelopment and related environmental remediation projects. Funding is provided from the environmental management account of the segregated environmental fund. Base level funding is \$7.0 million environmental fund SEG in 2008-09 (\$6,570,500 each year under the act).

Commerce is required to base awards on the following criteria:

- a. The potential of the project to promote economic development in the area including: job creation; wages and benefits; impact on economic distress; local and private investment; increase in taxable property; impact on the community; and other similar factors.
- b. Whether the project will have a positive effect on the environment.
- c. The amount and quality of the recipient's contribution to the project.
- d. The innovativeness of the grant recipient's proposal for remediation and redevelopment including proposed reuse and public or private partnership.

Specific weights must currently be assigned to each criterion in awarding grants.

The Department cannot award a grant unless the party that caused the environmental contamination and any person who possessed or controlled the environmental contaminant before it was released is unknown, cannot be located, or is financially unable to pay the cost of brownfields redevelopment or associated environmental remediation activities.

Joint Finance: Include provision. In addition, provide a grant not to exceed \$50,000 from the brownfields grant program to the Town of Beloit to pay 50% of the costs of constructing a

children's playground at Preservation Park.

Assembly: Decrease the brownfields grant program appropriation by \$230,000 in 2009-10 and \$530,000 in 2010-11. This would provide \$12,381,000 during the biennium, including \$6,340,500 in 2009-10 and \$6,040,500 in 2010-11.

Conference Committee/Legislature: Delete Assembly provision

Veto by Governor [C-13]: Delete the \$50,000 earmark for a Beloit children's playground grant.

[Act 28 Sections: 3015, and 3017 thru 3036]

[Act 28 Vetoed Sections: 215d and 9110(12h)]

17. RENEWABLE ENERGY GRANTS AND LOANS REPAYMENTS APPROPRIATION

Governor/Legislature: Create a continuing recycling and renewable energy fund repayments appropriation for funds received from repayment of loans made under the renewable energy grant and loan program. The loan repayments deposited in the appropriation could be used to make grants and loans under the renewable energy grants and loans and Wisconsin Development Fund (WDF) programs.

Current Law. The Wisconsin Energy Independence Fund/renewable energy grant and loan program provides financial assistance to support research and development, manufacture and production of new clean-energy products, and ways to make clean energy use widespread and cost-effective. Grants and loans are used to fund research and development projects, commercialization/adoption projects, and supply chain development projects. Matching funds of at least 50% of total project costs are required, and must come from a source other than the state. Renewable energy grants and loans are funded with segregated (SEG) recycling fund revenues through a biennial appropriation. Base level funding of \$15.0 million is provided in 2008-09 (\$14,850,000 annually under the bill).

The WDF, gaming economic diversification grants and loans, rural economic development, and minority business finance programs have program revenue repayments appropriations. The program revenue repayments appropriations were established to operate similar to a revolving loan fund. Amounts received from loan repayments are credited to the repayments appropriation and these monies can be used to fund additional grants and loans. The program revenue repayments appropriations are continuing appropriations and, consequently, unappropriated and unexpended amounts remaining in the appropriation balance and can be used to fund future grants and loans. Since the repayments appropriations are continuing, which allow the expenditure of all monies received, the actual amounts awarded may differ from the amounts appropriated.

[Act 28 Section: 205]

18. WISCONSIN DEVELOPMENT FUND EARMARKS

Governor: Delete current statutory provisions that require Commerce to make annual Wisconsin Development Fund (WDF) grants of \$100,000 to the Center for Advanced Technology and Innovation (CATI) of Racine County, and \$100,000 to Urban Hope Corporation.

Joint Finance: Modify provisions as follows:

a. Require Commerce to make an annual grant of \$50,000 from the Wisconsin Development Fund (WDF) to the Center for Advanced Technology and Innovation (CATI) of Racine County if CATI provides an equal match of \$50,000. The Department would be required to enter into an agreement with CATI that specifies the uses for the grant proceeds and auditing and reporting requirements.

b. Require Commerce to make an annual grant not to exceed \$50,000 from the Wisconsin Development Fund in the 2009-11 biennium to the WiSys Technology Foundation, Inc. for providing intellectual property management services to the University of Wisconsin-Extension, and all University of Wisconsin (UW) institutions and colleges, other than UW Madison and UW Milwaukee.

Assembly/Legislature: Require Commerce, in the 2011-13 biennium, and no later than July 31, 2011, to make a grant of \$700,000, from the Wisconsin Development Fund to the Pleasant Prairie Technology Incubator Center (Kenosha County), if the Center obtains equal matching funds of \$700,000. The Center would be required to enter into an agreement with Commerce that specified conditions for use of the proceeds of the grant, including reporting and auditing requirements, and 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.

Veto by Governor [C-13]: Delete the earmark for an annual grant of at least \$50,000 in the 2009-11 biennium from the WDF to the WiSys Technology Foundation, Inc. Further, partially veto the earmark for a grant to the Pleasant Prairie Technology Incubator Center in the 2011-13 biennium to reduce the amount of the grant and required matching funds to \$70,000, by striking the first "0" digit from \$700,000.

[Act 28 Sections: 199, 207, 3033k, and 9110(17q)]

[Act 28 Vetoed Sections: 199, and 9110(10q)&(17q)]

19. REGULATORY OMBUDSMAN

	<u>Jt. Finance/Leg.</u> <u>(Chg. to Base)</u>		<u>Veto</u> <u>(Chg. to Leg)</u>		<u>Net Change</u>	
	<u>Funding</u>	<u>Positions</u>	<u>Funding</u>	<u>Positions</u>	<u>Funding</u>	<u>Positions</u>
GPR	\$150,000	1.00	-\$150,000	-1.00	\$0	0.00

Joint Finance/Legislature: Provide \$75,000 GPR annually with 1.0 GPR position to

establish a regulatory ombudsman office in the Department and to administer small business innovation research related grants. Also, statutory references to the business development assistance center would be repealed and, instead, the ombudsman would assume the statutory responsibilities.

Veto by Governor [C-6]: Write down the economic and community development general operations appropriation to delete annual funding of \$75,000 GPR for the regulatory ombudsman position. In his veto message, the Governor requests that the Secretary of Administration not allot the funding and not authorize the additional 1.0 GPR position.

[Act 28 Sections: 204p, 3002r, 3082f, and 3082g]

[Act 28 Vetoed Section: 176 (as it relates to s. 20.143(1)(a))]

20. ECONOMIC DEVELOPMENT GRANTS

	Jt. Finance/Leg. (Chg. to Base)	Veto (Chg. to Leg)	Net Change
GPR	\$100,000	\$0	\$100,000
PR	<u>800,000</u>	<u>- 250,000</u>	<u>550,000</u>
Total	\$900,000	- \$250,000	\$650,000

Joint Finance/Legislature: Provide funding of \$550,000 PR in 2009-10 and \$250,000 PR from the Wisconsin development fund (WDF), rural economic development (RED), minority business development (MBD), and/or gaming economic diversification program revenue repayments appropriations as follows:

a. Provide \$250,000 PR annually for small business innovation research assistance grants. The annual funding of \$250,000 PR would have to be distributed in the following manner: (1) \$100,000 be for grants to businesses in the pre-SBIR (Small Business Innovation Research) grant stage of development; (2) \$100,000 for grants to eligible businesses in Phase III of the SBIR program; and (3) \$50,000 for SBIR project preparation costs.

b. Provide \$250,000 PR in 2009-10 and require Commerce to provide this amount for grants in the biennium to eligible businesses for farm shoring. Recipients would be required to provide an equal amount of matching funds. "Farm shoring" relates to outsourcing work to domestic rural locations, rather than shipping U.S. jobs overseas.

c. Provide \$50,000 PR to Commerce in 2009-10 to contract with a nationally recognized organization to conduct a national and international economic competitiveness study of the state's economy to be presented to the Joint Committee on Finance, Legislature, and Governor, by January 1, 2011.

In addition, funding of \$100,000 GPR in 2009-10 would be provided in a newly created appropriation and Commerce would be required to award this amount in the biennium to de-

velop a value supply chain for the state based on regional economies to identify where supply chain gaps exist and how Wisconsin businesses can fill the gaps.

Commerce would be required to promulgate administrative rules, including emergency rules (without the finding of an emergency) to administer these programs.

Veto by Governor [C-8]: Delete \$250,000 PR in 2009-10, and the provision that would have authorized Commerce to make rural outsourcing (farm shoring) grants during the biennium.

[Act 28 Sections: 198q, 204p, 207, 207p, 208, 210, 3082h, and 9110(14u),(15u)&(16u)]

[Act 28 Vetoed Sections: 207, 207p, 208, 210, and 9110(13u)&(16u)]

21. ENTREPRENEURIAL ASSISTANCE GRANTS

PR	\$90,000
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Joint Finance/Legislature: Provide \$45,000 PR annually from the Wisconsin Development Fund (WDF) repayments appropriation in a newly created appropriation to fund entrepreneurial assistance grants. Under the program:

a. Commerce could award a grant up to \$3,000 to a new business for the expenses of hiring a state college or university student as a paid intern to assist in conducting research, marketing, business plan development, or other functions related to creating a new business. The grants could only be used for expenses in hiring students in the fields of business, engineering, information technology, or in a similar field as determined by Commerce.

b. Commerce would be required to enter into an agreement with each grant recipient that required the recipient to repay at least one-third of the amount of the grant within two years after receiving the grant. Commerce would be required to encourage grant recipients to repay additional amounts when the business became profitable.

c. In cases where Commerce awarded grants to three or more businesses to fund internships for students of a single college or university, the Department could also award a grant up to \$25,000 to that college or university for costs associated with placing interns. If Commerce lacked sufficient funds to award grants to all qualified applicants, the Department would be required to allocate available funds to applicants who had the greatest potential to create jobs in the state.

d. Commerce would be required to actively pursue gifts and grants from private sources to fund grants under the program.

e. Within four years after the start of the program, Commerce would be required to submit a report to the Legislature that evaluated the effectiveness of the grants.

f. The program would be sunset on June 30, 2014.

h. "New business" would be defined as a business organized in the state on a date not more than twelve months before the date on which the business applies for a grant.

[Act 28 Sections: 206s, 207, and 3033L]

22. RENEWABLE ENERGY GRANT AND LOAN PROGRAM LAPSE

	Jt. Finance (Chg. to Base)	Legislature (Chg. to JFC)	Net Change
SEG	-\$29,700,000	\$14,850,000	-\$14,850,000

Joint Finance: Delete \$14,850,000 SEG annually to suspend funding for the renewable energy grant and loan program, and transfer the same amount to the general fund from the recycling and renewable energy fund.

Assembly/Legislature: Restore \$14,850,000, SEG in 2010-11 in the renewable energy grant and loan program, and require Commerce to lapse that amount to the general fund, rather than lapse the amount from the recycling and renewable energy fund. As a result, while program funds will not be available in the 2009-11 biennium, base level funding for the renewable energy grant and loan program in 2011-12 will be \$14,850,000.

[Act 28 Section: 9210(3f) and 9237(9f)]

23. BUSINESS RETENTION ACTIVITIES

Joint Finance/Legislature: Require the Department of Commerce to submit a report to the Joint Committee on Finance, within 30 days of the effective date of the bill, that includes retention methods the Department could use to identify companies at risk for relocation or expansion outside of Wisconsin. The Department would also be required to develop a plan to identify businesses outside of Wisconsin that are seeking to relocate or expand, or that could be encouraged to relocate or expand through the use of incentives. In addition, Commerce would be required to develop an emergency response team that could contact prospects for expansion or relocation within 24 hours after notification.

Veto by Governor [C-12]: Delete provision.

[Act 28 Vetoed Section: 9110(11r)]

24. AREA DEVELOPMENT MANAGER

Senate/Legislature: Direct the Department of Commerce to fill the vacant area development manager position in the Department's region #1 by October 1, 2009. Region #1 includes the counties of Ashland, Barron, Bayfield, Burnett, Chippewa, Clark, Douglas, Dunn, Eau Claire, Iron, Pierce, Polk, Rusk, Sawyer, St Croix, and Washburn.

Veto by Governor [C-5]: Delete provision.

[Act 28 Vetoed Section: 9110(18f)]

25. MINORITY BUSINESS CERTIFICATION DEFINITION MODIFICATION

Governor: Modify the definition of a "minority business" that could be certified by Commerce to include a sole proprietorship, partnership, limited liability company, joint venture, or corporation that is currently performing a useful business function and is at least 30 percent owned by a minority group member or members who are U.S. citizens or persons lawfully admitted to the United States for permanent residence and that fulfills all of the following criteria:

- a. Its day-to-day operations are controlled by the minority group member or members.
- b. At least 51 percent of any voting rights attached to its equity securities are held by the minority group member or members.
- c. At least 51 percent of the members of its board of directors are appointed by the minority group member or members.

Under current law, Commerce administers the minority business certification program. The program certifies the minority status and capability of qualified businesses so they are eligible to contract with state and local government agencies. A "minority business" is defined as a sole proprietorship, partnership, limited liability company, joint venture or corporation that is: (a) at least 51% owned, controlled and actively managed by a minority group member or members who are U.S. citizens or persons lawfully admitted to the U.S. for permanent residence; and (b) is currently performing a useful business function.

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

26. COMMERCE AUTHORITY UNDER EMINENT DOMAIN

Governor: Eliminate the Department's authority to engage in the following actions in administering relocation assistance under the state's eminent domain (condemnation) law:

- a. To make investigations to determine if a condemnor is complying with state laws related to relocation benefits and to seek an order from the circuit court requiring a condemnor to comply with the laws or to discontinue work on that part of the project which is not in substantial compliance with the laws. (Actions commenced before the effective date of the bill could continue.)
- b. To request the Attorney General to aid and prosecute all necessary actions or proceedings for the enforcement of, and for the punishment of all violations of, the laws related

to relocation benefits.

The bill would eliminate provisions under which any displaced person may, prior to commencing a court action against the condemnor, petition Commerce for review of his or her complaint, and the authority of the Department to conduct an informal review of the situation and attempt to negotiate an acceptable solution. (Commerce could act on petitions submitted before the effective date of the bill.) Also eliminated would be the requirement that Commerce provide technical assistance on relocation plan development and implementation to any condemnor carrying out a project which may result in the displacement of any person.

Current provisions would remain that require Commerce to promulgate administrative rules relating to condemnation procedures, and to publish a pamphlet describing eminent domain laws and the condemnation process in plain language.

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

Housing, Buildings, and Environmental Regulation

1. DIESEL TRUCK IDLING REDUCTION GRANT PROGRAM [LFB Paper 260]

	Governor		Jt. Finance/Leg.		Net Change	
	(Chg. to Base)		(Chg. to Gov)			
	Funding	Positions	Funding	Positions	Funding	Positions
SEG	-\$2,155,000	-1.00	\$405,000	1.00	-\$1,750,000	0.00

Governor: Delete \$1,077,500 and 1.0 position annually, and repeal the diesel truck idling reduction grant program. The annual funding includes \$1,000,000 for grants, and \$77,500 and 1.0 position for administration of the program. (In addition, \$1,000,000 was provided in each of 2007-08 and 2008-09, on a one-time basis, and is removed under standard budget adjustments.) Funding is provided from the segregated petroleum inspection fund.

The program was created in 2005 Wisconsin Act 25, with a sunset at the end of 2010-11, to provide grants to motor carriers that transport freight for idling reduction units that provide heat, air conditioning, or electricity to a diesel truck when the main drive engine of the truck is not operating. A total of \$5,000,000 was appropriated for grants between 2006-07 and 2008-09. In 2008-09, the program awarded \$1,222,400 to 173 recipients for 317 diesel idling reduction units.

Joint Finance/Legislature: Make the following changes:

a. Restore the statutory authorization for the program, \$250,000 petroleum inspection fund SEG in 2010-11 for grants, and \$77,500 SEG and 1.0 SEG position annually for administration of the program;

b. Extend, from June 30, 2011, currently, until June 30, 2015, the date after which Commerce may not make a diesel truck idling reduction grant;

c. Direct Commerce to spend any diesel truck idling reduction funds it receives under the federal American Recovery and Reinvestment Act of 2009 for activities eligible under the diesel truck idling reduction grant program before it spends any state funds from the grant appropriation;

d. Direct Commerce and DNR to give preference, to the extent allowable under federal law, when spending funds received under the American Recovery and Reinvestment Act of 2009 for diesel emissions reduction activities, to diesel truck idling reduction activities for motor carriers eligible under the state diesel truck idling reduction grant program;

e. Direct that Commerce may only spend the portion of the \$250,000 SEG appropriation in 2010-11 that does not exceed the greater of \$2,000,000 or the sum of Commerce and DNR expenditures from ARRA funds during the 2009-11 biennium for activities eligible under the diesel truck idling reduction grant program. Direct Commerce to lapse any of the unspent \$250,000 appropriation to the general fund in 2010-11 only.

f. Direct Commerce to submit its 2011-13 biennial budget request as if the 2010-11 base funding level for the diesel truck idling reduction grant program is \$1,000,000 SEG.

g. Eliminate the cumulative maximum number of truck tractors that can be funded per applicant based on the number of eligible trucks in their fleet. Eligible applicants in 2009-10 through 2014-15 could apply for a grant for any eligible diesel truck engine that has not previously received a grant.

[Act 28 Sections: 217f, 217g, 3013p thru 3013s, 9110(11u), 9137(3u), and 9210(2u)]

2. DECREASE PECFA AWARDS APPROPRIATION [LFB Paper 261]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
SEG	-\$10,500,000	-\$9,900,000	-\$20,400,000

Governor: Decrease the petroleum environmental cleanup fund awards (PECFA) appropriation by \$5,250,000 annually. Under the bill, \$14,550,000 would be appropriated annually for PECFA awards. The PECFA program reimburses owners for a portion of the cleanup costs of discharges from petroleum product storage systems and home heating oil systems. It is funded from the segregated petroleum inspection fund, which receives revenue from a 2¢ per gallon petroleum inspection fee. Commerce paid \$14,591,100 in PECFA claims in

2007-08.

Joint Finance/Legislature: Decrease the PECFA awards appropriation by an additional \$4,450,000 in 2009-10 (to provide \$10,100,000 for PECFA claims) and by an additional \$5,450,000 SEG in 2010-11 (to provide \$9,100,000 for PECFA claims) to accommodate expected 2009-11 claim demand.

3. PECFA ELIGIBILITY NOTIFICATION DEADLINE

Governor: Create a deadline of December 31, 2011, for an owner of a PECFA-eligible petroleum product storage tank to notify Commerce of the petroleum discharge and of the potential for submitting a claim. If an owner does not notify Commerce of the discharge and of the potential for submitting a claim, before January 1, 2012, the owner would not be eligible for PECFA reimbursement for cleanup costs.

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

4. TRANSFER FROM PETROLEUM INSPECTION FUND TO OTHER FUNDS

	Jt. Finance (Chg. to Base)	Legislature (Chg. to Gov)	Net Change
GPR-REV	\$12,500,000	\$0	\$12,500,000
SEG-REV	0	41,760,000	41,760,000
SEG-Transfer	12,500,000	41,760,000	54,260,000

Joint Finance: Transfer \$12,500,000 from the petroleum inspection fund to the general fund in 2009-10. Under Joint Finance, the petroleum inspection fund was estimated to have a June 30, 2011, balance of \$7.9 million. This included estimated debt service for PECFA revenue obligations of \$62.0 million during the biennium.

Assembly: In addition to the Joint Finance provision, transfer \$10,000,000 in 2009-10 and 27,000,000 in 2010-11 from the petroleum inspection fund to the transportation fund. The transferred funding would result from lower than estimated debt service costs to the petroleum inspection fund associated with restructuring short-term borrowing into long-term debt obligations. The administration has recently indicated it plans to refinance the PECFA long-term and short-term debt to defer payment of principal and attempt to obtain lower interest rates, and estimated debt service costs will decrease to approximately \$22.8 million during the biennium. The net effect of the Assembly transfer to the transportation fund and PECFA debt refinancing would be an estimated petroleum inspection fund balance of approximately \$10 million on June 30, 2011.

Senate: Delete Assembly provision.

Conference Committee/Legislature: In addition to the Joint Finance provision, transfer \$10,000,000 in 2009-10 and \$17,800,000 in 2010-11, on a one-time basis, from the petroleum

inspection fund to the transportation fund and \$9,200,000 in 2010-11 from the petroleum inspection fund to the general fund.

Transfer \$2,000,000 in each of 2009-10 and 2010-11, on a one-time basis, from the petroleum inspection fund to the recycling and renewable energy fund. Transfer \$230,000 in 2009-10 and \$530,000 in 2010-11, on a one-time basis, from the petroleum inspection fund to the environmental management account of the environmental fund.

Under the act, the estimated June 30, 2011, balance in the petroleum inspection fund would be approximately \$5 million.

[Act 28 Sections: 9210(1f),(1g),(1q),(2f)&(3q)]

5. PAYMENTS TO REMOVE ABANDONED UNDERGROUND PETROLEUM STORAGE TANKS [LFB Paper 262]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
SEG	\$495,000	-\$295,000	\$200,000

Governor: Provide \$247,500 annually from the segregated petroleum inspection fund in a new appropriation for the removal of abandoned underground petroleum storage tanks. The PECFA program currently pays a portion of eligible petroleum contamination cleanup costs, but tank removal costs are not eligible for reimbursement.

Authorize Commerce to make payments from the appropriation to contract with a person registered or certified under Department rules to remove abandoned tanks if the Department determines both of the following: (a) the tank is abandoned; and (b) the owner of the tank is unable to pay the costs. Authorize Commerce to pay for the following costs: (a) empty, clean, remove, and dispose of an underground petroleum product storage tank system; (b) assess the tank site (the assessment would determine whether there is petroleum contamination at the site); and (c) backfill the excavation. Specify that Commerce would use the same process to determine if an owner of the tank is unable to pay as currently used to determine whether the PECFA deductible (owner's share) may be waived because of the owner's inability to pay the deductible. Commerce administrative rules define an abandoned tank as a tank (with or without petroleum product inside) that is not in active use, temporarily-out-of-service or closed in accordance with Commerce rules.

Specify that if Commerce pays for the removal of an abandoned tank under the provision, the Department would record a lien on the property with the Register of Deeds in the county in which the underground petroleum tank was located. The lien would be equal to the costs incurred by Commerce for the tank removal. The property would remain subject to the lien until the amount is repaid in full to Commerce. Any payments received by Commerce from persons who make repayments in order to remove the lien would be deposited into the

petroleum inspection fund.

While removal costs may vary considerably, Commerce estimates the average cost of removing a tank may be approximately \$3,000. There are approximately 6,800 abandoned underground petroleum tanks on the Department's database.

Joint Finance/Legislature: Delete \$147,500 annually to provide \$100,000 annually for the program. In addition: (a) specify that backfilling the excavation would not include landscaping, or replacing asphalt, fence, sod, sidewalk or other vegetation associated with a tank removal performed under the program; and (b) authorize Commerce to use the existing SEG petroleum inspection program and PECFA program administrative appropriations for administration of the abandoned tank removal program.

[Act 28 Sections: 216s, 219, 219e, 680, and 2155]

6. ELECTRICAL PROGRAM STAFF [LFB Paper 263]

	Governor (Chg. to Base)		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
PR	\$358,200	2.00	-\$358,200	-2.00	\$0	0.00

Governor: Provide \$153,600 in 2009-10 and \$204,600 in 2010-11 with 2.0 electrical consultant positions funded from electrician licensing revenue deposited in the Safety and Buildings Division program revenue operations appropriation. 2007 Wisconsin Act 63 requires all electricians to obtain a four-year license and requires inspection of all electrical wiring installation. The positions would: (a) implement the electrician licensing requirements of Act 63; (b) develop a program to monitor contracts with inspectors who would inspect electrical wiring in municipalities that do not perform the inspections; (c) investigate complaints regarding licensed electricians or individuals doing electrical work without an electrician license; and (d) provide training to local governments, inspectors and electricians. Commerce estimates revenue under Act 63 will average \$470,000 annually, including \$200,000 in each of 2008-09, 2009-10 and 2010-11, \$500,000 in 2011-12, and \$925,000 in 2012-13 due to an increase in the number of licenses obtained as the March, 2013, deadline for licensure nears.

Revenues deposited in the Safety and Buildings appropriation come from a variety of plan review and inspection activities related to construction such as commercial buildings, multi-family dwellings, plumbing, private sewage systems, electrical and heating systems, and elevators. Base funding is \$18.0 million with 156.8 positions. Commerce anticipates that, due to economic conditions and a slowdown in construction activity, revenues will total approximately \$15.9 million in 2008-09, \$16.9 million in 2009-10, and \$18.2 million in 2010-11.

Joint Finance/Legislature: Approve the Governor's recommendation. In addition, delete \$153,600 PR in 2009-10 and \$204,600 PR in 2010-11 with 2.0 currently vacant Safety and Buildings positions. Further, specify that Commerce may only hire a person who is not a

Department employee to perform services for Commerce in administering the electrical code and licensing program, if the Department first completes a cost-benefit analysis that determines that those services can be performed more cost-effectively and efficiently by the contractor than by an employee of the Department.

Veto by Governor [C-3]: Delete the requirement that Commerce may only hire a person who is not a Department employee to perform services for Commerce in administering the electrical program, if the Department first completes a cost-benefit analysis that determines that those services can be performed more cost-effectively and efficiently by the contractor than by an employee of the Department.

[Act 28 Vetoed Section: 2157r]

7. SAFETY AND BUILDINGS DIVISION LICENSES AND REGISTRATIONS [LFB Paper 264]

Governor/Legislature: Repeal the statutory maximum fee that Commerce may establish by administrative rule for several licenses, examinations and registrations the Department issues to plumbers, contractors who install or maintain fire sprinklers, utility contractors, and pipelayers. Require the fees to equal, as closely as possible, the cost of providing services. Retain the current authority for the Department to establish the fees in administrative rules. Retain the current four-year statutory term of the credentials. The administration did not estimate the revenue increase that may result from revising fees to amounts higher than the current statutory maximum.

The licenses and registrations shown in the following table would be affected.

<u>License or Registration</u>	<u>Current Statutory Maximum Fee</u>	<u>Current Fee Under Administrative Rule</u>
Master plumber's examination	\$50	\$30
Master plumber's license and renewal	500	500
Journeyman plumber's examination	30	20
Journeyman plumber's license and renewal	180	180
Temporary permit pending examination and issuance of license for master plumber	400	Does not issue temporary permit
Temporary permit pending examination and issuance of license for journeyman plumber	150	Does not issue temporary permit
Master plumber's (restricted) examination	50	30
Master plumber's license (restricted) and renewal	500	500
Journeyman plumber's (restricted) examination	30	20
Journeyman plumber's license (restricted) and renewal	180	180
Automatic fire sprinkler contractor's examination	100	100
Automatic fire sprinkler contractor's license and renewal	2,000	2,000
Automatic fire sprinkler - maintenance only registration and renewal	400	400
Journeyman automatic fire sprinkler fitter's examination	20	20
Journeyman automatic fire sprinkler fitter's license and renewal	180	180
Automatic fire sprinkler fitter - maintenance only registration and renewal	60	60
Utility contractor's license and renewal	500	500
Pipelayer's registration and renewal	180	180
Apprentice registration for plumber, automatic fire sprinkler fitter, and plumber learner	15	15

[Act 28 Sections: 2406 thru 2425]

8. TRANSFER COMMERCIAL CONSTRUCTION SITE EROSION CONTROL TO DNR

Joint Finance/Legislature: Transfer responsibilities for commercial construction site erosion control from Commerce to DNR effective on the first day of the seventh month after the effective date of the bill (January 1, 2010), as follows:

a. Transfer the program for erosion control at construction sites for public buildings and buildings that are places of employment (commercial sites) under section 101.1205 of the statutes from Commerce to DNR.

b. Direct DNR to administer the portion of the Comm 60 administrative rule related to erosion control, sediment control, and storm water management for commercial sites until DNR promulgates its own rules for the program. The Commerce rules and orders related to the program would be considered rules and orders of DNR until DNR promulgates rules for the program. Require DNR to submit proposed rule revisions to the Legislative Council Rules Clearinghouse by January 1, 2011.

c. Specify that the Commerce delegation of responsibility for commercial construction site erosion control to any specific municipality would remain in effect under DNR administration until DNR changes the delegation of the authority to the municipality.

d. Specify that any fees collected by DNR related to the commercial construction site erosion control program, including as authorized by the Commerce rules it would administer until it promulgates DNR rules, would be deposited in the existing DNR appropriation for storm water fees (primarily fees paid by municipalities and industries for storm water permits at construction sites where there is no building).

e. Direct DNR and Commerce to enter into a memorandum of understanding (MOU) related to administration of construction site erosion control prior to the transfer. Specify that the MOU shall include, at a minimum, all of the following: (1) the procedures Commerce and DNR would use to transfer responsibilities and records related to commercial building site erosion control from Commerce to DNR; (2) the procedures DNR and Commerce would use to coordinate activities of the Commerce commercial building plan review and inspection program with the DNR commercial construction site erosion control program; (3) the procedures DNR and Commerce would use to coordinate the DNR commercial construction site erosion control program standards with the Commerce one- and two-family dwelling construction site erosion control; (4) the procedure Commerce would use to notify DNR when it receives commercial building plans which may require a construction site erosion control plan and DNR would notify Commerce when it receives a construction site erosion control plan or a notice of such a plan for a commercial construction site; and (5) the procedure DNR and Commerce would use to coordinate training of building inspectors who are authorized to conduct soil erosion or construction inspections at commercial building sites.

f. Direct that any matter pending with Commerce related to its commercial building site erosion control responsibilities would be transferred to DNR on the effective date of the transfer. Direct that any materials submitted to or actions taken by Commerce with respect to the pending matter would be considered as having been submitted to or taken by DNR.

[Act 28 Sections: 275d, 702m thru 702t, 1449s, 1954g, 2075c thru 2075j, 2576n, 2576p, 9110(11f), and 9410(2f)]

9. CONSTRUCTION CONTRACTOR REGISTRATION

Joint Finance: Require construction contractors to register with Commerce effective January 1, 2010, as follows: (a) a person could only hold himself or herself out or act as a construction contractor if he or she is registered as a construction contractor by Commerce; (b) direct Commerce to promulgate administrative rules to administer the program; (c) authorize the Department to directly assess a forfeiture by issuing an order against a person who violates the provision. Further, exempt the following from the registration requirement: (a) a person who engages in construction on property owned or leased by that person; (b) a state agency or local governmental unit; and (c) a person who engages in construction as part of his or her employment by a state agency or local government.

Assembly: In addition, specify that when Commerce promulgates administrative rules for construction contractor registration, it may promulgate the initial rules as emergency rules without the finding of emergency.

Senate: Delete the Assembly provision.

Conference Committee/Legislature: Adopt Assembly provision.

[Act 28 Sections: 2074f, 2074h, 2155m, 2156c, 9110(17r), and 9410(2i)]

10. REPEAL BUILDING INSPECTOR REVIEW BOARD

Governor: Repeal the Building Inspector Review Board. The Board was created in 2005 Wisconsin Act 457, effective June 10, 2006. The Board is required to review complaints received from building permit recipients regarding possible incompetent, negligent, or unethical conduct by building inspectors who inspect public buildings, places of employment, or one- and two-family dwellings. The Board may revoke the certification of a building inspector if the Board determines that the building inspector has engaged in incompetent, negligent, or unethical conduct. The Board may modify or reverse decisions made by building inspectors that the Board determines were made in error. A permittee may make an anonymous complaint, but the Board may only investigate the complaint if the Board receives two additional anonymous complaints regarding the inspector.

The Board consists of five members: (a) the Senate Majority Leader or his or her designee; (b) the Speaker of the Assembly or his or her designee; (c) the Secretary of Commerce or his or her designee; (d) a member representing building contractors and building developers who is actively engaged in the on-site construction of public buildings, places of employment, or one- and two-family dwellings; and (e) a building inspector certified by Commerce to inspect public buildings, places of employment, or one- and two-family dwellings. The members under (d) and (e) are appointed by the Governor for five-year terms.

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

11. FIRE DUES REESTIMATE [LFB Paper 266]

PR	- \$463,000
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Joint Finance/Legislature: Reestimate the fire dues distribution to local fire departments from \$14,721,300 to \$14,324,000 in 2009-10 (a decrease of \$397,300) and to \$14,655,600 in 2010-11 (a decrease of \$65,700), to reflect anticipated fire dues revenue. The fire dues distribution was approximately \$14.0 million in 2008-09.

12. HOUSING GRANTS APPROPRIATION

Governor/Legislature: Change the GPR appropriation for shelter subsidy and transitional housing grants from annual to biennial. Further, delete the requirement that funds allocated but not encumbered by December 31 of each year lapse to the general fund unless the Joint Committee on Finance transfers the moneys to the next calendar year. The programs provide grants to private, nonprofit organizations, for-profit organizations, community action

agencies, and county or municipal governments. Grants are awarded for operating transitional housing and associated supportive services for the homeless, or for operating costs of a homeless shelter facility.

Under the act, any unencumbered balance at the end of a biennium will revert to the general fund. Previously, the lapse was made each January, unless carried over with approval of Joint Finance.

[Act 28 Section: 216]

13. TRANSFER BETWEEN HOUSING PROGRAMS

Joint Finance/Legislature: Specify that, notwithstanding the requirements of allowable uses of the housing grants and loans appropriation, Commerce would be required to award \$500,000 GPR in each of 2009-10 and 2010-11 in grants from the housing grants and loans appropriation for activities permitted under the shelter for homeless and transitional housing grants appropriation, except to the extent that doing so would reduce the eligibility of the State or the Department for federal funding. The provision would be in effect only for the 2009-11 biennium.

[Act 28 Sections: 215p and 9110(12u)]

14. FEDERAL STIMULUS HOUSING FUNDING

FED	\$17,101,900
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Joint Finance/Legislature: Provide \$17,101,900 in 2009-10 to the appropriation for federal housing programs, to reflect the anticipated amount that will be received from funding under the federal American Recovery and Reinvestment Act (ARRA) for the homelessness prevention and rapid re-housing program.

15. LANDLORD PROCEEDS FROM SALE OF ABANDONED TENANT PROPERTY

Governor: Require a landlord to send to Commerce, rather than DOA currently, the net proceeds of abandoned property left by a tenant and sold by the landlord. (Currently, the net proceeds are sent to DOA, and DOA sends them to Commerce.) There would be no change to the current requirement that if a tenant leaves behind personal property after moving out of the rental premises, the landlord has the option of notifying the tenant of the landlord's intent to sell the property if the tenant does not reclaim the property within 30 days. The landlord may deduct from the proceeds of the sale any costs of sale and any storage costs. If the tenant does not claim the net proceeds within 60 days of the sale, the landlord sends the net proceeds to the state. Amounts remitted by a landlord to the state would continue to be deposited in a Commerce appropriation that is used to supplement grants made under the shelter subsidy grant program. A total of \$286 has been received from this source since 1994. No funds have been received by the state since 2003.

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

CORRECTIONS

Budget Summary							
Fund	2008-09 Base Year Doubled	2009-11 Governor	2009-11 Jt. Finance	2009-11 Legislature	2009-11 Act 28	Act 28 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$2,200,428,400	\$2,300,310,300	\$2,252,105,600	\$2,252,212,400	\$2,252,212,400	\$51,784,000	2.4%
FED	5,179,800	5,618,600	17,419,600	17,419,600	17,419,600	12,239,800	236.3
PR	286,015,400	301,510,700	295,891,700	296,047,200	296,047,200	10,031,700	3.5
SEG	<u>593,600</u>	<u>624,600</u>	<u>620,600</u>	<u>620,600</u>	<u>620,600</u>	<u>27,000</u>	4.5
TOTAL	\$2,492,217,200	\$2,608,064,200	\$2,566,037,500	\$2,566,299,800	\$2,566,299,800	\$74,082,500	3.0%

FTE Position Summary						
Fund	2008-09 Base	2010-11 Governor	2010-11 Jt. Finance	2010-11 Legislature	2010-11 Act 28	Act 28 Change
						Over 2008-09 Base
GPR	9,494.22	9,689.22	9,670.57	9,670.57	9,670.57	176.35
FED	3.00	3.00	3.00	3.00	3.00	0.00
PR	895.65	888.15	901.65	901.65	901.65	6.00
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>
TOTAL	10,394.87	10,582.37	10,577.22	10,577.22	10,577.22	182.35

Budget Change Items

Departmentwide

1. STANDARD BUDGET ADJUSTMENTS [LFB Paper 270]

	Governor (Chg. to Base)		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	\$62,199,500	0.00	-\$5,130,800	0.00	\$57,068,700	0.00
FED	438,800	0.00	0	0.00	438,800	0.00
PR	6,512,800	-1.00	0	0.00	6,512,800	-1.00
SEG	<u>23,000</u>	<u>0.00</u>	<u>0</u>	<u>0.00</u>	<u>23,000</u>	<u>0.00</u>
Total	\$69,174,100	-1.00	-\$5,130,800	0.00	\$64,043,300	-1.00

Governor: Provide \$30,781,700 GPR, \$219,400 FED, \$3,259,300 PR, and \$11,400 SEG in 2009-10, and \$31,417,800 GPR, \$219,400 FED, \$3,253,500 PR and -1.0 PR position, and \$11,600 SEG in 2010-11 for the following adjustments to the base budget: (a) turnover reduction (-\$10,249,100 GPR, -\$741,900 PR annually); (b) removal of non-continuing items (-\$308,200 GPR annually and -\$18,500 PR and -1.0 PR position in 2010-11); (c) full funding of salaries and fringe benefits (\$1,444,400 GPR, \$219,400 FED, \$1,333,900 PR, and \$5,500 SEG annually); and (d) night and weekend differential (\$7,471,900 GPR and \$623,600 PR annually). In addition, provide overtime of \$34,472,300 in 2009-10 (\$32,422,700 GPR, \$2,043,700 PR, and \$5,900 SEG), and \$35,121,300 in 2010-11 (\$33,058,800 GPR, \$2,056,400 PR, and \$6,100 SEG). It should be noted that in the calculation of full funding of salaries and fringe benefits, costs associated with overtime are removed. Thus, the overtime amounts represent the Department's estimated total cost for overtime.

Joint Finance/Legislature: Reduce overtime funding by \$1,688,200 GPR in 2009-10 and \$3,442,600 GPR in 2010-11. Increased funding and positions are provided to address overtime. [See "Positions to Replace Overtime Funding" under "Corrections -- Adult Institutions."]

2. ACROSS-THE-BOARD 1% REDUCTIONS [LFB Papers 174 and 302]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	-\$20,643,800	\$0	-\$20,643,800
PR	-2,853,000	49,800	-2,803,200
SEG	-6,000	0	-6,000
Total	-\$23,502,800	\$49,800	-\$23,453,000

Governor: Delete \$11,751,400 annually (-\$10,321,900 GPR, -\$1,426,500 PR, and -\$3,000 SEG), as part of an across-the-board 1% reduction in most non-federal appropriations. The reductions, by appropriation, are shown below:

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
GPR	Adult Corrections General Program Operations	\$685,643,300	-\$6,856,400*
GPR	Institution Repair and Maintenance	4,201,300	-42,000
GPR	Contract Bed Funding	17,832,300	-178,300*
GPR	Community Corrections	135,998,100	-1,360,000*
GPR	Pharmacological Treatment for Certain Child Sex Offenders	110,000	-1,100
GPR	Reimbursing Counties for Probation, Extended Supervision, Parole Holds	4,935,100	-49,400
GPR	Mother-Young Child Care Program	200,000	-2,000
GPR	Purchased Services for Offenders	30,995,200	-310,000*
GPR	Energy Costs	29,532,700	-295,300*
PR	Sex Offender Honesty Testing	122,000	-1,200*
PR	Sex Offender Management	1,076,500	-10,800
PR	Probation, Parole, and Extended Supervision	11,848,400	-118,500*
PR	General Operations	4,080,700	-40,800
PR	GPS Tracking Devices	26,000	-300*

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
PR	Home Detention Services	\$624,100	-\$6,200*
PR	Telephone Company Commissions	1,116,300	-11,200
PR	Administration of Restitution	837,200	-8,400*
PR	Gifts and Grants	33,400	-300*
PR	Operations and Maintenance	382,500	-3,800*
PR	Correctional Institution Enterprises; Inmate Activities & Employment	3,162,400	-31,600*
PR	Correctional Farms	4,296,700	-43,000*
PR	Victim Services & Programs	278,800	-2,800
PR	Institutional Operations & Charges	17,996,200	-180,000*
PR	Prison Industries	18,547,300	-185,500*
PR	Correctional Officer Training	2,748,800	-27,500
PR	Interagency & Intra-Agency Programs	2,567,400	-25,700
PR	Interagency & Intra-Agency Aids	1,442,100	-14,400
SEG	Computer Recycling	296,800	-3,000*
GPR	Parole Commission	1,167,900	-11,700
GPR	Juvenile General Program Operations	1,068,100	-10,700
GPR	Mendota Juvenile Treatment Center	1,379,300	-13,800
GPR	Reimbursement Claims of Counties Containing Juvenile Facilities	200,000	-2,000
GPR	Youth Aids	98,341,000	-983,400
GPR	Serious Juvenile Offenders	16,829,800	-168,300*
GPR	Community Intervention Program	3,750,000	-37,500
PR	Juvenile Correctional Services	56,719,200	-567,200*
PR	Juvenile Residential Aftercare	5,395,300	-54,000
PR	Juvenile Corrective Sanctions	4,869,600	-48,700*
PR	Juvenile Gifts and Grants	7,700	-100
PR	Juvenile State-Owned Housing Maintenance	35,000	-400
PR	Institutional Operations & Charges	218,200	-2,200*
PR	Interagency Programs; Community Youth & Family Aids	2,449,200	-24,500
PR	Juvenile Interagency & Intra- Agency Programs	1,740,200	-17,400*

*Due to other budget items, the final funding level for this appropriation does not represent a 1% reduction.

Joint Finance/Legislature: Delete the reduction to the Department's gifts and grants appropriations (\$400 PR annually) and the PR appropriation for youth aids (\$24,500 PR annually). Further, the Joint Finance Committee would appropriate federal monies in 2009-11 to address the 1% GPR reduction to youth aids (\$983,400 GPR annually), specifying the GPR reduction was for the 2009-11 biennium only (thus, GPR base funding will be restored for the next biennium). [See "Youth Aids" under "Corrections -- Juvenile Corrections."]

3. ADDITIONAL 5% REDUCTION TO GPR APPROPRIATIONS [LFB Papers 175 and 302]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	-\$13,995,200	\$4,161,000	-\$9,834,200

Governor: Delete \$6,997,600 annually as part of an additional GPR reduction. The reductions, by appropriation, are shown below:

<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
Institution Repair & Maintenance	\$4,201,300	-\$210,100
Pharmacological Treatment for Certain Child Sex Offenders	110,000	-5,500
Mother-Young Child Care Program	200,000	-10,000
Energy Costs	29,532,700	-1,476,600
Parole Commission	1,167,900	-58,400
Juvenile General Program Operations	1,068,100	-53,400
Mendota Juvenile Treatment Center	1,379,300	-69,000
Reimbursement Claims of Counties Containing Juvenile Facilities	200,000	-10,000
Youth Aids	98,341,000	-4,917,100
Juvenile Energy Costs	3,750,000	-187,500

Joint Finance/Legislature: Restore the 5% GPR reductions, except for youth aids. The Joint Finance Committee appropriated federal monies in 2009-11 to address the reduction to youth aids funding and specified that the reduction was for the 2009-11 biennium only (thus, base funding will be restored for the next biennium). [See "Youth Aids" under "Corrections -- Juvenile Corrections."]

4. ELIMINATE 2% GENERAL WAGE ADJUSTMENT

Joint Finance/Legislature: Delete \$10,904,200 (all funds) annually relating to the roll-back of 2% general wage adjustments that were scheduled to take effect on June 7, 2009. The reductions include \$9,983,100 GPR, \$920,300 PR, and \$800 SEG annually.

GPR	-\$19,966,200
PR	- 1,840,600
SEG	<u>- 1,600</u>
Total	-\$21,808,400

5. STATE EMPLOYEE FURLOUGH

Joint Finance/Legislature: Delete \$7,868,100 (all funds) annually relating to the requirement that state employees take eight days of unpaid annual leave (furlough) in each year of the 2009-11 biennium. The reductions include \$7,030,100 GPR, \$836,800 PR, and \$1,200 SEG annually.

GPR	-\$14,060,200
PR	- 1,673,600
SEG	<u>- 2,400</u>
Total	-\$15,736,200

6. BUDGET EFFICIENCY MEASURE

GPR	- \$30,000,000
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Governor/Legislature: Delete \$15,000,000 annually from funding for the Department's Division of Adult Institutions (DAI). The DAI funding is generally allocated to institutions during the fiscal year for various costs, including overtime, food, and variable non-food items.

7. DEBT SERVICE REESTIMATE

GPR	\$36,416,500
PR	- 77,400
Total	\$36,339,100

Governor/Legislature: Provide \$19,458,400 GPR and -\$123,700 PR in 2009-10 and \$16,958,100 GPR and \$46,300 PR in 2010-11 to reflect a reestimate of debt service costs in the Department. The reestimates include: (a) adult corrections, \$19,272,100 GPR in 2009-10 and \$16,852,200 GPR in 2010-11; (b) juvenile corrections, \$186,300 GPR in 2009-10 and \$105,900 GPR in 2010-11; and (c) prison industries, -\$123,700 PR in 2009-10 and \$46,300 in 2010-11.

In total, debt services for Corrections would be: (a) adult corrections, \$82,651,900 GPR in 2009-10 and \$80,232,000 GPR in 2010-11; (b) juvenile corrections, \$4,750,900 GPR in 2009-10 and \$4,670,500 GPR in 2010-11; and (c) prison industries, \$262,800 PR in 2009-10 and \$432,800 PR in 2010-11.

8. RENT

GPR	\$4,697,400
PR	93,000
Total	\$4,790,400

Governor/Legislature: Provide \$2,139,600 GPR and \$21,600 PR in 2009-10 and \$2,557,800 GPR and \$71,400 PR in 2010-11 for rental costs on a departmentwide basis. Funding would be divided as follows: (a) Division of Management Services (\$675,600 GPR and \$85,700 PR in 2009-10 and \$808,800 GPR and \$113,400 PR in 2010-11); (b) Division of Adult Institutions (-\$1,400 GPR and -\$200 PR in 2009-10 and -\$1,200 GPR and \$6,100 PR in 2010-11); (c) Division of Community Corrections (\$1,465,900 GPR and -\$45,100 PR in 2009-10 and \$1,750,400 GPR and -\$44,000 PR in 2010-11); (d) Secretary's Office (\$200 GPR in 2009-10 and \$300 GPR in 2010-11); (e) Parole Commission (-\$900 annually); and (f) Division of Juvenile Corrections (\$200 GPR and -\$18,800 PR in 2009-10 and \$400 GPR and -\$4,100 PR in 2010-11).

9. REALIGNMENT

Governor/Legislature: Reallocate base level funding and positions between and within appropriations in the Department to reflect departmental reorganization. Overall funding and position totals for each fiscal year would not change. Changes to appropriations due to reallocations would be as follows: (a) general program operations, adult institutions, -\$174,200 GPR annually; (b) services for community corrections, \$174,200 GPR annually; (c) juvenile aftercare, -\$19,900 PR and -0.25 PR position annually; (d) juvenile corrective sanctions, \$59,700 PR and 0.75 PR position annually; and (e) juvenile interagency and intra-agency programs, -\$38,800 PR and -0.50 PR position annually.

10. HEALTH AND INFORMATION TECHNOLOGY POSITIONS

	Funding	Positions
GPR	-\$1,323,400	10.00

Governor/Legislature: Provide 10.0 positions annually to replace contracted consultants in the Department for inmate health services and information technology (IT) operations. Delete \$1,574,600 in 2009-10 and \$2,099,400 in 2010-11 from supplies and services, and provide \$1,007,400 in 2009-10 and \$1,343,200 in 2010-11. In total, funding would be reduced by \$567,200 in 2009-10 and \$756,200 in 2010-11. Staffing would include: 4.0 licensed practical nurses, 0.5 dentist, 0.5 dental assistant, 4.0 IT technical services positions, and 1.0 IT system development services position.

11. CHIEF LEGAL ADVISOR [LFB Paper 115]

	Governor (Chg. to Base)		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	\$358,600	1.00	-\$358,600	- 1.00	\$0	0.00

Governor: Provide \$179,300 and 1.0 attorney position annually in the Department. Specify that the Department Secretary may appoint a chief legal advisor from the unclassified service.

Joint Finance/Legislature: Delete provision.

12. REINTEGRATION OF CORRECTIONAL EMPLOYEES RETURNING FROM ACTIVE DUTY IN THE ARMED SERVICES [LFB Paper 271]

GPR	\$240,500
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Governor/Legislature: Provide \$110,500 in 2009-10 and \$130,000 in 2010-11 for services to support the "successful reintegration of department employees returning to work from active duty in the armed forces." According to the Department, funding would support training institutional staff on issues related to veterans returning from active duty, as well as educating veterans on support resources available for them.

13. PROGRAM REVENUE AND SEGREGATED REVENUE REESTIMATES

PR	\$10,318,700
SEG	14,000
Total	\$10,332,700

Governor/Legislature: Provide \$3,946,600 PR and \$4,000 SEG in 2009-10 and \$6,372,100 PR and \$10,000 SEG in 2010-11 associated with the funding adjustments identified in the table below. The table identifies the program revenue appropriations that would be affected by this item, by program area, the base funding amounts for these appropriations, the funding changes that would be made to these appropriations under this item and other items in the bill, and the total funding that would be budgeted for these purposes.

Purpose	2009-10				2010-11			
	2008-09 Base	Funding Adjustment	Other Agency Budget Items	Total	Funding Adjustment	Other Agency Budget Items	Total	
Prison Industries								
Fuel, Supplies and Services	\$18,547,300	\$2,118,700	\$110,300	\$20,776,300	\$3,135,300	\$120,100	\$21,802,700	
Correctional Institution Enterprises	3,162,400	370,100	-14,200	3,518,300	570,500	-14,000	3,718,900	
Correctional Farms								
Fuel, Supplies and Services	4,296,700	718,000	45,700	5,060,400	1,220,500	46,600	5,563,800	
Sex Offenders								
Sex Offender Management	1,076,500	-200,000	-51,700	824,800	-200,000	-51,700	824,800	
Sex Offender Honesty Testing	122,000	330,000	-1,200	450,800	450,000	-1,200	570,800	
Sex Offender Registry Child Pornography Surcharge	0	5,000	0	5,000	5,000	0	5,000	
Juvenile Corrections								
Fuel and Utilities	2,302,100	-458,400	0	1,843,700	-283,300	0	2,018,800	
Aftercare Program Position Vacancies	1,076,800	-113,000	104,300	1,068,100	-113,000	105,800	1,069,600	
Secure Detention Services	0	200,000	0	200,000	200,000	0	200,000	
Inmate Health Care								
General Operations Supplies and Services	4,080,700	-237,500	-29,800	3,813,400	-230,400	-29,700	3,820,600	
Restitution								
Administration of Restitution	837,200	300,000	39,600	1,176,800	300,000	40,500	1,177,700	
Central Generating Plant								
Energy Costs	4,447,400	223,600	-77,300	4,593,700	627,400	-76,300	4,998,500	
Central Warehouse								
Product Costs	13,165,700	700,000	33,600	13,899,900	700,000	34,200	13,899,900	
Miscellaneous								
Inter- and Intra-Agency Programs	2,567,400	<u>-9,900</u>	-338,800	2,218,700	<u>-9,900</u>	-465,900	2,091,600	
Total PR Reestimates		\$3,946,600			\$6,372,100			
Computer Recycling (SEG)								
Fuel, Supplies and Services	\$296,800	\$4,000	\$8,400	\$309,200	\$10,000	\$8,600	\$315,400	
Departmental Total		\$3,950,600			\$6,382,100			

Sentencing Modifications

Items in this section reflect proposed modifications to the state's bifurcated felony sentencing structure and programs administered by Corrections which may affect an offender's total prison and extended supervision sentence. The administration indicates that the proposed modifications "were created for the primary purpose of giving inmates incentives for making positive changes, both while in institutions and under supervision in the community. By fostering this behavior and allowing the Department to develop new tracks within existing rehabilitation programs to meet inmate needs, the goal is to reduce recidivism, which ultimately will impact the size of the prison population."

The 2009-11 prison population estimates of AB 75 assume that the expansion of the earned release program (Item #2) and the challenge incarceration program (Item #3), will reduce average daily prison population estimates by 57 in 2009-10 and by 377 in 2010-11. Population estimates associated with the other provisions in this section have not been identified.

1. SENTENCE ADJUSTMENT FOR CLASS C THROUGH I FELONIES [LFB Paper 275]

Governor: Modify current felony sentencing provisions, as follows:

Positive Adjustment Time - Non-Violent Class F to Class I Felonies, Adjustment to Confinement Time. Specify that an inmate who is sentenced for a misdemeanor or for a Class F to Class I felony that is not a violent offense (defined below) may earn one day of positive adjustment time for every two days served that he or she does not violate any regulation of the prison or does not refuse or neglect to perform required or assigned duties. Specify that an inmate is ineligible for the one day of positive adjustment time for every two days served if: (a) the inmate is subject to a special bulletin notification (for offenders convicted, or found not guilty or not responsible by reasons of mental disease or defect, on two or more separate occasions of a sex offense); (b) the inmate is a violent offender (described below); or (c) the Department determined that the person poses a high risk of reoffending after applying an objective risk assessment instrument supported by research.

Specify that the Department must release the inmate to extended supervision when he or she has served the prison portion of his or her sentence, less the positive adjustment time he or she has earned. Under the bill, the person's term of extended supervision would be increased so that the total length of the bifurcated sentence would not change.

Positive Adjustment Time - High Risk or Violent Class F to Class I Felonies, and Class C to Class E Felonies, Adjustment to Confinement Time. Specify that certain inmates who are ineligible under the above provision may earn one day of positive adjustment time for every three days served that they do not violate any regulation of the prison or do not refuse or neglect to perform required or assigned duties. Inmates eligible for this positive adjustment time include: (a) inmates sentenced for a Class F to Class I felony that is a violent offense; or (b) inmates who the Department determines pose a high risk of reoffending after applying an objective risk assessment instrument supported by research. Specify that an inmate eligible for the one day of positive adjustment time for every three days served may petition the Earned Release Review Commission (described below) for release to extended supervision when he or she has served the prison portion of his or her sentence, less the positive adjustment time he or she has earned. Specify that inmates subject to a special bulletin notification are ineligible for release under the provision.

Further, specify that an inmate sentenced to a Class C to Class E felony may earn one day of positive adjustment time for every 5.7 days served that he or she does not violate any regulation of the prison or does not refuse or neglect to perform required or assigned duties. Specify that an inmate eligible for the one day of positive adjustment time for every 5.7 days served may petition the Earned Release Review Commission for release to extended

supervision when he or she has served the prison portion of his or her sentence, less the positive adjustment time he or she has earned. Specify that inmates subject to a special bulletin notification are ineligible for release under the provision.

For petitions for release to extended supervision, the Earned Release Review Commission may consider any of the following: (a) the inmate's conduct, efforts at, and progress in, rehabilitation, or participation and progress in education, treatment, or other correctional programs since he or she was sentenced; (b) whether the inmate is subject to a sentence of confinement in another state or is in the U.S. illegally and may be deported; or (c) sentence adjustment is otherwise in the interests of justice.

Specify that the Earned Release Review Commission may reduce the term of confinement of a person who petitions only as follows: (a) if the inmate is serving the term of confinement in prison portion of the sentence, a reduction in the term of confinement in prison by the amount of time remaining in the term of confinement in prison portion of the sentence, less up to 30 days, and a corresponding increase in the term of extended supervision; or (b) if the inmate is confined in prison upon revocation of extended supervision, a reduction in the amount of time remaining in the period of confinement in prison imposed upon revocation, less up to 30 days, and a corresponding increase in the term of extended supervision.

Good Time - Non-Violent Class F to Class I Felonies, Adjustment to Extended Supervision Time. Specify that offenders who are sentenced for a misdemeanor or for a Class F to Class I felony that is not a violent offense are eligible to earn good time credit in the amount of one day for every day served without violating a rule or condition of extended supervision leading to a sanction or revocation. Specify that inmates are ineligible for the one day of good time credit for every one day served if the inmate is: (a) subject to a special bulletin notification; or (b) a violent offender.

Specify that the Department must discharge the person from extended supervision once he or she has served the extended supervision portion of his or her sentence, less the good time earned.

Good Time - High Risk or Violent Class F to Class I Felonies, and Class C to Class E Felonies, Adjustment to Extended Supervision Time. Specify that offenders who are sentenced for a Class F to Class I felony that is a violent offense or who the Department determines pose a high risk of reoffending after applying an objective risk assessment instrument supported by research, are eligible to earn good time credit in the amount of one day for every three days served without violating a rule or condition of extended supervision leading to a sanction or revocation. Specify that after serving the extended supervision portion of his or her sentence, less good time earned, an offender may petition the Earned Release Review Commission to have his or her extended supervision reduced. Specify that inmates subject to a special bulletin notification are ineligible for release under this provision.

Further, specify that offenders who are sentenced for a Class C to Class E felony are eligible to earn good time credit in the amount of one day for every 5.7 days served without violating a rule or condition of extended supervision leading to a sanction or revocation.

Specify that after serving the extended supervision portion of his or her sentence, less good time earned, an offender may petition the Earned Release Review Commission to have his or her extended supervision reduced. Specify that inmates subject to a special bulletin notification are ineligible for release under this provision.

For petitions to reduce an offender's period of extended supervision, specify that the Earned Release Review Commission may consider as grounds whether the person has met the conditions of extended supervision and a reduction is in the interests of justice.

Earned Release Review Commission. Rename the Parole Commission, the Earned Release Review Commission. In addition to the Parole Commission's current duties, provide that the Earned Release Review Commission may consider petitions to adjust the prison portion or extended supervision portion of eligible inmates' sentences (described above) and modify bifurcated sentences accordingly.

Miscellaneous Provisions. Specify that when an offender is given a bifurcated sentence with a term of confinement in prison, Corrections must apply an objective risk assessment instrument supported by research, and determine how likely it is that the person will commit another offense. Further, if Department determines that the offender poses a high risk of reoffending, the offender is ineligible to earn positive adjustment time for non-violent Class F to Class I felony offenders.

Specify that Corrections must discharge a person who is serving a bifurcated sentence from custody, control and supervision when the person has served the entire bifurcated sentence as modified under provisions of the bill. Currently, the Department of Corrections may not discharge a person who is serving a bifurcated sentence from custody, control and supervision until the person has served the entire bifurcated sentence.

Require the court, at the time of sentencing, in writing and orally, to not only identify the total length of the bifurcated sentence, and the amount of time an offender will serve in prison and under extended supervision (current law), but also: (a) the date upon which the offender is eligible to be released to extended supervision or the date upon which the offender may apply for release to extended supervision; and (b) the date upon which the offender may be eligible for discharge or apply for a reduction of his or her period of extended supervision.

Specify that rules of evidence are inapplicable in regards to proceedings related to releases to and discharges from extended supervision.

Specify that a victim and witness has the right to reasonable attempts for notice of applications for release to or discharge from extended supervision.

Definitions. Under the bill, "violent offense" is defined using a current law definition and includes the following offenses: (a) first-degree intentional homicide; (b) first-degree reckless homicide; (c) felony murder; (d) second-degree intentional homicide; (e) second-degree reckless homicide; (f) homicide by negligent handling of dangerous weapon, explosives or fire; (g) homicide by intoxicated use of vehicle or firearm; (h) homicide by negligent operation of

vehicle; (i) battery that causes great bodily harm to another by an act done with intent to cause bodily harm or great bodily harm; (j) battery that causes great bodily harm to an unborn child by an act done with intent to cause bodily harm or great bodily harm to that unborn child, to the woman who is pregnant with that unborn child or another; (k) battery in specific circumstances; (l) battery or threat to witnesses; (m) battery or threat to a judge; (n) mayhem; (o) first-, second-, and third-degree sexual assault; (p) reckless injury; (q) intentional or reckless abuse of individuals at-risk; (r) abuse of residents of penal facilities; (s) abuse and neglect of patients and residents causing death, great bodily harm or intentional bodily harm; (t) kidnapping; (u) intimidation of victims or witnesses by force or threat, or damage to property; (v) endangering safety by use of dangerous weapon; (w) use of machine guns and other weapons in certain cases; (x) recklessly endangering safety; (y) tampering with household products; (z) damage to property belonging to a grand or petit juror and the damage was caused by reason of any verdict or indictment; (aa) damage or threat to property of witness; (ab) criminal damage or threat to the property of a judge; (ac) arson of buildings and damage of property by explosives; (ad) arson with intent to defraud; (ae) molotov cocktails; (af) aggravated burglary; (ag) carjacking; (ah) threats to injure or accuse of crime; (ai) robbery; (aj) assaults by prisoners; (ak) bomb scares; (al) first- and second-degree sexual assault of a child; (am) engaging in repeated acts of sexual assault of the same child; (an) physical abuse of a child; (ao) causing mental harm to a child; (ap) sexual exploitation of a child; (aq) trafficking of a child; (ar) incest with a child; (as) child enticement; (at) soliciting a child for prostitution; (au) sexual assault of a child placed in substitute care; (av) abduction of another's child; and (aw) a crime under federal law or the law of any other state that is comparable to one of the preceding crimes.

Under the bill, a "violent offender" is defined, using a current law definition, as a person to whom one of the following applies: (a) the person 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 (b) the person has 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.

Effective Date. Specify the statutory changes first apply to persons sentenced on December 31, 1999. Thus, the provision would apply to any eligible offender sentenced under the state's bifurcated sentencing structure.

Current Law. Under current law, an inmate's bifurcated sentence may only be modified by the sentencing court in the following incidences: (a) upon successful completion of the challenge incarceration program or the earned release program; (b) if certain conditions are met after serving 85% of the prison portion of the sentence for a Class C to E felony; (c) if certain conditions are met after serving 75% of the prison portion of the sentence for a Class F to I felony; (d) for a crime other than a Class B felony, if the inmate is 65 years or older and has served at least five years of the prison portion of his or her sentence, or if the inmate is 60 years or older and has served at least ten years of the prison portion of the sentence; or (e) for a crime other than a Class B felony, if the inmate has a terminal condition. The bill deletes the

sentencing modification provisions identified in (b) and (c) above.

Summary. The following table provides a summary of the AB 75 provisions related to sentence adjustments for Class C to Class I felonies.

Sentence Modification Provisions Under AB 75

<u>Offender Type</u>	<u>Maximum Confinement Modification (Positive Adjustment Time)</u>	<u>Maximum Extended Supervision Modification (Good Time)</u>	<u>Deciding Authority</u>
Non-violent Class F to Class I felony offense or misdemeanor, whom Corrections determines is: (a) not at high risk of reoffending; (b) not a violent offender; and (c) not subject to a special bulletin notice.	One day adjustment for every two days served without violation of prison regulation, or refusal or neglect to perform required or assigned duties. Confinement (prison) time reduced, offender released to extended supervision (community supervision). If offender has served less than the entire confinement time, extended supervision portion of the sentence lengthened by the amount of time that the confinement time is reduced.	One day adjustment for every one day served without violation of a rule, or condition of extended supervision leading to a sanction or revocation. Extended supervision time reduced, offender discharged from extended supervision (community supervision) sentence less good time.	Department of Corrections , required to release the offender to extended supervision or discharge the offender from supervision, if specific conditions are met.
Violent Class F to Class I felony offense or a non-violent Class F to Class I felony offense but determined by Corrections to be at high risk of reoffending. Would not apply to offenders subject to a special bulletin notice.	One day adjustment for every three days served without violation of prison regulation, or refusal or neglect to perform required or assigned duties. Confinement (prison) time reduced, offender released to extended supervision (community supervision). If offender is serving the confinement portion of the sentence, the reduction in confinement time is the amount of time remaining in confinement, and the extended supervision portion of the sentence is lengthened by the amount of time that the confinement time is reduced.	One day adjustment for every three days served without violation of a rule, or condition of extended supervision leading to a sanction or revocation. Extended supervision time reduced, offender discharged from extended supervision (community supervision) sentence less good time.	Earned Release Review Commission , based on a petition from the offender after the offender has served the confinement or extended supervision sentence less any adjustment or good time. Commission's decision for confinement release is based on: (a) inmate's conduct, efforts at and progress in rehabilitation, or participation and progress in education, treatment, or other correctional programs; (b) inmate is subject to a sentence of confinement in another state, or is in the United States illegally and may be deported; or (c) the interests of justice. The Commission may consider as grounds for discharge from extended supervision whether the offender has met the conditions of extended supervision and a reduction is in the interests of justice.
Sentenced for a Class C to Class E felony offense.	One day adjustment for every 5.7 days served without violation of prison regulation, or refusal or	One day adjustment for every 5.7 days served without violation of a rule,	Earned Release Review Commission , based on a petition from the offender after

<u>Offender Type</u>	<u>Maximum Confinement Modification (Positive Adjustment Time)</u>	<u>Maximum Extended Supervision Modification (Good Time)</u>	<u>Deciding Authority</u>
Would not apply to offenders subject to a special bulletin notice.	neglect to perform required or assigned duties. Confinement (prison) time reduced, offender released to extended supervision (community supervision). If offender is serving the confinement portion of the sentence, the reduction in confinement time is the amount of time remaining in confinement, and the extended supervision portion of the sentence is lengthened by the amount of time that the confinement time is reduced.	or condition of extended supervision leading to a sanction or revocation. Extended supervision time reduced, offender discharged from extended supervision (community supervision) sentence less good time.	the offender has served the confinement or extended supervision sentence less any adjustment or good time. Commission's decision for confinement release is based on: (a) inmate's conduct, efforts at and progress in rehabilitation, or participation and progress in education, treatment, or other correctional programs; (b) inmate is subject to a sentence of confinement in another state, or is in the United States illegally and may be deported; or (c) the interests of justice. The Commission may consider as grounds for discharge from extended supervision whether the offender has met the conditions of extended supervision and a reduction is in the interests of justice.

Joint Finance: Adopt the AB 75 provision related to "positive adjustment time" to earn earlier release from prison, but delete provisions related to "good time" to allow certain offenders to earn earlier release from extended supervision. Further, exclude from this provision sex offenders who: (a) are subject to a special bulletin notice; (b) have been convicted of or found not guilty by reason of mental disease or defect of a sex offense defined under the sex offender registry; (c) are required to registry with the sex offender registry; and (d) have been committed under Chapter 975 (Sex Crimes).

Specify that once the inmate earns enough positive adjustment time to be within 90 days of release to extended supervision, the Department (for non-violent Class F to I felonies) or the Earned Release Review Commission (for violent or high-risk Class F to I felonies, or Class C to E felonies) must notify the sentencing court that the offender's sentence will be modified. If the sentencing court does not schedule a hearing within 30 days of receipt of the notice, the Department or the Earned Release Review Commission (ERRC) must release the inmate to extended supervision. If the court schedules a hearing relating to granting positive adjustment time, it must hold the hearing and issue an order within 60 days of receiving the notification. At the hearing, the court may grant the positive adjustment time, deny the positive adjustment time or order the inmate to remain in confinement for a specified period of time that does not exceed the time remaining on the confinement portion of the original sentence based upon the inmate's conduct in prison, level of risk of reoffending as measured by a verified, objective instrument, or the nature of the offense for which the inmate was sentenced.

Adopt the recommendation of the Special Committee on Justice Reinvestment Initiative Oversight (JRIO Committee) to specify that the maximum term of extended supervision imposed by the court be not more than 75% of the length of the term of confinement in prison. The JRIO recommendation excludes Class B and C felonies, and sex offenses defined under the sex offender registry statute.

Further, adopt the JRIO recommendation to provide that a court may order a person to serve a "risk reduction" portion of the imposed sentence, if the court determines such a sentence is appropriate and the person agrees: (a) to cooperate in an assessment of his or her criminogenic needs and risk of reoffending; and (b) to participate in any programming or treatment required by the Department of Corrections to address the issues raised in the risk assessment.

If the Department determines that the inmate has successfully completed the required treatment or programming, the Department will release the inmate to extended supervision after he or she has served at least 67% of the term of confinement portion of the sentence for non-violent Class F to I felonies (as defined under the sentencing adjustment provision), and at least 75% of the term of confinement portion of the sentence for all other eligible offenses. [JRIO Committee, modified]

Require the Department to: (a) provide risk reduction programming and treatment for an inmate sentenced to a risk reduction sentence; (b) conduct a validated and objective assessment of the person's criminogenic needs and risk of reoffending; and (c) develop a program plan for the person that is designed to reduce the risks and address needs identified in the assessment. The Department may modify an inmate's program plan if specified programming or treatment is unavailable to the inmate due to the inmate's security classification, because the programming or treatment is no longer offered by the Department, or because there is a waiting list for the programming or treatment. The Department must notify the inmate of any modification to the inmate's plan. If, due to a plan modification, the inmate is unable to successfully complete the treatment or programming under the plan before he or she has served 75% of the term of confinement, the inmate will be released to extended supervision when he or she has successfully completed the treatment and programming. [JRIO Committee, modified]

Assembly: Exclude the following offenses from the class C through I felonies sentence adjustment and risk program:

- a. Provisions regarding "offenses related to school safety;"
- c. Provisions regarding "offenses related to ethical government" violations;
- d. Provisions regarding "offenses against elderly and vulnerable persons;"
- e. Felony murder (940.03);
- f. Kidnapping (940.31);
- g. Physical abuse of a child that causes great bodily harm to a child (948.03(2)(a));
- h. Second-degree reckless homicide (940.06);
- i. Human trafficking (940.302);
- j. Contributing to the delinquency of a minor that causes death of the minor

(948.40(4)(a));

k. Stalking involving bodily harm to a victim or if the offender used a weapon (940.32(3));

l. Mutilating a corpse (940.11(1));

m. Strangulation or suffocation (940.235(1));

n. Disarming a peace officer (941.21); and

o. Sex offender tampering with GPS monitoring device while on supervision (946.465).

Define "offenses related to school safety" to include the following offenses:

a. Possession of a gun in a gun-free school zone (948.605(2)(a)); and

b. Dangerous weapons other than firearms on school premises (948.61(2)(b)).

Define "offenses related to ethical government" to include the following offenses:

a. Criminal violation of lobby law statutes (13.69(6m));

b. Political influence violations of conduct standards and ethics codes for state and local public officials (19.58(1)(b)); and

c. Misconduct in public office (946.12).

Define "offenses against elderly and vulnerable persons" to include the following offenses, if the offense caused death, great bodily harm, or bodily harm to the victim:

a. Abuse of individuals at risk, intentional, reckless or negligent (940.285(2)); and

b. Abuse of individuals at risk by person in charge of or employed in a facility or program, intentional, reckless and negligent (940.295(3)(b)).

Felony murder offenses include the following, if the offender causes the death of another human being while committing or attempting to commit the offense:

a. Battery, substantial battery, aggravated battery (940.19);

b. Battery, substantial battery, aggravated battery to unborn child (940.195);

c. Battery: special circumstances (e.g. battery by prisoners) (940.20);

d. Battery or threat to witnesses (940.201);

e. Battery or threat to judge (940.203);

f. First- or second-degree sexual assault (940.225(1) or (2)(a)) (Note: already excluded under Joint Finance);

g. False imprisonment (940.30);

h. Kidnapping (940.31);

i. Arson of buildings, damage of property by explosives (943.02);

j. Burglary (943.10(2));

k. Operating vehicle without owner's consent (943.23(1g))

l. Robbery (943.32(2))

Senate: Modify provisions related to sentencing as follows:

- Specify the positive adjustment time provision does not apply to persons sentenced for offenses committed on or after the effective date of the bill.
- Related to revocation of extended supervision, require the Department of Corrections to promulgate administrative rules defining "substantial risk to public safety."
- Related to expansion of modification to bifurcated sentences, require that the Department notify the sentencing court within 90 days of release to extended supervision that the offender's sentence will be modified. If the sentencing court does not schedule a hearing within 30 days of receipt of the notice, the Department must release the inmate to extended supervision. If the court schedules a hearing relating to modification, it must hold the hearing and issue an order within 60 days of receiving the notification. At the hearing, the court may grant the modification, deny the modification or order the inmate to remain in confinement for a specified period of time that does not exceed the time remaining on the confinement portion of the original sentence based upon the inmate's conduct in prison, level of risk of reoffending as measured by a verified, objective instrument, or the nature of the offense for which the inmate was sentenced.
- Delete the provision that would allow Corrections to release an offender to extended supervision under a risk reduction sentence after he or she has served at least 67% of the term of confinement portion of the sentence for non-violent Class F to I felonies. As a result, under provisions of the substitute amendment, all offenders given a risk reduction sentence would serve at least 75% of the term of confinement portion of the sentence.

Conference Committee/Legislature: Adopt the Joint Finance, Assembly and Senate modifications. In addition modify the Assembly exclusions include the following to the list of offenses not eligible for sentence adjustment, risk reduction sentence, and extended supervision discharge: (a) all strangulation and suffocation offenses (940.235, rather than 940.235(1)); and (b) discharge of a firearm in a school zone (948.605(3)) as an offense defined under "offenses related to school safety."

Further, delay the effective date of the provisions to October 1, 2009 or the 90th day after publication of the bill, whichever is later.

Veto by Governor [A-6 and A-7]: Delete the following items related to sentencing modifications:

a. *Positive Adjustment Time.* Veto the specification that positive adjustment time does not apply to persons sentenced for offenses committed on or after the effective date of the bill. Additionally, veto the language requiring the sentencing court, when imposing a bifurcated sentence, to explain the date upon which a person is eligible to be released or may apply for release to extended supervision under positive adjustment time.

b. *Risk Reduction.* Veto the language specifying that the Department may modify an inmate's program plan "if programming or treatment specified in a plan is unavailable to the inmate because of the inmate's security classification, the Department discontinues the

programming or treatment, or there is a waiting list for the programming or treatment." [As a result, the Department may modify a plan for any reason.]

c. *Maximum Extended Supervision.* Veto the provision specifying that the maximum term of extended supervision imposed by the court for certain offenses be not more than 75% of the length of the term of confinement in prison.

[Act 28 Sections: 25, 27, 34, 161, 311, 312, 661, 2487, 2666, 2668, 2672, 2673, 2699m, 2702, 2709, 2714 thru 2725, 2729, 2740, 2742 thru 2748, 2750 thru 2772, 3228, 3286, 3339L, 3339n, 3339p, 3360, 3361, 3377, 3378, 3387t, 3396, 3397, 9311(2), 9311(4), and 9411(2u)]

[Act 28 Vetoed Sections: 2699m, 2722, 2751, 3376p, 3377, 3382, 3383, 9311(4), and 9411(2u)]

2. EARNED RELEASE PROGRAM MODIFICATIONS [LFB Paper 276]

Governor: Modify the earned release program as follows:

a. Repeal the current provision which specifies that Corrections and the Department of Health Services (DHS) must, at any correctional facility the departments determine is appropriate, provide a substance abuse treatment program for inmates for the purposes of the earned release program. Instead, provide that Corrections must, at any correctional facility the Department determines is appropriate, provide a rehabilitation program for inmates for the purposes of the earned release program.

b. Repeal the current provision specifying that DHS may designate a section of a mental health institute as a correctional treatment facility for the treatment of substance abuse of inmates transferred from state prisons, jointly administered by Corrections and DHS, and known as the "Wisconsin Substance Abuse Program." [The new Drug Abuse Correctional Center, scheduled to open in August, 2010, replaces the prior DHS facility utilized by Corrections for the substance abuse program.]

c. Repeal the current provision specifying that Corrections and DHS ensure that the residents at the DHS facility and the residents in the substance abuse program: (a) have access to all those facilities which are available at the institution and are necessary for the treatment programs designed by the departments; and (b) are housed on separate wards.

d. Retitle the "Wisconsin Substance Abuse Program," the "Wisconsin Earned Release Program."

e. In defining the earned release program, delete the phrase "treatment program" and instead substitute "rehabilitation program." Under this provision, the earned release program would no longer be limited to offenders with substance abuse treatment needs.

f. Allow Corrections to transfer an inmate to a facility for participation in the earned release program, rather than, under current law, allowing the Department to transfer an offender to a treatment facility for the treatment of substance abuse.

Joint Finance/Legislature: In addition, direct the Department to submit a report to the Committee by December 31, 2009, on how the Department will have implemented the expansion, including: (a) the types of programs; (b) program length; (c) the number of program participants; and (d) at which facilities the programs would be operated.

Veto by Governor [A-7]: Delete the date to submit the report to the Joint Committee on Finance.

[Act 28 Sections: 2703 thru 2708, 2710 thru 2712, and 9111(12g)]

[Act 28 Vetoed Section: 9111(12g)]

3. CHALLENGE INCARCERATION EXPANSION [LFB Paper 276]

Governor: Modify the Challenge Incarceration Program ("boot camp") to specify that the program provide, based on each participant's assessed needs, substance abuse treatment and education, including intensive intervention when indicated, education, employment readiness training, and other treatment options that are directly related to the participant's criminal behavior.

Repeal the current Challenge Incarceration Program eligibility criteria that Corrections determine, during the assessment and evaluation process, that an inmate has a substance abuse problem. Instead, create criteria specifying that Corrections, using evidence-based assessment instruments, determine that one of the following applies: (a) the inmate has a substance abuse treatment need that requires an intensive level of treatment; (b) the inmate has a substance abuse treatment need that does not require an intensive level of treatment but does require education or outpatient services, and the inmate's substance use is not a key factor in his or her criminal behavior; or (c) the inmate has one or more treatment needs not related to substance use that is directly related to his or her criminal behavior.

Under current law, for inmates serving a bifurcated sentence, the sentencing court must decide at sentencing whether or not an inmate is eligible for the Challenge Incarceration Program. An eligible inmate may be placed in the program if all the following criteria are met: (a) the inmate volunteers for the program; (b) the inmate has not attained the age of 40 as of the program start date; (c) the Department determines during assessment and evaluation that the inmate has a substance abuse problem; (d) the Department determines that the inmate has no psychological, physical or medical limitations that would preclude participation in the program; and (e) the inmate is not incarcerated for a crime against life and bodily security (crimes under Chapter 940 of the statutes), or for certain crimes against a child. [The bill modifies criteria (c) above.]

Under current law, if the Department determines that an inmate serving a bifurcated sentence has successfully completed the boot camp program, the Department must inform the sentencing court. The sentencing court then will: (a) reduce the prison portion of the bifurcated sentence so that the inmate will be released to extended supervision within 30 days of the date

on which the court received notice; and (b) lengthen the term of extended supervision so that the total length of the bifurcated sentence does not change. Inmates in the program serving indeterminate sentences may be paroled upon successful completion and must be placed in an intensive supervision program for drug abuses.

Joint Finance/Legislature: In addition, direct the Department to submit a report to the Joint Committee on Finance by December 31, 2009, on how the Department will have implemented the expansion, including: (a) the types of programs; (b) program length; (c) the number of program participants; and (d) at which facilities the programs would be operated.

Veto by Governor [A-7]: Delete the date to submit the report to the Joint Committee on Finance.

[Act 28 Sections: 2700, 2701, 2702m, and 9111(12g)]

[Act 28 Vetoed Section: 9111(12g)]

4. EXPANSION OF MODIFICATION TO BIFURCATED SENTENCE [LFB Paper 277]

Governor: Modify current law to expand the incidences of when an inmate may petition for release to extended supervision to include inmates who meet all of the following conditions: (a) the person is not serving time following a conviction for a felony assaultive crime; (b) the prison social worker or extended supervision agent of record has reason to believe that the person will not engage in assaultive activity if released; and (c) the release date is not more than 12 months before the person's extended supervision eligibility date. Require the Department to promulgate rules for determining whether or not a bifurcated sentence should be modified.

If the above conditions are met, specify that the Department may modify the person's sentence. If the Department modifies the sentence to provide for release to extended supervision, require the Department to notify the applicable court and district attorney's office. In modifying the sentence, specify that the Department must release the person within 30 days of modification, and lengthen the term of extended supervision so that the total length of the bifurcated sentence does not change.

Joint Finance: Modify the Governor's recommendation to authorize the Department to modify inmates' sentences and release them to extended supervision, if the inmate: (a) is sentenced for a misdemeanor or for a Class F to Class I felony that is not a violent offense (as defined under the sentencing adjustment provision); (b) the prison social worker or extended supervision agent of record has reason to believe that the person will be able to maintain himself or herself while not confined without engaging in assaultive activity; and (c) the release to extended supervision date is not more than 12 months before the person's extended supervision eligibility date. Specify that sex offenders (the same groups as under the sentence adjustment provision) are excluded. Specify the statutory changes first apply to persons sentenced for offenses committed on or after December 31, 1999.

Retain current law provisions providing for bifurcated sentence modification at 75% or

85% for certain felonies (the Governor would delete this provision). Instead, provide that the provisions do not apply to persons sentenced for offenses committed on or after the effective date of the bill. Further, provide, that persons sentenced for offenses committed prior to the effective date of the bill may apply for sentence modification under either the current law provision or the provision created in the bill, but not both.

Senate/Legislature: Require that the Department notify the sentencing court within 90 days of release to extended supervision that the offender's sentence will be modified. If the sentencing court does not schedule a hearing within 30 days of receipt of the notice, the Department must release the inmate to extended supervision. If the court schedules a hearing relating to modification, it must hold the hearing and issue an order within 60 days of receiving the notification. At the hearing, the court may grant the modification, deny the modification or order the inmate to remain in confinement for a specified period of time that does not exceed the time remaining on the confinement portion of the original sentence based upon the inmate's conduct in prison, level of risk of reoffending as measured by a verified, objective instrument or the nature of the offense for which the inmate was sentenced.

Veto by Governor [A-7]: Delete Senate provision.

[Act 28 Sections: 2739, 3395g, 3395r, and 9411(2u)]

[Act 28 Vetoed Sections: 2739 and 9411(2u)]

5. **RELEASE TO EXTENDED SUPERVISION FOR ELDERLY INMATES OR INMATES WITH EXTRAORDINARY HEALTH CIRCUMSTANCES**

Governor: Provide authority to the Department to modify certain older or terminally ill inmates' bifurcated sentences and release them to extended supervision, rather than the circuit court. Specify that the Department's decision may be appealed under judicial review. Specify that the venue to review a decision by the Department occur in the county where the person was last convicted of an offense or the county where the person is currently incarcerated. Specify that the provisions in this paragraph first apply to petitions not referred by an institution's program review committee on the effective date of the bill.

Joint Finance/Legislature: Further modify the provisions as follows: (a) provide that the Earned Release Review Commission, rather than an institution's program review committee, may review eligible inmate's petitions and release inmates if the inmate proves by the greater weight of the credible evidence that the release to extended supervision would serve public interest; (b) expand eligibility to allow older inmates (65 years or older who have served at least five years in prison; or 60 years or older who have served at least 10 years in prison) to petition for sentence modification if serving for a Class B felony or life sentence (previously excluded from petitioning); and (c) delete statutory language related to terminal conditions, and instead provide that inmates with an "extraordinary health condition" may petition the ERRC for sentence modification (extraordinary health conditions means a condition afflicting a person, such as advanced age, infirmity, or disability of the person or a need for medical treatment or

services not available within a correctional institution).

[Act 28 Sections: 2726, 2729j thru 2739p, 3222, 3286, 3360n, 3362, 3400, 9311(2), and 9411(2u)]

6. REVOCATION OF EXTENDED SUPERVISION [LFB Paper 278]

Governor: Modify current law to specify that, if a person on extended supervision violates any condition of his or her release to extended supervision, and the reviewing authority (DOA's Division of Hearings and Appeals, or in the circumstances where a hearing is waived, Corrections) revokes extended supervision as a result, the reviewing authority, rather than the court, will order the person to return to prison for any specified period of time that does not exceed the time remaining on the bifurcated sentence.

Under current law, if a person on extended supervision violates any condition of his or her extended supervision, and the reviewing authority revokes extended supervision as a result, the offender is brought before the court and the court will order the person to return to prison for any specified period of time that does not exceed the time remaining on the bifurcated sentence. Under the bill, the reviewing authority, instead of the circuit court, has authority to return the person to prison for a specified period of time.

Joint Finance: In addition to the Governor's recommendation, limit the time for which a person may be returned to prison up to six months, or the remainder of the sentence, whichever is less, which the Department could extend up to 90 days if the person violates any regulation or refused participation in any required programming.

Specify that the six-month limitation for returns to prison on revocation does not apply if: (a) the Department shows that the person's conduct leading to the revocation indicates the person presents a substantial risk to public safety; or (b) if the person is a sex offender (as defined under the sentence adjustment provision).

Senate/Legislature: Require the Department to promulgate administrative rules defining "substantial risk to public safety."

Veto by Governor [A-7]: Delete the six-month limitation for returns to prison on revocation, the associated exceptions, and the requirement to promulgate rules defining "substantial risk to public safety." [As a result, no new time restriction is applicable for revocations.]

[Act 28 Sections: 2726, 2727, 2728, and 9311(4q)]

[Act 28 Vetoed Sections: 2724h, 2726, 2726h, 2726p, 2728, and 9311(4q)]

7. ELIMINATION OF PROBATION FOR CERTAIN MISDEMEANANTS [LFB Paper 279]

Governor: Modify current law to require that the Department establish by rule a system for risk assessment that classifies a probationer's level of risk for committing another offense. Specify the system established must contain levels of risk, with a person who poses the most risk classified at the highest level of risk. Require the Department to assess the risk of each person sentenced to probation for a misdemeanor and classify the person according to his or her risk. "Risk assessment" is defined as the application of an objective instrument supported by research to determine how likely an offender is to commit another offense.

Further, specify that the Department will only supervise a person sentenced to probation for a misdemeanor if one of the following applies:

- a. The Department classifies the person at a high level of risk;
- b. The person is a violent offender, defined as a person who: (1) has been charged with or convicted of an offense in a pending case, and during the course of the offense, he or she carried, possessed, or used a dangerous weapon, used force against another person, or a person died or suffered serious bodily harm; or (2) has 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;
- c. The person is required to register as a sex offender;
- d. The person has, in his or her lifetime, been convicted of or adjudicated delinquent for committing any crime involving the use or possession of a weapon or of one of the following offenses: (1) domestic abuse incidents; (2) burglary of a building or dwelling; (3) burglary of a motor home or other motorized type of home or a trailer home; (4) manufacturing, distribution, or delivery of schedule I and II narcotic drugs, schedule I, II and III non-narcotic drugs, cocaine and cocaine base, heroin, phencyclidine, amphetamine, methamphetamine, and methcathinone, or tetrahydrocannabinols; (5) possession with intent to manufacture, distribute, or deliver of schedule I and II narcotic drugs, schedule I, II and III non-narcotic drugs, cocaine and cocaine base, heroin, phencyclidine, amphetamine, methamphetamine, and methcathinone, or tetrahydrocannabinols; (6) using a child for illegal drug distribution or manufacturing purposes; (7) distribution of a controlled substance or analog to a person under age 18; or (8) an offense under Chapter 940 (Crimes Against Life and Bodily Security); or
- e. The person had been charged with a felony for the conduct that resulted in the current misdemeanor conviction.

Under the bill, if the Department determines that it cannot supervise the person, the Department must make a reasonable attempt to provide written notification to the victim of the person or a member of the family of the victim that the person will not be supervised while he or she is on probation. "Victim" is defined as a person against whom a crime has been committed. "Member of the family" means spouse, child, parent, sibling, or legal guardian.

Specify that misdemeanor supervision provisions first apply to persons sentenced on February 1, 2003.

Under current law, if a person is sentenced to probation, the person is subject to the control of the Department under conditions set by the court and rules and regulations established by the Department.

Joint Finance/Legislature: Delete the Governor's recommendation. Instead, provide the Department may petition the sentencing court to discharge a person from probation who has served less than 50% of their probation term. The court may approve the petition and discharge the person from probation if the person has complied with the conditions of supervision and paid ordered restitution, court costs, fines or forfeitures, and supervision fees owed to the Department.

Veto by Governor [A-7]: Delete the language related to: (a) petitioning the court for discharge; (b) the words "less than"; and (c) the requirement of complying with conditions of supervision and paying ordered restitution, court costs, fines or forfeitures, and supervision fees. [As a result, the Department may discharge a person from probation if the person has completed 50% of probation.]

[Act 28 Sections: 3392d and 9311(4)]

[Act 28 Vetoed Sections: 3392d, 3392s, and 9311(4)]

8. COMMUNITY SUPERVISION SERVICES

Joint Finance/Legislature: Adopt the recommendation of the Legislative Council Special Committee on Justice Reinvestment Initiative Oversight to require the Department to establish community services that have the goal of increasing public safety, reducing the risk of offenders on community supervision, and reducing the recidivism rate of persons on probation, parole, or extended supervision for a felony conviction by 25% by 2011. The services to reduce recidivism must meet certain conditions and target the criminogenic needs of medium- and high-risk offenders and, in establishing services, the Department must consider the capacity of existing services, and gaps in services for those offenders placed in the community. Further, the Department must: (a) develop an accountability system for monitoring and tracking offenders in order to evaluate the effectiveness of services; (b) provide training and skill development for probation, extended supervision, and parole agents in risk reduction and intervention and develop policies related to community supervision; and (c) report annually to the Governor, Legislature, and the Director of State Courts on the services provided, the number arrests, reconvictions, and returns to prison, progress toward the reduced recidivism goal, and service adjustments that will be made to meet the goal.

Create an annual GPR appropriation entitled the "Becky Young Community Corrections" appropriation to provide or purchase community services to reduce recidivism under the above provisions for persons on probation or who are transitioning to or are on parole or extended

supervision for a felony conviction. Place \$10,000,000 GPR in 2009-10 in the Joint Committee on Finance's biennial supplemental appropriation for the community supervision services provisions. [See "Program Supplements."]

Veto by Governor [A-7]: Delete the language specifying a "25% recidivism" reduction goal.

[Act 28 Sections: 307f and 2669h]

[Act 28 Vetoed Section: 2669h]

9. EXTENDED SUPERVISION DISCHARGE

Joint Finance/Legislature: Provide that the Department may discharge a person released to extended supervision after two years of supervision. Require the Department to provide notice to victims who have requested notification. Specify that inmates sentenced to the intensive sanctions program are excluded.

[Act 28 Sections: 3378r, 3381, 9311(4), and 9411(2u)]

10. SENTENCING GUIDELINES AND EXPLANATION OF SENTENCES

Joint Finance/Legislature: Delete the statutory requirement that the sentencing court "orally" explain the bifurcated sentence to a person being sentenced. Further, delete statutory language requiring that, when a court makes a sentencing decision for felony offenses committed on or after February 1, 2003, the court must consider the sentencing guidelines adopted by the Sentencing Commission, or if the Sentencing Commission has not adopted a guideline for the offense, any applicable temporary sentencing guidelines adopted by the 1997 Criminal Penalties Study Committee.

Delete statutory provisions specifying that the requirement that the court consider sentencing guidelines does not require the court to make a sentencing decision within the guideline range, and there is no right to appeal a court's sentencing decision based on the court's decision to depart from any guideline.

Under prior law, when a court imposes a bifurcated sentence, the court must explain, orally and in writing, all of the following: (a) the total length of sentence; (b) the amount of time the person will serve in prison; (c) the amount of time the person will spend on extended supervision, assuming the person does not commit any act resulting in extension of the prison term; (d) that the amount of time the person must actually serve in prison may be extended, and as a result, the person could serve the entire sentence in prison; and (e) that the person will be subject to certain conditions while on release to extended supervision and that violation of those conditions may result in a return to prison. The provision would delete "orally" from the above provision.

Previously, when a court made a sentencing decision for felony offenses committed on or after February 1, 2003, the court had to consider all the following: (a) the sentencing guidelines adopted by the Sentencing Commission, or if the Sentencing Commission has not adopted a guideline for the offense, any applicable temporary sentencing guidelines adopted by the 1997 Criminal Penalties Study Committee; (b) the protection of the public; (c) the gravity of the offense; (d) the defendant's rehabilitative needs; and (e) any applicable mitigating and/or aggravating factors. The requirement that the court consider the sentencing guidelines did not require the court to make a sentencing decision within the guideline ranges, and there was no right to appeal a court's sentencing decision based on the court's decision to depart in any way from a guideline. The Sentencing Commission sunset on July 1, 2007.

The Act 28 provision deletes the requirement that the court consider paragraph (a) above related to sentencing guidelines. As a result of deleting this requirement, language was also deleted specifying that the court is not required to make a sentencing decision within the guideline ranges, and there is no right to appeal based on such a decision.

[Act 28 Sections: 3381m, 3386m, and 3387m]

Adult Institutions

1. ADULT CORRECTIONAL FACILITY POPULATIONS [LFB Paper 285]

Governor: Estimate an average daily population in adult correctional facilities (correctional institutions and centers) and contract beds of 22,767 in 2009-10 and 22,654 in 2010-11. The following table identifies the estimated distribution of this population.

	February 27, 2009	<u>Average Daily Population</u>	
	<u>Actual Population</u>	<u>2009-10</u>	<u>2010-11</u>
Males			
Institutions	18,421	18,031	18,031
Centers	1,690	1,820	1,838
Wisconsin Resource Center	307	344	344
Contract Beds*	880	1,264	1,229
Females			
Women's Correctional System	1,298	1,308	1,167
Wisconsin Resource Center	<u>n/a</u>	<u>--</u>	<u>45</u>
Total Population	22,596	22,767	22,654

*Contract bed populations include inmates held in federal facilities and in Wisconsin county jails.

Joint Finance/Legislature: Decrease the estimated average daily population in adult correctional facilities and contract beds by 178 in 2009-10 and 14 in 2010-11:

	<u>Average Daily Population</u>	
	<u>2009-10</u>	<u>2010-11</u>
Males		
Institutions	18,031	18,031
Centers	1,820	1,838
Wisconsin Resource Center	344	344
Contract Beds	1,095	1,128
Females		
Women's Correctional System	1,299	1,254
Wisconsin Resource Center	---	45
Total Population	22,589	22,640

2. POPULATION AND INFLATIONARY COST INCREASES [LFB Paper 285]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$16,043,300	- \$1,254,700	\$14,788,600

Governor: Provide \$6,447,200 in 2009-10 and \$9,596,100 in 2010-11 to reflect population-related cost adjustments for prisoners in facilities operated by the Division of Adult Institutions, as follows: (a) \$2,046,700 in 2009-10 and \$2,392,600 in 2010-11 for food costs; (b) \$110,700 in 2009-10 and \$100,200 in 2010-11 for variable non-food costs, such as clothing, laundry, inmate wages, and other supplies; and (c) \$4,289,800 in 2009-10 and \$7,103,300 in 2010-11 for inmate health care. The recommendation for inmate health services assumes that per capita annual inmate costs will increase from an estimated \$2,490 in 2008-09 to \$2,542 in 2009-10 and to \$2,670 in 2010-11. Health care costs include pharmaceutical costs, third party administrator costs, and contracting costs with the University Hospital and Clinics, the UW Medical Foundation, Waupun Memorial Hospital, and other community hospitals.

Joint Finance/Legislature: Decrease funding, as a result of lowered population projections, by: (a) \$176,500 in 2009-10 and \$164,000 in 2010-11 for food; (b) \$127,900 in 2009-10 and \$117,400 in 2010-11 for variable non-food costs; and (c) \$340,600 in 2009-10 and \$328,300 in 2010-11 for variable non-food health.

3. PRISON CONTRACT BED FUNDING [LFB Paper 285]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$12,149,100	- \$6,184,900	\$5,964,200

Governor: Provide \$6,070,000 in 2009-10 and \$6,079,100 in 2010-11 related to contract beds. The Department projects a need for 1,236 contract prison beds in 2009-10 and in 2010-11 (a daily average of 1,200 prison beds, six beds in federal facilities, five in state juvenile

correctional facilities, and 25 temporary lock-up beds). As of February 27, 2009, there were 880 inmates in Wisconsin county jails and federal prisons.

Total contract bed funding under the bill would be as follows:

	<u>2009-10</u>	<u>2010-11</u>
Base Funding	\$17,832,300	\$17,832,300
1% Across-the-Board Reduction	-178,300	-178,300
Opening Drug Abuse Correctional Center	0	-340,900
Contract Bed Funding Increase	<u>6,070,000</u>	<u>6,079,100</u>
Total	\$23,724,000	\$23,392,200

Estimated average daily populations (ADP) for contract beds (identified under Item #1 above) do not correspond with the estimated number of contract beds for which funding is needed, for primarily two reasons: (a) the estimated correctional facility ADP for contract beds includes Wisconsin inmates that are housed in federal facilities in exchange for federal inmates who are housed in Wisconsin (approximately 24 inmates annually); and (b) the estimated correctional facility ADP does not incorporate the estimated number of beds needed for placements in state juvenile correctional facilities (approximately five beds annually) and temporary lock-up beds (approximately 25 beds annually) purchased from contract bed funding.

Joint Finance/Legislature: Decrease funding by \$3,100,800 in 2009-10 and \$3,084,100 in 2010-11 as a result of: (a) revised prison populations (-\$3,100,800 in 2009-10 and -\$2,478,100 in 2010-11); and (b) the creation of the Wisconsin American Indian Tribal Community Reintegration Program (-\$606,000 in 2010-11). [See "Administration -- Office of Justice Assistance" for information on the reintegration program.]

Total contract bed funding under the bill would be as follows:

	<u>2009-10</u>	<u>2010-11</u>
Base Funding	\$17,832,300	\$17,832,300
1% Across-the-Board Reduction	-178,300	-178,300
Contract Bed Funding Increase	2,969,200	3,601,000
WI Tribal Community Reintegration	<u>0</u>	<u>-606,000</u>
Total	\$20,623,200	\$20,649,000

4. FUEL AND UTILITIES REESTIMATES

GPR	\$6,984,500
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Governor/Legislature: Provide \$2,940,000 in 2009-10 and \$4,044,500 in 2010-11 for estimated fuel and utilities costs in the Division of Adult Institutions. Current base funding for fuel and utilities is \$29,532,700 GPR.

5. **POSITIONS TO REPLACE OVERTIME FUNDING** [LFB Paper 270]

Funding Positions		
GPR	\$5,673,300	65.00

Joint Finance/Legislature: Provide \$2,418,900 in 2009-10 and \$3,254,400 in 2010-11 and 65.0 correctional officer positions annually to reduce the utilization of overtime in the Division of Adult Institutions. Further, specify that costs reported by the Department under s. 301.03(6t) identify overtime costs by each institution combined with the reason for the overtime.

[Act 28 Section: 2666m]

6. **STAFFING FOR THE DRUG ABUSE CORRECTIONAL CENTER** [LFB Paper 286]

	Governor (Chg. to Base)		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	\$920,500	11.60	-\$920,500	- 11.60	\$0	0.00

Governor: Provide \$920,500 and 11.6 positions in 2010-11 for the operation of the new 300-bed Drug Abuse Correctional Center (Winnebago), which will replace the existing 282-bed facility. The new facility is estimated to open in August, 2010. Staffing provided under the bill includes: 1.75 correctional sergeants, 1.0 supervising officer, 2.0 social workers, 0.6 physician, 1.0 nurse supervisor, 4.25 nurse clinicians, and 1.0 medical program assistant. Current staffing at the facility is 65.5 positions, with 2007-08 expenditures of \$9,416,200.

Joint Finance/Legislature: Delete provision.

7. **FUNDING AND POSITIONS FOR TREATMENT STAFF AT THE ROBERT E. ELLSWORTH AND DRUG ABUSE CORRECTIONAL CENTERS** [LFB Paper 287]

	Governor (Chg. to Base)		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	\$771,200	7.00	-\$771,200	- 7.00	\$0	0.00
PR	<u>0</u>	<u>0.00</u>	<u>771,200</u>	<u>7.00</u>	<u>771,200</u>	<u>7.00</u>
Total	\$771,200	7.00	\$0	0.00	\$771,200	7.00

Governor: Provide \$338,900 GPR in 2009-10 and \$432,300 GPR in 2010-11 and 7.0 GPR positions annually for treatment staffing at the Robert E. Ellsworth Correctional Center and the Drug Abuse Correctional Center. The following new staffing would support: (a) the expanded earned release program at the Robert E. Ellsworth Correctional Center, 1.0 correctional sergeant, 1.0 social worker, 1.0 treatment specialist, and 1.0 office operations associate; and (b) the operating while intoxicated program at the Drug Abuse Correctional Center, 1.0 social worker, 1.0 treatment specialist, and 1.0 office operations associate.

Joint Finance/Legislature: Delete provision. Instead, provide \$338,900 PR in 2009-10 and \$432,300 PR in 2010-11 and 7.0 PR positions annually, utilizing one-time Byrne Justice Assistance Grant funds.

[Act 28 Section: 9101(6q)]

8. FULL FUNDING OF NON-SALARY COSTS FOR HEALTH CARE POSITIONS

GPR	\$91,000
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Governor/Legislature: Provide \$45,500 annually to fully fund non-salary costs associated with 11.75 health care positions, which were created in 2007 Act 20. Act 20 created 25.25 positions in 2007-08 and 38.0 positions in 2008-09 associated with prison health care. Because 11.75 additional positions were created for fewer than 12 months in 2008-09, non-salary (supplies and services) costs for these positions are not in the Department's base budget.

9. FEMALE MENTAL HEALTH INITIATIVE [LFB Paper 288]

	Governor (Chg. to Base)		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	\$3,347,600	40.80	\$2,224,900	10.20	\$5,572,500	51.00

Governor: Provide \$1,420,400 and 25.75 positions in 2009-10, and \$1,927,200 and 40.80 positions in 2010-11 to support enhanced mental health services for female inmates at the Taycheedah Correctional Institution. The positions would include: (a) mental health special management and segregation units, 1.5 recreation therapists, 1.5 clinical social worker; and 1.0 occupational therapist; (b) programs for the general population, 3.0 clinical social workers, 3.5 psychological associates, and 1.0 office operations associate; and (c) increased security staffing required to support the enhanced mental health services for the mental health unit, segregation unit, the health services unit, the institution gatehouse, and to reduce utilization of overtime costs, 29.3 correctional officers.

Joint Finance/Legislature: Modify the provision by -\$23,400 and -0.25 position in 2009-10 and -\$36,300 and -0.30 position in 2010-11 associated with removing turnover and adjustments associated with the staffing of correctional officer posts. Further, provide \$1,174,300 in 2009-10 and \$1,110,300 in 2010-11 and 10.5 nurse clinicians annually to allow the Department to implement the April 24, 2009, court order related to the distribution of controlled medications by trained medical personnel and the processing and administration of prescribed medications to inmates at Taycheedah.

10. SECURITY STAFFING FOR FEMALE INMATE UNIT AT THE WISCONSIN RESOURCE CENTER

	<u>Governor (Chg. to Base)</u>		<u>Jt. Finance/Leg. (Chg. to Gov)</u>		<u>Net Change</u>	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	\$881,500	15.10	-\$448,600	0.00	\$432,900	15.10

Governor: Provide \$881,500 and 15.1 security positions in 2010-11 for the creation of a female inmate unit at the Department of Health Services' Wisconsin Resource Center. Staffing would include 1.0 supervising officer, 5.3 correctional sergeants, and 8.8 correctional officers. The Wisconsin Resource Center is a specialized mental health facility operated by the Department of Health Services, which currently provides treatment for approximately 345 male inmates. The new facility for females is scheduled to open in February, 2011, and will provide 45 beds for mentally ill inmates transferred from the Department of Corrections.

Joint Finance/Legislature: Reduce funding by \$448,600 as a result of delaying the opening of the female inmate unit at the Wisconsin Resource Center until June 1, 2011.

11. GPR FUNDING AND POSITIONS FOR MICA PROGRAM AT OSHKOSH CORRECTIONAL INSTITUTION [LFB Paper 289]

	<u>Governor (Chg. to Base)</u>		<u>Jt. Finance/Leg. (Chg. to Gov)</u>		<u>Net Change</u>	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	\$890,100	6.50	-\$890,100	- 6.50	\$0	0.00
PR	<u>- 890,100</u>	<u>- 6.50</u>	<u>890,100</u>	<u>6.50</u>	<u>0</u>	<u>0.00</u>
Total	\$0	0.00	\$0	0.00	\$0	0.00

Governor: Provide \$381,400 GPR in 2009-10 and \$508,700 GPR in 2010-11 and 6.5 GPR positions annually, and delete PR funding and positions in corresponding amounts, to replace grant-funded positions for the Oshkosh Correctional Institution's Mental Illness Chemical Abuse (MICA) treatment program. The MICA program provides residential treatment and transitional services to male offenders with mental illness and substance abuse issues. Staffing includes: 1.0 correctional sergeant, 1.0 nurse clinician, 1.0 psychological associate, 1.0 social worker, 2.0 treatment specialists, and 0.5 office operations associate.

Joint Finance/Legislature: Delete provision.

12. INMATE TRANSPORTATION BUSES

GPR	\$309,400
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Governor/Legislature: Provide \$154,700 annually for master lease costs associated with purchasing two buses for the Dodge Correctional Institution's transportation unit. The Department indicates that the cost for each bus is \$437,000 for a seven-year master lease, with a 6% interest rate. Total costs at the end of seven years would be \$1,082,900.

13. PENALTY SURCHARGE REDUCTIONS [LFB Paper 516]

PR	- \$267,200
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Governor: Reduce expenditure authority by \$133,600 annually, as follows: (a) -\$119,000 under the correctional officer training appropriation; and (b) -\$14,600 under the victim services and programs appropriation. The reduction represents a 5% reduction to the appropriation after standard budget adjustments. Require all unencumbered balances in the appropriation at the end of each fiscal year to revert to the "criminal justice program support" appropriation under the Department of Justice.

Joint Finance/Legislature: Delete the requirement that all unencumbered balances in the appropriation at the end of each fiscal year revert to the "criminal justice program support" appropriation under the Department of Justice.

14. FEASIBILITY STUDIES AND COST ANALYSES

Joint Finance/Legislature: Require the Department, by January 4, 2010, to submit to the Cochairpersons of the Joint Committee on Finance the following reports:

a. *Staff Training.* A feasibility study and cost analysis for providing all correctional officers with a minimum of 16 hours of training in managing mentally ill inmates that is based on the Crisis Intervention Team Model best practices for correctional officer intervention with persons who may have a mental illness.

b. *Screening Inmates for Developmental Disabilities.* A feasibility study and cost analysis for implementing, consistent with National Commission on Correctional Health Care standards, screening tools to identify current inmates with developmental disabilities, implementing tests to further evaluate inmates who are identified as potentially developmentally disabled, and integrate appropriate screening tools for developmental disabilities into the prisoner intake and transfer processes.

c. *Institutional Services and Separate Housing for Inmates with Developmental Disabilities.* A feasibility study and cost analysis for providing appropriate services, support and rehabilitation for inmates with developmental disabilities, including the costs of providing those services in existing facilities/housing units for those inmates whose levels of functioning permits such placement and the costs of creating a separate, special housing unit for those inmates whose needs require such placement within an existing correctional facility or facilities.

d. *Administration of Medications.* A feasibility study and cost analysis for a plan where all controlled medications at all Department facilities be distributed by trained medical personnel with credentials equal to or greater than those of licensed practical nurses.

[Act 28 Section: 9111(2d)]

15. REPORT ON INMATES RECEIVING DONATED BOOKS

Joint Finance/Legislature: Direct the Department to report to the Joint Committee on Finance 60 days after enactment of the bill on eliminating the Department's prohibition of inmates receiving donated books.

Veto by Governor [A-4]: Delete provision.

[Act 28 Vetoed Section: 9111(3x)]

16. DESIGNATION OF FELMERS CHANEY CORRECTIONAL CENTER AS A PRE-RELEASE FACILITY

Joint Finance/Legislature: Specify that the Felmers Chaney Correctional Center in the City of Milwaukee be designated as a pre-release transition facility for inmates who are within 12 months, but not less than five months, of their release to extended supervision or parole. The pre-release facility must provide re-integration programming with an emphasis on obtaining birth certificates, state identification, social security cards, driver's licenses; job preparation; job transportation; basic education; and accessing the community and its resources.

Veto by Governor [A-4]: Delete provision.

[Act 28 Vetoed Section: 2671m]

17. CONVERSION OF UNIT SUPERVISOR POSITIONS

Senate/Legislature: Require the Director of the Office of State Employee Relations to reclassify unit supervisor positions to teach positions after receiving notice from the Department of Corrections that a unit supervisor position in the Division of Adult Institutions has become vacant.

Veto by Governor [A-5]: Delete provision.

[Act 28 Vetoed Sections: 2482m and 2666r]

Adult Community Corrections

1. SEX OFFENDER MANAGEMENT [LFB Paper 295]

	<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>	
	<u>Funding</u>	<u>Positions</u>	<u>Funding</u>	<u>Positions</u>	<u>Funding</u>	<u>Positions</u>	<u>Funding</u>	<u>Positions</u>
GPR	\$8,418,500	92.00	-\$5,044,900	- 56.75	\$106,800	0.00	\$3,480,400	35.25
PR	<u>47,100</u>	<u>0.00</u>	<u>- 43,300</u>	<u>0.00</u>	<u>5,500</u>	<u>0.00</u>	<u>9,300</u>	<u>0.00</u>
Total	\$8,465,600	92.00	-\$5,088,200	- 56.75	\$112,300	0.00	\$3,489,700	35.25

Governor: Provide \$2,192,600 GPR and 44.5 GPR positions \$9,700 PR in 2009-10, and \$6,225,900 GPR and 92.0 GPR positions and \$37,400 PR in 2010-11 to manage the Department's sex offender population. The total estimated populations of offenders on GPS would increase from 252 on June 30, 2009, to 500 on June 30, 2010, and 748 on June 30, 2011. Further, the number of individuals on the sex offender registry are estimated to increase from 21,165 on June 30, 2009, to 22,020 on June 30, 2010, and 22,875 on June 30, 2011. The new staffing in 2010-11 would include: (a) Monitoring Center Staff (a unit to track offenders on electronic monitoring equipment), 35.75 corrections communications operators and 2.25 supervisors; (b) community corrections staffing, 29.0 probation and parole agents, 3.0 supervisors, 10.0 office operations staff, and 1.0 business office financial specialist; (c) sex offender registry staff, 4.0 corrections program specialists for sex offender registration and 1.0 for program administrator, 1.0 supervisor and 2.0 office operations staff; and (d) presentence investigations evaluators required under 2007 Act 80 related to risk assessment for certain sex offenders, 3.0 psychologists.

In addition, the bill would allow the Department to use passive positioning system tracking instead of active GPS tracking for persons described below under paragraphs d. and e., if the Department determines that passive positioning tracking is appropriate for the person and if the person has been subject to active GPS tracking for at least 12 months. Under current law, the Department may only use passive positioning system tracking for individuals: (a) who have completed their sentence, including any probation, parole, or extended supervision; or (b) who are monitored with GPS tracking at the Department's discretion, but for whom GPS tracking is not required by statute.

Under current law, the Department of Corrections is required to provide for lifetime GPS tracking for certain child sex offenders, as follows:

- a. 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;
- b. 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;
- c. Persons for whom a special bulletin notification is 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;

d. 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; and

e. Persons convicted, on or after the effective date of the provisions, who are released 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.

Base funding for the current program is \$4,454,400 GPR and \$315,700 PR and 71.10 GPR positions.

Joint Finance: Modify funding by -\$1,425,500 GPR and -\$12,100 PR and -34.50 GPR positions in 2009-10 and -\$3,619,400 GPR and -\$31,200 PR and -56.75 GPR positions in 2010-11, as a result of lowered tracking population projections. Staffing in 2010-11 would include: (a) monitoring center, 9.5 corrections communications operators and 0.75 supervisor; (b) community corrections staffing, 10.0 probation and parole agents, 0.5 supervisor, 2.5 office operations staff, and 1.0 business office financial specialist; (c) sex offender registry staff, 4.0 corrections program specialists, 1.0 program administrator; 1.0 supervisor, and 2.0 office operations staff; and (d) presentence investigations evaluations, 3.0 psychologists.

Conference Committee/Legislature: Delete the passive positioning system provisions and maintain current law related to active GPS tracking. Provide \$46,500 GPR and \$2,400 PR in 2009-10 and \$60,300 GPR and \$3,100 PR in 2010-11 to fund active tracking.

[Act 28 Sections: 2693 thru 2699]

2. FULL FUNDING FOR GLOBAL POSITIONING SYSTEM TRACKING COSTS

GPR	\$1,182,400
PR	44,600
Total	\$1,227,000

Governor/Legislature: Provide \$591,200 GPR and \$22,300 PR annually to fully fund non-salary costs associated with global positioning system (GPS) tracking for certain sex offenders. Under 2005 Act 431, the Department of Corrections is required to provide for lifetime (GPS) tracking for certain child sex offenders. The 2007-09 biennial budget provided funding and positions to implement the GPS tracking, but some supplies and services funding (including GPS tracking equipment) in the second year of the biennium was not provided for a full 12 months.

3. IMPLEMENTATION OF REGISTRATION REQUIREMENTS OF ADAM WALSH CHILD PROTECTION AND SAFETY ACT

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$543,700	-\$543,700	\$0

Governor: Provide \$247,200 in 2009-10 and \$296,500 in 2010-11 for database upgrades to the Department's sex offender registry to comply with the federal Sex Offender Registration Notification Act (\$247,200 in each year for one-time funding, and \$49,200 in 2010-11 for supplies and services). Costs for database upgrades include developing applications to add and update required data elements, creating database tables, developing interfaces to internal and external systems, developing additional search capacities, interfacing to an electronic content management system, and project management. The changes required by the federal act include adding foreign convictions to the registry, incorporating the federal tier system of classifying offenses, providing more detailed information on the registry, in-person registration verification, and expanding public access to registry information.

Joint Finance/Legislature: Place the funding in the Joint Finance Committee's supplemental appropriation for the Department to request under s. 13.10 of the statutes after state legislation is enacted to bring Wisconsin into compliance with federal legislation. [See also "Program Supplements."]

4. COMMUNITY REENTRY FUNDING [LFB Paper 296]

	Governor (Chg. to Base)		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	\$5,684,900	11.00	-\$5,684,900	- 11.00	\$0	0.00

Governor: Provide \$2,487,600 in 2009-10 and \$3,197,300 in 2010-11 and 11.0 positions annually for a community reentry program. According to the Governor's Executive Budget, the program would "enable the department to purchase tools for offender risk assessment, better manage purchase of services dollars, research and measure programs, and maintain dual-diagnosis rehabilitation programming." Funding would include: (a) \$1,110,100 in 2009-10 and \$989,800 in 2010-11 for costs associated with conducting risk assessments on all offenders under the Department's supervision; (b) \$495,100 in 2009-10 and \$638,400 for increased costs and expansion of emergency housing for offenders; (c) \$194,400 in 2009-10 and \$770,100 in 2010-11 for increased costs associated with halfway house beds and temporary living placements; and (d) \$688,000 in 2009-10 and \$799,000 in 2010-11 for reentry staffing including: 6.0 corrections program specialists, 2.0 research analysts, 2.0 integrated systems business automation positions, and 1.0 staff development director.

Joint Finance/Legislature: Delete provision.

5. ADMINISTRATIVE LAW JUDGE AND SAFE FUNDING [LFB Paper 297]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$984,000	- \$240,000	\$744,000

Governor: Provide \$492,000 annually for payments to the Department of Administration for: (a) limited-term employees assigned to the Office of Justice Assistance (OJA) for the Sex Offender Apprehension and Felony Enforcement (SAFE) Initiative (\$252,000 annually); and (b) the Department of Administration's Division of Hearing and Appeals (DHA) for administrative law judge services (\$240,000 annually).

Under the SAFE Initiative, OJA coordinates with local, state, and federal agencies to track down offenders who do not comply with the sex offender registry requirements. Under 2007 Act 20, program revenue funding and positions were created in DHA to hear cases for Corrections, funded from assessments to the Department. No corresponding funding was provided to the Department in the 2007-09 biennium for those assessments.

Joint Finance/Legislature: Reduce funding for administrative law judge services by \$120,000 annually.

6. COUNCIL ON OFFENDER REENTRY

Joint Finance/Legislature: Create a Council on Offender Reentry attached to the Department of Corrections. The Council would be required do all the following:

- a. Inform the public as to the time and place of council meetings and, for at least one meeting per year, encourage public participation and receive public input in a means determined by the chairperson;
- b. Coordinate reentry initiatives across the state, and research federal grant opportunities to ensure initiatives comply with eligibility requirements for federal grants;
- c. Identify methods to improve collaboration and coordination of offender transition services, including training across agencies and sharing information that will improve the lives of the offenders and the families of offenders;
- d. Establish a means to share data, research, and measurement resources that relate to reentry initiatives;
- e. Identify funding opportunities that should be coordinated across agencies to maximize the use of state and community-based services as the services relate to reentry;
- f. Identify areas in which improved collaboration and coordination of activities and programs would increase effectiveness or efficiency of services;
- g. Promote research and program evaluation that can be coordinated across agencies

with an emphasis on research and evaluation practices that are based on evidence of success in treatment and intervention programs;

h. Identify and review existing reentry policies, programs, and procedures to ensure that each policy, program, and procedure is based on evidence of success in allowing an offender to reenter the community, improves the chances of successful offender reentry into the community, promotes public safety, and reduces recidivism;

i. Promote collaboration and communication between the department and community organizations that work in offender reentry;

j. Work to include victims in the reentry process; facilitate dialogue between a victim and an offender if the victim requests; and promote services for victims, including payments of any restitution and fines by the offenders, safety training, and support and counseling, while the offenders are incarcerated and after the offenders are released;

k. Annually submit a report to the Governor, any relevant state agencies, as identified by the Council, and to the Chief Clerk of each house of the Legislature for distribution to the Legislature that provides information on all of the following: (1) the progress of the Council's work; (2) any impact the Council's work has had on recidivism; (3) the effectiveness of agency coordination and communication; (4) the implementation of a reentry strategic plan; and (5) recommendations on legislative initiatives and policy initiatives that are consistent with the duties of the Council.

Specify that the Council consist of 22 members, including the Secretary of the Department of Corrections (or designee), Secretary of the Department of Workforce Development (or designee), Secretary of the Department of Health Services (or designee), Secretary of the Department of Children and Families (or designee), Secretary of Department of Commerce (or designee), Secretary of the Department of Transportation (or designee), Attorney General (or designee), the Parole Commission Chairperson (or designee), the State Superintendent of Public Instruction, the Corrections' reentry director, a current or former judge appointed by the Director of State Courts, and an individual previously convicted of and incarcerated for a crime in Wisconsin, as appointed by Corrections. In addition, the Council must include the following persons, appointed by the Governor:

- a. A law enforcement officer;
- b. A representative of a crime victim rights or crime victim services organization;
- c. A representative of a faith-based organization that is involved with the reintegration of offender into the community;
- d. A representative of a county department of human services;
- e. A representative of a federally-recognized American Indian tribe or band in Wisconsin;
- f. A representative of a nonprofit organization that is involved with the reintegration

of offenders into the community and that is not a faith-based organization;

- g. A district attorney;
- h. A representative of the office of the State Public Defender;
- i. An academic professional in the field of criminal justice; and
- j. A representative of the Wisconsin Technical College System.

Veto by Governor [A-3]: Delete language "facilitate dialogue between a victim and an offender if the victim requests" (described in j. above related to working with victims). Also, veto the specified items required for the annual report, except for progress on the Council's work ((2) through (5) described in k. above).

[Act 28 Sections: 33r, 34g, 2669k, 9111(12f), and 9411(1f)]

[Act 28 Vetoed Section: 2669k]

7. HOME DETENTION PROGRAMS

Joint Finance/Legislature: Delete statutory language that a sheriff or superintendent of a jail may place in a home detention program only individuals who have been arrested for, charged with, convicted of or sentenced for a crime. Further, delete the requirement that a prisoner in jail and the Department of Corrections agree on placement in a home detention program, and instead provide that the sheriff or superintendent may place a prisoner in a home detention program if he or she determines that home detention is appropriate for the prisoner. Provide that individuals who are held in jail pending disposition of parole, extended supervision or probation proceedings are excluded.

[Act 28 Sections: 2740c thru 2740w]

Juvenile Corrections

1. JUVENILE POPULATIONS ESTIMATES [LFB Paper 300]

Governor: Estimate the juvenile correctional facility average daily population (ADP) to be 605 in 2009-10 and 610 in 2010-11 as shown in the table below. On February 27, 2009, 551 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 27, 2009 <u>Actual Population*</u>	<u>Projected ADP</u>	
		<u>2009-10</u>	<u>2010-11</u>
Juvenile Detention Facilities	551	605	610
Other Placements			
Corrective Sanctions	150	136	136
Aftercare Services	<u>79</u>	<u>75</u>	<u>75</u>
Subtotal -- Other	229	211	211
Total ADP	780	816	821
Alternate Care	69	56	56

*Alternate care reflects actual ADP through December, 2008.

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 juvenile correctional facility average daily population to be 587 annually (-18 in 2009-10 and -23 in 2010-11), as shown in the below table.

	<u>Projected ADP</u>	
	<u>2009-10</u>	<u>2010-11</u>
Juvenile Correctional Facilities	587	587
Other Placements		
Corrective Sanctions	136	136
Aftercare Services	<u>75</u>	<u>75</u>
Subtotal -- Other	211	211
Total ADP	798	798
Alternate Care	56	56

2. STATUTORY DAILY RATES [LFB Paper 300]

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 by counties, or paid by the state through the serious juvenile offender appropriation.

	Statutory Rates		Governor
	7-1-08 thru <u>6-30-09</u>	7-1-09 thru <u>6-30-10</u>	7-1-10 thru <u>6-30-11</u>
Juvenile Detention Facilities*	\$268	\$270	\$275
Corrective Sanctions	101	101	103
Aftercare Supervision	37	40	41
Residential Care Centers	296	294	309
Group Homes	172	190	200
Treatment Foster Homes	145	126	132
Regular Foster Homes	74	72	75

*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: Modify the statutory daily rates as follows (see also Item #6 on Alternative Care):

	<u>JFC Daily Rates</u>		<u>Difference from Governor</u>	
	7-1-09 thru <u>6-30-10</u>	7-1-10 thru <u>6-30-11</u>	7-1-09 thru <u>6-30-10</u>	7-1-10 thru <u>6-30-11</u>
Juvenile Correctional Facilities	\$270	\$275	--	--
Corrective Sanctions	101	103	--	--
Aftercare Supervision	40	41	--	--
Residential Care Centers	298	313	\$4	\$4
Group Homes	190	200	--	--
Treatment Foster Homes	124	130	2	2
Regular Foster Homes	72	75	--	--

[Act 28 Sections: 2675 and 2677]

3. POPULATION-RELATED COST ADJUSTMENTS [LFB Paper 300]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
PR	\$2,462,500	-\$4,100,300	-\$1,637,800

Governor: Provide \$1,064,700 in 2009-10 and \$1,397,800 in 2010-11 to reflect population-related cost adjustments as follows: (a) \$191,100 in 2009-10 and \$211,000 in 2010-11 for food costs at juvenile correctional institutions; (b) \$24,200 in 2009-10 and \$29,700 in 2010-11 for variable non-food costs (such as laundry, clothing, and personal items) for institutionalized juveniles; and (c) \$849,400 in 2009-10 and \$1,157,100 in 2010-11 to reflect juvenile health costs.

Joint Finance/Legislature: In addition, delete \$1,846,100 in 2009-10 and \$2,254,200 in 2010-11 associated with: (a) -\$1,757,600 in 2009-10 and -\$2,131,100 in 2010-11 for salary and fringe benefits for vacant positions in the Division of Juvenile Corrections; and (b) -\$88,500 in 2009-10 and -\$123,100 in 2010-11 for additional population-related cost reductions. As a result of the additional funding reductions, the statutory daily rates for the juvenile correctional facilities would remain unchanged, although the estimated population for 2009-11 has decreased.

4. SERIOUS JUVENILE OFFENDER FUNDING [LFB Paper 301]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$2,730,100	\$1,235,400	\$3,965,500

Governor: Provide increased funding of \$1,416,800 in 2009-10 and \$1,313,300 in 2010-11 to reflect increased costs associated with state-funded serious juvenile offenders (SJO). The estimated average daily population (ADP) for the SJO population is 241 in 2009-10 and 234 in 2010-11. The SJO program ADP for 2008-09 through December, 2008, (the latest information available) is 245. A separate provision in the bill would reduce appropriation funding by \$168,300 annually. [See "Across-the Board 1% Reductions."]

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 an SJO disposition, 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.

Base funding for the SJO appropriation is \$16,829,800 annually. Under the bill, the following average daily populations (ADPs) for the SJO appropriation, are projected for the 2009-11 biennium:

Average Daily Population

<u>Type of Care</u>	As of <u>December, 2008</u>	<u>Serious Juvenile Offenders</u>	
		<u>2009-10</u>	<u>2010-11</u>
Juvenile Detention Facilities	119	112	109
Corrective Sanctions Program	88	86	83
Aftercare Supervision	<u>38</u>	<u>43</u>	<u>42</u>
Total ADP	245	241	234
Alternate Care*	43	44	43

*A subset of corrections sanctions and aftercare supervision programs that includes residential care centers, group homes, treatment foster homes, and certain supplemental living arrangements.

Joint Finance/Legislature: Modify funding by \$588,600 in 2009-10 and \$646,800 in 2010-11 to reflect increased serious juvenile offender populations, as follows:

<u>Type of Care</u>	<u>Serious Juvenile Offenders</u>	
	<u>2009-10</u>	<u>2010-11</u>
Juvenile Correctional Facilities	114	112
Corrective Sanctions Program	90	87
Aftercare Supervision	<u>46</u>	<u>44</u>
Total ADP	250	243
Alternate Care	45	44

5. YOUTH AIDS [LFB Paper 302]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
FED	\$0	\$11,801,000	\$11,801,000

Governor: Revise the calendar year allocations of community youth and family aids (youth aids) funding to reflect distributions for the 2009-11 biennium, as follows: (a) \$49,891,100 from the last six months of 2009, \$99,782,300 for 2010, and \$49,891,100 for the first six months of 2011. Total youth aids funding in 2008-09 is \$100,790,200 (all funds). Under the bill, \$94,865,200 (all funds) is provided in 2009-10 and 2010-11. The statutory allocation exceeds appropriated amounts by \$4.9 million annually. In 2009-10 and 2010-11, continue to allocate additional funding provided under previous legislative actions on the same basis. Funding adjustments to youth aids in the bill are the result of two other provisions in the bill. [See "Across-the Board 1% Reductions" and "Additional 5% Reduction to GPR Appropriations."]

In addition, provide that funding for youth aids may be utilized from a new continuing PR appropriation entitled "Federal economic stimulus funds," which includes moneys received by the state, pursuant to federal legislation enacted during the 111th Congress for the purpose of reviving the U.S. economy. No estimated expenditure level is identified in the new appropriation.

Under current law, calendar year youth aids allocations are provided for the 2007-09 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); (f) youth aids funding earmarked for alcohol and other drug abuse treatment programs (\$1,333,400 GPR); and (g) youth aids increases provided under 2007 Act 20, which are required to be distributed based on the proportional number of juveniles in correctional facilities during the most recent three-year period.

Joint Finance/Legislature: Specify that the 1% reduction and 5% GPR reduction only occur in the 2009-11 biennium. Create a FED appropriation for youth aids and provide \$5,900,500 FED annually. Reduce Program Supplements by a corresponding amount. Revise statutory allocations not to exceed: (a) \$50,395,100 for the last six months of 2009; (b) \$100,790,200 for 2010; (c) \$50,395,100 for the first six months of 2011. [See "Across-the-Board 1% Reductions" and "Additional 5% Reduction to GPR Appropriations" under "Corrections -- Departmentwide."]

[Act 28 Sections: 319j, 845d, 853d, 2674d, 2681d thru 2689, and 9111(2j)]

6. ALTERNATE CARE [LFB Paper 300]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
PR	-\$249,500	\$327,600	\$78,100

Governor: Modify base funding by -\$256,500 in 2009-10 and \$7,000 in 2010-11 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 \$5,395,300 (based on an estimated average daily population of 59.5 juveniles in 2008-09). The year-to-date ADP for alternate care (through December, 2008) is 69.0. Under the bill, the alternate care ADP is projected at 56 in both 2009-10 and 2010-11. A separate provision in the bill would reduce appropriation funding by \$54,000 annually [See "Across-the Board 1% Reductions."]

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 2008, and applying annual percentage rates of increase (5% for residential care centers for children and youth, treatment foster care, and group home placements, and 4% for foster homes) to estimate 2008-09, 2009-10, and 2010-11 average rates. The estimated 2009-10 and 2010-11 average rates and projected ADP of 56 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 2008-09 and the average rates projected under the bill for 2009-10 and 2010-11.

	Statutory Rates 7-1-08 thru 6-30-09	Governor	
		7-1-09 thru 6-30-10	7-1-10 thru 6-30-11
Residential Care Centers	\$296	\$294	\$309
Group Homes	172	190	200
Treatment Foster Homes	145	126	132
Regular Foster Homes	74	72	75

Joint Finance/Legislature: Revise the daily rates for the following alternate care settings: (a) residential care centers, \$298 in 2009-10 and \$313 in 2010-11; and (b) treatment foster care, \$124 in 2009-10 and \$130 in 2010-11. Revise the projected population at residential centers to 37 juveniles (as compared to 35 annually) and for group homes to 16 juveniles (as compared to 18 annually). As a result, modify funding by \$161,000 in 2009-10 and \$166,600 in 2010-11.

	<u>AB 75</u>		<u>Modified Daily Rates</u>		<u>Difference</u>	
	<u>7-1-09 thru</u> <u>6-30-10</u>	<u>7-1-10 thru</u> <u>6-30-11</u>	<u>7-1-09 thru</u> <u>6-30-10</u>	<u>7-1-10 thru</u> <u>6-30-11</u>	<u>7-1-09 thru</u> <u>6-30-10</u>	<u>7-1-10 thru</u> <u>6-30-11</u>
Residential Care Centers	294	309	298	313	\$4	\$4
Group Homes	190	200	190	200	--	--
Treatment Foster Homes	126	132	124	130	2	2
Regular Foster Homes	72	75	72	75	--	--

[Act 28 Sections: 2675 and 2677]

7. MENDOTA JUVENILE TREATMENT CENTER

PR	\$353,800
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Governor/Legislature: Modify statutory provisions to reflect increased funding of \$165,000 in 2009-10 and \$188,800 in 2010-11 in the Department's juvenile correctional services appropriation for payments to the Department of Health Services' (DHS) 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 \$2,707,300 PR. Two separate provisions would reduce GPR funding by \$82,800 annually. [See "Across-the Board 1% Reductions" and "Additional 5% Reduction to GPR Appropriations."]

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 DHS for those services. The bill adjusts these amounts for the 2009-11 biennium.

[Act 28 Section: 832]

8. JUVENILE CORRECTIONAL SERVICES DEFICIT REDUCTION [LFB Paper 303]

Governor: 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, 2009.

The juvenile correctional services program appropriation funds the operations of juvenile correctional facilities and certain aftercare services provided to juveniles following release from the facilities. The program revenue credited to this appropriation derives from daily rates charged for facility care that are paid by counties or the state for certain serious juvenile offenders. Since the 2000-01 fiscal year, expenditures in the appropriation have generally exceeded revenue, resulting in year-end deficits. Under the bill, any available balances from the aftercare and corrective sanctions appropriations would be transferred to address the deficit.

Joint Finance/Legislature: In addition, require the Departments of Administration and Corrections to report to the Joint Committee on Finance by September 30, 2009, an alternative

statutory mechanism that would address future deficits in the appropriation.

Veto by Governor [C-12]: Delete Joint Finance provision.

[Act 28 Sections: 313 thru 315, 317 thru 319, 9211(1), and 9411(1)]

[Act 28 Vetoed Section: 9111(2i)]

9. JUVENILE CORRECTIONS COMPREHENSIVE REVIEW

Joint Finance/Legislature: Direct the Departments of Administration and Corrections and any other relevant state agencies to commence a comprehensive review of juvenile corrections funding and services. As part of that review, direct the Departments of Administration and Corrections and other relevant state agencies to undertake an inventory of all of the juvenile correctional services provided by counties and nonprofit organizations. As part of the review, there should be a description of mental health and AODA services available to youth offenders housed in the state schools and at the Mendota Juvenile Treatment Center. Finally, the review should include the participation of youth counselors from each of the state's three schools who work directly with teen offenders.

Veto by Governor [C-12]: Delete provision.

[Act 28 Vetoed Section: 9111(2k)]

10. JUVENILE OUT-OF-HOME PLACEMENTS

PR	\$150,000
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Conference Committee/Legislature: Create an Indian juvenile placements appropriation for the Department to reimburse tribes and county departments for unexpected or unusually high-cost out-of-home care placements of Indian juveniles who have been adjudicated delinquent. Provide \$75,000 to the appropriation from tribal gaming receipts. Specify that any unencumbered balances from the appropriation revert to the tribal gaming receipts appropriation on June 30th of each year. Define "unusually high-cost out-of-home care placements" as placements for which costs to a tribe or county department exceed \$50,000 a fiscal year.

[Act 28 Sections: 319e, 586v, and 3334p]

COURT OF APPEALS

Budget Summary							
Fund	2008-09 Base Year Doubled	2009-11 Governor	2009-11 Jt. Finance	2009-11 Legislature	2009-11 Act 28	Act 28 Change Over Base Year Doubled Amount	Percent
GPR	\$19,686,000	\$20,324,000	\$20,324,000	\$20,324,000	\$20,324,000	\$638,000	3.2%

FTE Position Summary						
Fund	2008-09 Base	2010-11 Governor	2010-11 Jt. Finance	2010-11 Legislature	2010-11 Act 28	Act 28 Change Over 2008-09 Base
GPR	75.50	75.50	75.50	75.50	75.50	0.00

Budget Change Items

1. STANDARD BUDGET ADJUSTMENTS

GPR	\$834,800
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Governor/Legislature: Provide adjustments to the base budget, including: (a) \$377,500 annually for full funding of salaries and fringe benefits; and (b) \$39,900 annually for full funding of lease costs.

2. ACROSS-THE-BOARD 1% REDUCTIONS

GPR	-\$196,800
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Governor/Legislature: Delete \$98,400 annually, as part of an across-the-board 1% reduction in most non-federal appropriations. The reductions, by appropriation, are shown below:

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
GPR	General Program Operations	\$9,843,000	-\$98,400*

*Due to other budget items, the final funding level for this appropriation does not represent a 1% reduction.

3. 2% WAGE ADJUSTMENT AND EMPLOYEE FURLOUGH

Joint Finance/Legislature: Include the Court of Appeals in the elimination of the 2% wage adjustment and state employee furlough. The fiscal impact is identified under the "Supreme Court."

DISTRICT ATTORNEYS

Budget Summary							
Fund	2008-09 Base Year Doubled	2009-11 Governor	2009-11 Jt. Finance	2009-11 Legislature	2009-11 Act 28	Act 28 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$88,453,000	\$84,400,000	\$82,751,000	\$64,471,600	\$64,471,600	-\$23,981,400	- 27.1%
PR	6,796,200	4,704,300	4,756,100	4,756,100	4,756,100	- 2,040,100	- 30.0
SEG	<u>0</u>	<u>0</u>	<u>0</u>	<u>18,279,400</u>	<u>18,279,400</u>	<u>18,279,400</u>	0.0
TOTAL	\$95,249,200	\$89,104,300	\$87,507,100	\$87,507,100	\$87,507,100	-\$7,742,100	- 8.1%

FTE Position Summary						
Fund	2008-09 Base	2010-11 Governor	2010-11 Jt. Finance	2010-11 Legislature	2010-11 Act 28	Act 28 Change
						Over 2008-09 Base
GPR	380.90	380.90	380.90	380.90	380.90	0.00
PR	<u>45.00</u>	<u>41.75</u>	<u>41.75</u>	<u>41.75</u>	<u>41.75</u>	<u>- 3.25</u>
TOTAL	425.90	422.65	422.65	422.65	422.65	- 3.25

Budget Change Items

1. STANDARD BUDGET ADJUSTMENTS [LFB Paper 310]

GPR	-\$3,168,400
PR	<u>- 2,052,400</u>
Total	-\$5,220,800

Governor/Legislature: Provide standard adjustments totaling -\$1,584,200 GPR and -\$1,026,200 PR annually. Adjustments are for: (a) turnover reduction (-\$213,600 GPR annually); (b) full funding of continuing salaries and fringe benefits (-\$1,468,100 GPR and -\$1,026,200 PR annually); and (c) night and weekend differential (\$97,500 GPR annually).

2. ACROSS-THE-BOARD 1% REDUCTIONS [LFB Papers 174 and 310]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	-\$884,600	\$0	-\$884,600
PR	<u>- 68,000</u>	<u>59,000</u>	<u>- 9,000</u>
Total	-\$952,600	\$59,000	-\$893,600

Governor: Delete \$442,300 GPR and \$34,000 PR, annually, as part of an across-the-board 1% reduction in most non-federal appropriations. The reductions, by appropriation, are shown below:

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
GPR	Salaries and Fringe Benefits	\$44,226,500	-\$442,300
PR	Milwaukee County Clerks	311,100	-3,100*
PR	DNA Evidence Prosecutor	139,200	-1,400
PR	Grant Funded Prosecutors	2,947,800	-29,500

*Due to other budget items, the final funding level for this appropriation does not represent a 1% reduction.

Joint Finance/Legislature: Restore \$29,500 PR annually to the grant funded prosecutors appropriation. This appropriation is typically utilized to receive and expend federal grant funding to support prosecutor positions. Federal grant funding may not be lapsed to the general fund.

3. STATE EMPLOYEE FURLOUGH

Joint Finance/Legislature: Delete \$828,100 (all funds) annually relating to the requirement that state employees take eight days of unpaid annual leave (furlough) in each year of the 2009-11 biennium. The reductions include \$824,500 GPR and \$3,600 PR annually.

GPR	- \$1,649,000
PR	- 7,200
Total	- \$1,656,200

4. FULL FUNDING FOR MILWAUKEE COUNTY CLERKS

PR	\$28,500
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Governor/Legislature: Provide \$9,400 in 2009-10 and \$19,100 in 2010-11 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. Base funding for the clerks is \$311,100 annually.

5. DELETION OF GRANT-FUNDED PROSECUTORS

Governor/Legislature: Delete 3.25 permanent, grant-funded prosecutor positions annually whose federal grant funding has been exhausted: (a) 2.0 Violence Against Women Act (VAWA) prosecutors in Dane County; (b) 0.25 VAWA prosecutor in Chippewa County; and (c) 1.0 anti-gun prosecutor in Kenosha County.

	Positions
PR	- 3.25

6. FEDERAL BYRNE AND PENALTY SURCHARGE FUNDED PROSECUTORS

Governor/Legislature: Provide ongoing funding for the following prosecutor positions: (a) 1.25 Byrne-funded prosecutor positions created under 2007 Act 20; and (b) 3.75 multijurisdictional enforcement group (MEG) prosecutors funded from federal Byrne and state penalty surcharge funds.

2007 Act 20 Prosecutors. Direct DOA's Office of Justice Assistance (OJA) to provide federal Byrne funding as follows: (a) \$82,700 FED in 2009-10 and \$84,400 FED in 2010-11 for a 1.0 prosecutor position in St. Croix County; and (b) \$24,750 in 2009-10 and \$25,400 in 2010-11 for a 0.25 prosecutor position in Chippewa County.

MEG Prosecutors. Direct OJA and the Department of Justice (DOJ) to provide federal Byrne and state penalty surcharge funding as follows: (a) \$153,250 in 2009-10 and \$158,250 in 2010-11 to fully fund the 2.0 MEG prosecutors in Milwaukee County; and (b) \$85,000 in 2009-10 and \$87,500 in 2010-11 to fully fund the 0.75 MEG prosecutor in Dane County. The Department of Administration would retain the discretion to determine the split in Byrne and penalty surcharge dollars to fund these positions. Since the 1.0 MEG prosecutor in St. Croix County is solely funded from penalty surcharge dollars appropriated to DOJ, direct DOJ to provide \$103,000 in 2009-10 and \$106,000 in 2010-11, to fully fund this position.

All of the above positions are currently authorized prosecutor positions. This nonstatutory language specifies the 2009-11 funding for these positions.

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.

[Act 28 Sections: 9113(1) thru (5)]

7. ASSISTANT DISTRICT ATTORNEY COMPENSATION

Joint Finance: Create a PR continuing appropriation to receive amounts transferred from the Department of Justice to increase compensation for assistant district attorneys. Beginning in 2010-11, the Attorney General would be required to allocate \$1 million annually between the DA function and the Office of the State Public Defender (SPD) to increase compensation for assistant district attorneys and assistant state public defenders. The provision would take effect July 1, 2010. See "Justice" for additional information.

Assembly/Legislature: Beginning in 2010-11, provide that the Attorney General may, but is not required to, transfer up to \$1 million annually to the DA function and to the SPD to increase compensation for assistant district attorneys and assistant state public defenders.

Veto by Governor [A-9]: Delete provision.

[Act 28 Vetoed Sections: 174 (as it relates to 20.475(1)(kb)), 542m, 3400s, 3400v, and 9413(1u)]

8. PUBLIC BENEFITS FEES FOR DISTRICT ATTORNEYS

GPR	- \$18,279,400
SEG	<u>18,279,400</u>
Total	\$0

Senate/Legislature: Specify that the additional public utility assessments for the public benefits fund be used for salaries and fringe benefits for district attorney offices rather than Wisconsin Works. Provide \$9,139,700 SEG annually and reduce funding by \$9,139,700 GPR annually for salaries and fringe benefits for district attorney offices. Create a new segregated salaries and fringe benefits appropriation funded from the public benefits fund. Delete this appropriation on June 30, 2011, and for purposes of establishing the 2011-13 biennial budget, require the Department of Administration to consider base level funding for district attorneys as \$9,139,700 GPR higher than the amounts in the schedule.

Under Joint Finance, the Department of Administration would be required to ensure that electric utilities charge customers an additional \$9,139,700 SEG-REV annually for deposit into the public benefits fund for maintenance of effort in the Wisconsin Works program. The Department would include in its calculation of low-income assistance fees the collection of this additional amount. These additional fees would not be subject to the current caps, which specify that a customer may not be assessed more than the lesser of 3% or \$750 per monthly bill. The fee applies only for the 2009-11 biennium.

[Act 28 Sections: 542p, 542s, 9113(6x), and 9413(2x)]

EDUCATIONAL COMMUNICATIONS BOARD

Budget Summary							
Fund	2008-09 Base Year Doubled	2009-11 Governor	2009-11 Jt. Finance	2009-11 Legislature	2009-11 Act 28	Act 28 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$16,068,800	\$16,070,100	\$15,790,900	\$15,790,900	\$15,790,900	-\$277,900	- 1.7%
FED	2,343,600	2,343,600	2,343,600	2,343,600	2,343,600	0	0.0
PR	<u>17,932,000</u>	<u>19,266,800</u>	<u>19,427,000</u>	<u>19,427,000</u>	<u>19,427,000</u>	<u>1,495,000</u>	8.3
TOTAL	\$36,344,400	\$37,680,500	\$37,561,500	\$37,561,500	\$37,561,500	\$1,217,100	3.3%

FTE Position Summary						
Fund	2008-09 Base	2010-11 Governor	2010-11 Jt. Finance	2010-11 Legislature	2010-11 Act 28	Act 28 Change
						Over 2008-09 Base
GPR	37.44	37.44	37.44	37.44	37.44	0.00
FED	0.00	0.00	0.00	0.00	0.00	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>
TOTAL	62.18	62.18	62.18	62.18	62.18	0.00

Budget Change Items

1. STANDARD BUDGET ADJUSTMENTS

GPR	\$358,400
PR	<u>109,400</u>
Total	\$467,800

Governor/Legislature: Adjust the base budget by \$179,200 GPR and \$54,700 PR annually for: (a) full funding of salaries and fringe benefits (\$95,400 GPR and \$83,000 PR); (b) overtime (\$66,100 GPR and \$10,900 PR); (c) night and weekend differential (\$7,800 GPR and \$3,000 PR); and (d) full funding of leases (\$9,900 GPR and -\$42,200 PR).

2. ELIMINATE 2% GENERAL WAGE ADJUSTMENT

GPR	- \$104,200
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Joint Finance/Legislature: Delete \$52,100 annually relating to the roll-back of 2% general wage adjustments that were scheduled to take effect on June 7, 2009.

3. STATE EMPLOYEE FURLOUGH

GPR	- \$159,800
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Joint Finance/Legislature: Delete \$79,900 annually relating to the requirement that state employees take eight days of unpaid annual leave (furlough) in each year of the 2009-11 biennium.

4. ACROSS-THE-BOARD 1% REDUCTIONS

GPR	- \$112,800
PR	- 3,000
Total	- \$115,800

Governor/Legislature: Delete \$56,400 GPR and \$1,500 PR annually as part of an across-the-board 1% reduction of most non-federal appropriations. These reductions are shown by appropriation below.

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
GPR	General program operations	\$3,371,700	-\$33,700
GPR	Energy costs	790,800	-7,900
GPR	Milwaukee Area Technical College	250,800	-2,500
GPR	Transmitter operation	19,000	-200
GPR	Programming	1,212,200	-12,100
PR	Emergency weather warning system	154,400	-1,500

5. ADDITIONAL BASE BUDGET REDUCTIONS [LFB Paper 175]

	<u>Governor (Chg. to Base)</u>	<u>Jt. Finance/Leg. (Chg. to Gov)</u>	<u>Net Change</u>
GPR	- \$736,200	\$485,400	- \$250,800

Governor: Delete \$368,100 GPR annually from certain non-federal appropriations. The reductions are shown by appropriation below. The appropriation for the Milwaukee Area Technical College (MATC) allows the Educational Communications Board (ECB) to contract with MATC to broadcast educational television programming in the Milwaukee area. ECB does not operate any television stations in the Milwaukee area.

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
GPR	General program operations	\$3,371,700	-\$294,000
GPR	Milwaukee Area Technical College	250,800	-12,500
GPR	Transmitter operation	19,000	-1,000
GPR	Programming	1,212,200	-60,600

Joint Finance/Legislature: Restore the base budget reductions made under this item to the appropriations for the Milwaukee Area Technical College (\$12,500 annually), transmitter operation (\$1,000 annually), and programming (\$60,600 annually). Partially restore the reduction to the general program operations appropriation by increasing that appropriation by

\$168,600 annually.

6. AGENCY 5.135% BUDGET REDUCTIONS

GPR	- \$579,600
PR	<u>- 15,800</u>
Total	- \$595,400

Joint Finance/Legislature: Delete \$297,700 annually relating to increased agency across-the-board reductions. The reductions are generally equivalent to 5.135% of base level funding. The reductions include \$289,800 GPR and \$7,900 PR. Annual reduction amounts would be as follows:

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
GPR	General program operations	\$3,371,700	-\$173,100
GPR	Energy costs	790,800	-40,600
GPR	Milwaukee Area Technical College	250,800	-12,900
GPR	Transmitter operation	19,000	-1,000
GPR	Programming	1,212,200	-62,200
PR	Emergency weather warning system	154,400	-7,900

7. REESTIMATE DEBT SERVICE

GPR	\$558,900
PR	<u>400</u>
Total	\$559,300

Governor/Legislature: Reestimate debt service costs by \$236,700 GPR in 2009-10 and \$322,200 GPR in 2010-11 and \$200 PR annually. Annual base level funding for debt service is \$2,389,900 GPR and \$13,300 PR.

8. ENERGY COSTS [LFB Paper 175]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	- \$67,000	\$79,000	\$12,000

Governor: Delete \$46,600 in 2009-10 and \$20,400 in 2010-11 from the appropriation for energy costs. These reductions are the sum of increases made to the appropriation to reestimate costs (\$92,900 in 2009-10 and \$119,100 in 2010-11) and base budget reductions (-\$139,500 annually) made in addition to the across-the-board 1% reduction that is shown separately. Adjusted base level funding for energy costs is \$790,800 in 2008-09.

Joint Finance/Legislature: Increase the appropriation by \$39,500 annually to partially restore the base budget reduction that was made in addition to the 1% across-the-board reduction.

9. GIFTS, GRANTS, AND CONTRACTS [LFB Paper 174]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
PR	\$1,228,000	\$176,000	\$1,404,000

Governor: Provide \$614,000 annually for gifts, grants, contracts, leases, instructional materials, and copyrights. This amount is the sum of a reestimate of the appropriation (\$702,000 annually) and a 1% base reduction (-\$88,000 annually). Base level funding for this appropriation is \$8,798,300. This appropriation is an all moneys received appropriation, which means that the ECB can expend all funds credited to this appropriation regardless of the amount shown in the appropriation schedule.

Joint Finance/Legislature: Restore the 1% reduction (\$88,000 annually) to ECB's appropriation for gifts, grants, contracts, leases, instructional materials, and copyrights. Under Joint Finance, all gifts and grants appropriations affected by the 1% reduction were restored.

10. REALLOCATE GPR POSITION AND FUNDING

Governor/Legislature: Transfer 0.5 GPR position with \$33,700 of annual GPR funding from the programming appropriation to the general program operations appropriation. This would reflect a shift in the duties of the position from print promotions to web-based promotional activities.

EMPLOYEE TRUST FUNDS

Budget Summary							
Fund	2008-09 Base Year Doubled	2009-11 Governor	2009-11 Jt. Finance	2009-11 Legislature	2009-11 Act 28	Act 28 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$2,125,800	\$1,512,700	\$1,515,600	\$1,515,600	\$1,515,600	-\$610,200	- 28.7%
SEG	<u>52,060,600</u>	<u>54,411,000</u>	<u>53,056,600</u>	<u>53,056,600</u>	<u>53,056,600</u>	<u>996,000</u>	1.9
TOTAL	\$54,186,400	\$55,923,700	\$54,572,200	\$54,572,200	\$54,572,200	\$385,800	0.7%

FTE Position Summary						
Fund	2008-09 Base	2010-11 Governor	2010-11 Jt. Finance	2010-11 Legislature	2010-11 Act 28	Act 28 Change Over 2008-09 Base
SEG	220.80	224.70	224.70	224.70	224.70	3.90

Budget Change Items

1. STANDARD BUDGET ADJUSTMENTS

	Funding	Positions
SEG	\$241,200	- 8.10

Governor/Legislature: Provide standard adjustments to the base budget totaling \$120,600 and -8.1 project positions annually. Adjustments are for: (a) turnover reduction (-\$333,400 annually); (b) removal of noncontinuing elements from base (-\$434,700 and -8.1 project positions annually); (c) full funding of continuing salaries and fringe benefits (\$621,000 annually); (d) overtime (\$46,900 annually); (e) night and weekend differential (\$74,400 annually); and (f) full funding of lease costs and directed moves (\$146,400 annually).

2. ACROSS-THE-BOARD 1% REDUCTIONS

SEG	-\$520,600
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Governor/Legislature: Delete \$260,300 annually, as part of an across-the-board 1% reduction in most non-federal appropriations. The reductions, by appropriation, are shown below:

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
SEG	Automated operating system	\$645,200	-\$6,500*
SEG	Benefit administration	5,000	-100
SEG	Health insurance data collection & analysis	903,600	-8,900*
SEG	Administration	24,476,500	-244,800*

*Due to other budget items, the final funding level for this appropriation does not represent a 1% reduction.

3. ELIMINATE 2% GENERAL WAGE ADJUSTMENT

SEG	- \$534,800
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Joint Finance/Legislature: Delete \$267,400 annually relating to the roll-back of 2% general wage adjustments that were scheduled to take effect on June 7, 2009.

4. STATE EMPLOYEE FURLOUGH

SEG	- \$819,600
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Joint Finance/Legislature: Delete \$409,800 annually relating to the requirement that state employees take eight days of unpaid annual leave (furlough) in each year of the 2009-11 biennium.

5. CUSTOMER SERVICE FUNCTIONS [LFB Paper 320]

	Funding	Positions
SEG	\$2,629,800	12.00

Governor: Provide \$946,400 and 6.0 positions in 2009-10 and \$1,683,400 and 12.0 positions in 2010-11 for customer service functions. The position authorization would include 4.0 trust fund specialist positions and 2.0 information systems development specialist positions in 2009-10 and 8.0 trust fund specialist positions and 4.0 information systems development specialist positions in 2010-11.

The funding and position increases are intended to address 2009-11 workload projections. Demographic trends for the Wisconsin Retirement System (WRS) indicate, for the next biennium and beyond, increases in the number of WRS participants eligible to retire, actually retiring, and relying on post-retirement services from ETF. Of the requested funding, \$326,000 in 2009-10 and \$828,600 in 2010-11 relates to salary and fringe benefit costs for the positions provided under the bill. The remaining funding, \$620,400 in 2009-10 and \$854,800 in 2010-11, represents supplies and services costs for the following purposes: (a) staff-related space and startup costs of \$90,700 in 2009-10 and \$119,700 in 2010-11; and (b) increased costs due to inflation and WRS participant growth, totaling \$529,700 in 2009-10 and \$735,100 in 2010-11.

Joint Finance/Legislature: Approve the Governor's recommendation to provide \$946,400 SEG and 6.0 SEG positions in 2009-10 and \$1,683,400 SEG and 12.0 SEG positions in 2010-11 for customer service functions. In addition, place \$798,600 SEG in 2009-10 and \$1,493,800 SEG in 2010-11 of public employee trust funds in the Joint Committee on Finance supplemental appropriation account for segregated funds general program supplementation to address further agency funding and position authority needs in the 2009-11 biennium. Provide that a

supplementation request under s. 13.10 of the statutes include a methodology, developed by the Secretary of ETF, for determining the number of authorized positions the Department needs to exercise its powers and perform its duties under law. Provide that, if the Secretary intends to request an increase in authorized positions beyond the number derived from the methodology, the ETF Board would be required to approve the request to the Committee.

[Act 28 Section: 9115(1x)]

6. RETIRED EMPLOYEES BENEFIT SUPPLEMENT REESTIMATE [LFB Paper 321]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	- \$613,100	\$2,900	- \$610,200

Governor: Reduce funding by \$220,700 in 2009-10 and \$392,400 in 2010-11 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. Base level funding for the appropriation is \$1,032,900.

Joint Finance/Legislature: Provide \$1,800 in 2009-10 and \$1,100 in 2010-11 to reflect a reestimate of the benefit supplements.

7. AUTHORITY TO CREATE OR ABOLISH POSITIONS

Governor: Specify that the Secretary of ETF be provided the authority, under a 14-day passive review process, to create or abolish a full-time equivalent position or portion thereof that is funded from revenues deposited in the public employee trust fund by notifying the Governor and the Joint Committee on Finance in writing of his or her proposed action.

Provide that if, within 14 working days after the date of the Secretary’s notification, the Governor does not object to the proposed action and if the Cochairpersons of the Committee do not notify the Secretary that the Committee has scheduled a meeting for the purpose of reviewing the proposed action within 14 working days after the date of the Secretary’s notification, the position changes may be made as proposed by the Secretary. If the Governor objects to the proposed action within 14 working days after the date of the Secretary’s notification or the Cochairpersons notify the Secretary that the Committee has scheduled a meeting for the purpose of reviewing the proposed action, the position changes may be made only upon approval of the Committee. Provide that if a full-time equivalent position or a portion of a position is created under these procedures, the appropriation used to pay salary and fringe benefit costs for the position would be supplemented from the trust funds to cover the salary and fringe benefit costs for the position. Require the Secretary to submit a quarterly report to the ETF Board, the Governor, and the Committee of any position changes made under

these procedures.

Under current law, with certain exceptions, no position, regardless of funding source or type, may be created or abolished unless authorized by the Legislature by law or in budget determinations, by the Joint committee on Finance under s. 13.10 of the statutes, or by the Governor with respect to federally funded positions. The exceptions include changes in the authorized level of program revenue positions approved through a 14-day passive review process and the creation and abolition of certain positions by the Board of Regents of the University of Wisconsin System and the University of Wisconsin Hospitals and Clinics Board.

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

8. DOMESTIC PARTNER RETIREMENT AND GROUP INSURANCE BENEFITS [LFB Paper 324]

Governor: Provide that domestic partners be treated in the same manner as spouses with respect to: (a) all pension benefits provided to public employees participating in the WRS; and (b) benefits provided to state employees and certain local government employees participating in ETF group insurance programs. For the purposes of the WRS and state employee benefits (Chapter 40 of the statutes), define domestic partner as an individual in a domestic partnership. Define domestic partnership as a relationship between two individuals that satisfies all of the following criteria: (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. This definition of a domestic partnership would include both same-sex and opposite-sex domestic partners. [Note: the bill also includes other provisions for the establishment of same-sex domestic partnerships and related rights and benefits. The summary of these provisions is included under "General Provisions."]

With respect to the WRS and group insurance benefits, the bill would: (a) modify the definitions of alternative payee, beneficiary, and dependent to include a domestic partner; (b) provide that eligibility for survivor rights to group health insurance coverage would include domestic partners; (c) provide a domestic partner with the same beneficiary rights as a spouse as they pertain to retirement annuities and annuity options; (d) include a domestic partner in provisions relating to benefit abandonment and benefits paid to minors and individuals found incompetent; (e) provide that a domestic partner would receive the same treatment a spouse under current law provisions relating to health insurance benefits, the regular and supplemental accumulated sick leave conversion credit program, long-term care insurance, and duty disability program benefits applicable to protective occupation participants; and (f) provide that an assignment of all or part of a participant's accumulated assets held in a deferred compensation plan under a domestic relations order may be made to a domestic partner to satisfy a family support or marital property obligation.

Provide that the treatment of the domestic partnership status under the bill would first apply to coverage under group insurance plans offered by the Group Insurance Board on January 1, 2011. Although no funding is provided under the bill, the provision of group health insurance to domestic partners would have a fiscal effect for the state. Further, the provisions relating to pension beneficiary rights could affect the level of benefits provided under the WRS, creating an actuarial cost for the system.

Joint Finance/Legislature: Adopt the Governor's recommendation with the following modifications:

Modify the effective dates of the provisions, as follows: (a) provide that the provisions under the bill relating to Chapter 40 beneficiary rights of domestic partners (including the provisions relating to long-term care insurance, deferred compensation, and duty disability) first take effect on January 1, 2010, to provide the Department adequate time to properly implement the changes; and (b) modify the initial applicability of the provision in the bill to provide that domestic partner benefits would first apply to coverage under group insurance plans offered by the Group Insurance Board on January 1, 2010, unless the effective date of the bill is on or later than August 1, 2009, in which case the domestic partner benefits would first apply to coverage under group insurance plans offered by the Group Insurance Board on January 1, 2011.

Provide that, for enrollment of domestic partners in the group insurance plans offered by the Group Insurance Board, an affidavit be required to attest to the fact that the individuals meet the requirements of a domestic partnership as required by law. Require that employing agencies obtain the affidavit at the time of initial enrollment for health insurance coverage, or when a request is made to change the status of an existing enrollment. Require the timely submission of an affidavit or certification upon the dissolution of a domestic partnership. Authorize the Group Insurance Board to design the appropriate affidavit forms.

Provide that, following a divorce or the termination of a domestic partnership, a six-month waiting period be required before the enrollment of a new spouse or domestic partner in a group insurance plan offered by the Group Insurance Board.

Provide that the following criterion be included as a requirement in the definition of a domestic partnership under Chapter 40 of the statutes: the two individuals share a common residence, even if only one of the individuals has legal ownership of the residence, or one or both of the individuals have one or more additional residences not shared with the other individual, or one of the individuals leaves the common residence with the intent to return.

[Act 28 Sections: 771, 772, 773 thru 775, 776, 793, 794, 797 thru 801m, 802, 804, 806 thru 812, 9315(2j), and 9415(1j)]

9. RETIREMENT ELIGIBILITY FOR EDUCATIONAL SUPPORT PERSONNEL [LFB Paper 322]

Governor: 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. Under current law, an "educational support personnel employee" is defined as any school district employee other than a teacher, librarian, or administrator. To become covered under the WRS, an individual must work for a covered employer at least one-third of what is considered full-time employment, as determined by ETF by rule. For all WRS participants, other than teachers, librarians, and administrators, ETF defines full-time employment to be 1,904 hours per year and one-third employment to be 600 hours per year. This provision currently applies to educational support personnel employees. In contrast, for teachers, librarians, and administrators, ETF defines full-time employment to be 1,320 hours per year and one-third employment to be 440 hours per year. Under the bill, the qualification requirement for coverage under the WRS for educational support personnel employees would be made the same as for teachers, librarians, and administrators. The provision would first apply to those who are participating employees in the WRS on the effective date of the bill. The provision could affect the level of benefits provided under the WRS, creating an actuarial cost for the system.

Joint Finance/Legislature: Approve, with modification, the Governor's recommendation by clarifying the initial applicability language to reflect the Governor's intent that the provision would apply to creditable service performed on or after the effective date of the bill only, and would not have any retroactive effect.

[Act 28 Sections: 795 and 9315(1e)]

10. EARLY RETIREMENT CREDITABLE SERVICE CALCULATIONS FOR CERTAIN PART-TIME EMPLOYEES [LFB Paper 323]

Governor: Modify the determination of creditable service for certain part-time employees for the purpose of calculating actuarial discounts of annuities provided to individuals retiring before reaching normal retirement age (early retirement). Under current law, a participant, other than a teacher, librarian, or administrator, with at least 0.75 of a year of creditable service (1,428 hours) in any annual earnings period must be treated as having one year of creditable service for that annual earnings period. Under the bill, for the purpose of determining the actuarially discounted annuity relating to early retirement only, a participant's amount of creditable service in any annual earnings period would be treated as the amount of creditable service that a teacher, librarian, or administrator would earn for that annual earnings period. Because ETF defines full-time employment to be 1,320 hours per year for a teacher, librarian, or administrator, the bill would reduce the number of hours needed to qualify for a year of creditable service, from 1,428 hours to 1,320 hours per year. The provision would first apply to those who are participating employees in the WRS on the effective date of the bill. The provision could affect the level of benefits provided under the WRS, creating an actuarial cost for the system.

Under current law, to be eligible for this treatment of creditable service, the participant must have earned only a partial year of creditable service in at least five of the ten annual earnings periods immediately preceding the annual earnings period in which the participant

terminated covered employment. Under the bill, this eligibility requirement is unchanged.

Joint Finance/Legislature: Specify that the provision would apply to creditable service performed on or after the effective date of the bill only, and would not have any retroactive effect.

[Act 28 Sections: 796 and 9315(1f)]

11. GROUP INSURANCE PLAN CONSULTING SERVICES

Governor: Provide that the Group Insurance Board (GIB) may contract for consulting services related to plans offered by the GIB. Under current law, the GIB may contract with the Department of Health Services and may contract with other public or private entities for data collection and analysis services related to health maintenance organizations and insurance companies that provide health insurance to state employees. The provision would expand this authority to include contracts for consulting services related to plans offered by the GIB.

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

12. WELLNESS AND DISEASE MANAGEMENT PROGRAMS

Governor: Provide that the Group Insurance Board (GIB) may encourage participation in wellness or disease management programs under any of its group insurance coverage plans. Under current law, with certain exceptions, the GIB may not modify or expand group insurance coverage in a manner that materially affects the level of premiums paid by the state or its employees, or the level of benefits to be provided, under any group insurance coverage plans. The provision would clarify that these restrictions would not prohibit the GIB from encouraging participation in wellness or disease management programs under any of its group insurance coverage plans.

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

13. DEDUCTIONS OF VOLUNTARY PAYMENTS FROM RETIREMENT ANNUITIES

Joint Finance: Require the Secretary of ETF to permit an annuitant who is a member of a retiree organization that is affiliated with an employee organization to have ETF deduct from the annuitant's annuity any monthly voluntary payments for the employee or retiree organization or any other entity affiliated with either organization. Require the Secretary to establish a procedure for deducting monthly voluntary payments and for designating the organizations and affiliated entities eligible to receive the voluntary payments. When remitting deducted voluntary payments to an employee or retiree organization or affiliated entity, the Secretary would be required, for each annuitant from whose annuity voluntary payments are deducted, to provide the employee or retiree organization, or affiliated entity with the annuitant's name, amount of the deduction, and a unique identifier.

Provide that an employee or retiree organization, or affiliated entity eligible to receive voluntary payments may mail printed information and membership materials to annuitants using the following procedure. At the request of an employee or retiree organization, or affiliated entity eligible to receive voluntary payments, require ETF to select a vendor to mail to annuitants any printed information and membership materials for the organization or entity. Require ETF to provide that vendor with a list of names and mailing addresses of all annuitants. Require the Department to identify the total number of annuitants to the organization or entity and require the organization or entity to provide the vendor any printed information and membership materials to mail to the annuitants. Require the organization or entity to pay to the vendor all costs for mailing the printed information and any membership materials. Provide that the vendor may not provide the names or address of any annuitant to any person, including the organization or entity. Provide that, after mailing the printed information and any membership materials to the annuitants, on behalf of the organization or entity, the vendor must return the list of annuitant names and mailing addresses to ETF and may not retain any copies of the list. The effective date of the provisions would be January 1, 2010.

Assembly/Legislature: Delete provision.

14. TREATMENT OF SURVIVOR BENEFITS FOR FEDERAL TAX PURPOSES

Joint Finance: Require ETF, before January 1, 2010, to determine whether survivor benefits under Subchapter VI of Chapter 40 of the statutes are subject to taxation under the Internal Revenue Code, as defined in Chapter 40. Require the Department to ensure that survivor benefits are reported to the Internal Revenue Service in a manner that does not result in an erroneous tax liability for the recipient of the survivor benefits.

Assembly/Legislature: Delete provision.

15. EMPLOYEE TRUST FUNDS ACTUARIAL STUDY

Assembly: Provide \$5,000 GPR in 2009-10 to the Department of Employee Trust Funds (ETF) and require ETF to contract for an actuarial study of the impact on the Wisconsin Retirement System (WRS) of increasing the initial amount of the normal form annuity from 65% of final average earnings to 70% of final average earnings for protective occupation participants who receive social security benefits. Create a GPR appropriation account under ETF for this purpose. Repeal the appropriation account effective July 1, 2010.

Senate/Legislature: Delete provision. Instead, create an identical provision except funded under the Legislature.

16. TREATMENT OF EARNINGS AFFECTED BY STATE EMPLOYEE UNPAID LEAVE FOR RETIREMENT SYSTEM PURPOSES

Conference Committee/Legislature: Provide that, for Wisconsin Retirement System

(WRS) purposes only, the earnings of a state employee, including a University of Wisconsin System employee, would include compensation that would have been payable to the participant at the participant's rate of pay immediately prior to the beginning of any mandatory, temporary reduction of work hours or days ordered by the State of Wisconsin during the period July 1, 2009, through June 30, 2011, for service that would have been rendered by the participant during that period if the mandatory, temporary reduction of work hours or days had not been ordered. Require that WRS contributions on earnings considered to be received under this provision ("deemed earnings") must be paid as required by law. Allow the deemed earnings under this provision to be considered in the calculation of final average earnings for WRS purposes. Include in the definition of creditable service the service for which a participating employee is considered to have received deemed earnings and for which contributions have been made as required by law.

[Act 28 Sections: 772r, 775h, and 779d]

EMPLOYMENT RELATIONS COMMISSION

Budget Summary							
Fund	2008-09 Base Year Doubled	2009-11 Governor	2009-11 Jt. Finance	2009-11 Legislature	2009-11 Act 28	Act 28 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$5,295,800	\$5,418,200	\$4,945,400	\$4,945,400	\$4,945,400	-\$350,400	- 6.6%
PR	<u>1,222,200</u>	<u>1,217,800</u>	<u>1,109,600</u>	<u>1,109,600</u>	<u>1,109,600</u>	<u>- 112,600</u>	- 9.2
TOTAL	\$6,518,000	\$6,636,000	\$6,055,000	\$6,055,000	\$6,055,000	-\$463,000	- 7.1%

FTE Position Summary						
Fund	2008-09 Base	2010-11 Governor	2010-11 Jt. Finance	2010-11 Legislature	2010-11 Act 28	Act 28 Change
						Over 2008-09 Base
GPR	19.00	21.00	21.00	21.00	21.00	2.00
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>
TOTAL	24.00	26.00	26.00	26.00	26.00	2.00

Budget Change Items

1. STANDARD BUDGET ADJUSTMENTS

GPR	\$78,000
PR	<u>7,800</u>
Total	\$85,800

Governor/Legislature: Provide standard adjustments to the base budget of \$39,000 GPR and \$3,900 PR annually. Adjustments are for:

- (a) full funding of continuing salaries and fringe benefits (\$29,600 GPR and \$3,900 PR annually); and (b) full funding of lease costs and directed moves (\$9,400 GPR annually).

2. ACROSS-THE-BOARD 1% REDUCTIONS

GPR	- \$53,000
PR	<u>- 12,200</u>
Total	-\$65,200

Governor/Legislature: Delete \$26,500 GPR and \$6,100 PR annually, as part of an across-the-board 1% reduction in most non-federal appropriations. The reductions, by appropriation, are shown below:

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
GPR	General program operations	\$2,647,900	-\$26,500*
PR	Fees, collective bargaining, publications	611,100	-6,100*

*Due to other budget items, the final funding level for this appropriation does not represent a 1% reduction.

3. ADDITIONAL AGENCY REDUCTION

GPR	- \$97,600
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Governor/Legislature: Delete \$48,800 in supplies and services funding annually from the agency's general program operations appropriation.

4. ELIMINATE 2% GENERAL WAGE ADJUSTMENT

Joint Finance/Legislature: Delete \$48,600 (all funds) annually relating to the roll-back of 2% general wage adjustments that were scheduled to take effect on June 7, 2009. The reductions include \$39,600 GPR, and \$9,000 PR annually.

GPR	- \$79,200
PR	- 18,000
Total	- \$97,200

5. STATE EMPLOYEE FURLOUGH

Joint Finance/Legislature: Delete \$74,500 (all funds) annually relating to the requirement that state employees take eight days of unpaid annual leave (furlough) in each year of the 2009-11 biennium. The reductions include \$60,800 GPR, and \$13,700 PR annually.

GPR	- \$121,600
PR	- 27,400
Total	- \$149,000

6. AGENCY 5.135% BUDGET REDUCTIONS

Joint Finance/Legislature: Delete \$167,400 (all funds) annually relating to increased agency across-the-board reductions. The reductions are generally equivalent to 5.135% of base level funding. The reductions include \$136,000 GPR and \$31,400 PR. Annual reductions amounts would be as follows:

GPR	- \$272,000
PR	- 62,800
Total	- \$334,800

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
GPR	General program operations	\$2,647,900	-\$136,000
PR	Fees, collective bargaining training, publications, and appeals	611,100	-31,400

7. INCREASED COMMISSION ATTORNEY STAFFING [LFB Paper 330]

	<u>Funding</u>	<u>Positions</u>
GPR	\$195,000	2.00

Governor/Legislature: Provide \$195,000 and 2.0 attorney positions in 2010-11 for increased staffing at the Commission. According to the Executive Budget Book, funding and positions are associated with the Governor's recommendation to

repeal current statutory provisions relating to the qualified economic offer.

8. REPEAL QEO PROVISIONS [LFB Paper 330]

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 (with certain exceptions under other provisions in the bill) 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.

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, 2009, and that are filed for interest arbitration on the effective date of the bill.

Joint Finance: Provide that the provisions to repeal the qualified economic offer and salary and fringe benefits limitations on nonrepresented personnel, and the initial applicability specifications for these provisions, be effective July 1, 2010. Provide that, if a collective

bargaining unit containing school district employees, and a school district are deadlocked in a dispute over a collective bargaining agreement that is to begin on or after July 1, 2009, and the dispute is over wages, hours, or conditions of employment, WERC may not initiate compulsory, final, and binding arbitration unless the parties to the dispute jointly petition the Commission in writing. Provide that this requirement does not apply after July 1, 2010.

Senate/Legislature: Restore the Governor's language regarding repeal of the QEO, under which the repeal would first apply on the effective date of the bill.

[Act 28 Sections: 2221 thru 2223, 2224, 2225, 2227 thru 2229, 2233 thru 2239, 2264, 2297, and 9316(1x)&(2j)]

9. DURATION OF COLLECTIVE BARGAINING AGREEMENTS FOR SCHOOL DISTRICT EMPLOYEES [LFB Paper 331]

Governor: 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. Allow a collective bargaining agreement for any collective bargaining unit consisting of school district employees to be for a term of up to four years. Under current law, collective bargaining agreements covering other municipal employees, if mutually agreed to, may not exceed three years.

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, 2009, and that are filed for interest arbitration on the effective date of the bill.

Joint Finance: Specify that the provisions would first apply to collective bargaining agreements entered into, extended, modified, or renewed, whichever occurs first, on the effective date of the bill, rather than to petitions for arbitration that relate to collective bargaining agreements that cover periods beginning on or after July 1, 2009, and that are filed for interest arbitration on the effective date of the bill.

Senate/Legislature: Modify a current law provision relating to prohibited practices for municipal employers to reflect the term of up to four years for school district employee collective bargaining agreements.

[Act 28 Sections: 2221, 2225, 2225f, 2233, 2234, 2237, and 9316(2j)]

10. COMBINING COLLECTIVE BARGAINING UNITS OF SCHOOL DISTRICT EMPLOYEES [LFB Paper 331]

Governor: Provide that professional and nonprofessional employees of a school district could be combined into a single collective bargaining unit, if a majority of the professional employees vote for inclusion. Require the Commission to combine two or more collective bargaining units consisting of school district employees into a single unit if a majority of the

employees voting in each unit vote to combine upon the expiration of any collective bargaining agreement in force. 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, 2009, and that are filed for interest arbitration on the effective date of the provisions.

Under current law, subject to certain statutory provisions, WERC is authorized to determine an appropriate collective bargaining unit for the purpose of bargaining and may provide an opportunity for municipal employees concerned to determine, by secret ballot, whether or not they desire to be established as a separate collective bargaining unit. However, a collective bargaining unit is defined under the Municipal Employment Relations Act (MERA) as a unit consisting of municipal employees who are school district professional employees or of municipal employees who are not school district professional employees that is determined by WERC to be appropriate for the purpose of collective bargaining. Further, MERA prohibits WERC from deciding that any group of municipal employees constitutes an appropriate collective bargaining unit if the group includes both municipal employees who are school district professional employees and municipal employees who are not school district professional employees.

Joint Finance/Legislature: Specify that the provision would first apply to collective bargaining agreements entered into, extended, modified, or renewed, whichever occurs first, on the effective date of the bill, rather than to petitions for arbitration that relate to collective bargaining agreements that cover periods beginning on or after July 1, 2009, and that are filed for interest arbitration on the effective date of the provisions.

[Act 28 Sections: 2221, 2238, and 9316(2j)]

11. WEIGHTING OF FACTORS CONSIDERED IN ARBITRATION AWARDS FOR SCHOOL DISTRICT EMPLOYEES [LFB Paper 331]

Governor: Modify the weighting of the factors that must be considered by an arbitrator or arbitration panel in rendering arbitration awards involving school district employees. Exempt decisions involving a collective bargaining unit consisting of school district employees from the current law provisions specifying that an arbitrator: (a) give greatest weight 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, and (b) give greater weight to economic conditions in the jurisdiction of the municipal employer. Under the bill, the greatest and greater weights would continue to apply to decisions involving collective bargaining units for other general municipal employees who are not school district employees, and the other current law weighting factors would still apply to decisions involving any municipal employees, including school district employees.

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, 2009, and that are filed on the effective date of the bill.

Under current law, an arbitrator must give greatest weight to the revenue or expenditure limit factor, while the economic conditions factor must be given greater weight. After giving consideration to the factors described above that must be accorded greatest and greater weight, an arbitrator 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. 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/Legislature: Specify that the provisions would first apply to collective bargaining agreements entered into, extended, modified, or renewed, whichever occurs first, on the effective date of the bill, rather than to petitions for arbitration that relate to collective bargaining agreements that cover periods on or after July 1, 2009, and that are filed on the effective date of the bill.

[Act 28 Sections: 2226, 2230 thru 2232, and 9316(2j)]

12. TECHNICAL CORRECTION TO DEFINITION OF COLLECTIVE BARGAINING

Governor/Legislature: Under the statutory definition of collective bargaining, add a cross reference to a prohibited subjects of bargaining provision under current law pertaining to certain police and fire fighters. The addition of the cross reference is a technical correction to the statutes and does not affect collective bargaining rights or procedures.

[Act 28 Section: 2220]

13. ADDITIONAL ARBITRATION WEIGHT FACTOR

Senate: Provide that the following factor be added to the "other factors" that must be considered by an arbitrator or arbitration panel in rendering arbitration awards involving municipal employers and employees, including school districts employers and employees: Any funding limitation, funding authority, or funding source when raised by the parties in the arbitration.

Conference Committee/Legislature: Delete provision.

14. FUND BALANCES NOT TO BE WEIGHTED IN SCHOOL DISTRICT ARBITRATION DECISIONS

Senate: Specify that an arbitrator or arbitration panel may not give weight to accumulated fund balances in an arbitration decision involving a collective bargaining unit consisting of school district employees. Provide that if the decision is in the favor of the labor union, the employer may not use any accumulated fund balance for employee salaries or fringe benefits.

Conference Committee/Legislature: Delete provision.

ENVIRONMENTAL IMPROVEMENT FUND

Budget Summary							
Fund	2008-09 Base Year Doubled	2009-11 Governor	2009-11 Jt. Finance	2009-11 Legislature	2009-11 Act 28	Act 28 Change Over <u>Base Year Doubled</u>	
						Amount	Percent
GPR	\$98,800,600	\$100,759,200	\$94,759,200	\$94,759,200	\$94,759,200	-\$4,041,400	- 4.1%
SEG	<u>12,000,000</u>	<u>18,000,000</u>	<u>169,635,000</u>	<u>169,635,000</u>	<u>169,635,000</u>	<u>157,635,000</u>	1,313.6
TOTAL	\$110,800,600	\$118,759,200	\$264,394,200	\$264,394,200	\$264,394,200	\$153,593,600	138.6%
BR		\$504,700,000	\$465,600,000	\$465,600,000	\$465,600,000		

FTE Position Summary
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 340]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
BR	\$504,700,000	-\$39,100,000	\$465,600,000
SEG	\$0	\$145,635,000	\$145,635,000

Governor: Provide an increase in bonding authority of \$504,700,000 for the environmental improvement fund. This includes \$85,900,000 in general obligation and \$418,800,000 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 and safe drinking water loan programs.

In addition, specify that the state may not obligate, in 2009-10 and 2010-11, a total amount exceeding the current level of \$697,643,200 for the clean water fund program unless DOA first takes into account any federal economic stimulus funds received by the state pursuant to federal legislation enacted during the 111th Congress for the purpose of reviving the economy of the United States.

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.

Joint Finance/Legislature: Approve the Governor's recommendation, as modified to: (a) provide an additional \$2,900,000 in clean water fund general obligation bonding authority; (b) decrease the amount of clean water fund revenue obligation bonding authority by \$39,600,000; and (c) decrease the amount of safe drinking water loan program general obligation bonding authority by \$2,400,000. The bonding authority amounts are shown in the table. The bonding authority changes reflect: (a) providing a project interest rate of 60% of the market rate (instead of the previous 55% of market rate, or the 70% recommended by the Governor); (b) estimating a 5.5% revenue market interest rate instead of the 6.0% estimated by the administration ((a) and (b) combine to provide an increase of \$15.4 million in general obligation bonding authority over the bill); (c) providing \$14.8 million in clean water fund bonding authority (\$1.6 million general obligation and \$13.2 million revenue obligation) to reflect the additional general obligation bond debt service paid by loan repayments; and (d) decreasing clean water fund bonding authority by \$66.9 million (\$14.1 million general obligation and \$52.8 million revenue obligation) to reflect additional federal funds for the clean water fund program.

In addition, reflect anticipated federal stimulus funds of \$107,593,000 SEG clean water fund financial assistance in 2009-10, and \$38,042,000 SEG safe drinking water loan fund financial assistance in 2009-10.

Environmental Improvement Fund (EIF) Bonding Authority

	<u>Prior Total</u>	<u>Governor Change</u>	<u>Legislature Change</u>	<u>Total Act 28</u>
Clean water fund -- general obligation	\$697,643,200	\$76,500,000	\$2,900,000	\$777,043,200
Clean water fund -- revenue obligation	1,984,100,000	418,800,000	-39,600,000	2,363,300,000
Safe drinking water -- general obligation	<u>38,400,000</u>	<u>9,400,000</u>	<u>-2,400,000</u>	<u>45,400,000</u>
Total	\$2,720,143,200	\$504,700,000	-\$39,100,000	\$3,185,743,200

[Act 28 Sections: 642, 643, 2587, and 9137(1)]

2. PRESENT VALUE SUBSIDY LIMIT [LFB Paper 340]

Governor: Provide a "present value subsidy limit" totaling \$135.1 million for the environmental improvement fund. The subsidy limit represents the estimated state cost, in 2009 dollars, to provide 20 years of subsidy for the projects that would be funded in the 2009-11 biennium.

Joint Finance/Legislature: Provide a present value subsidy limit totaling \$155.2 million, as shown in the table.

EIF Present Value Subsidy Limit

	<u>Authorized 2007-09</u>	<u>Governor 2009-11</u>	<u>Act 28 2009-11</u>
Clean water fund program	\$114,700,000	\$114,800,000	\$134,900,000
Safe drinking water loan program	13,400,000	17,600,000	17,600,000
Land recycling loan program	<u>2,700,000</u>	<u>2,700,000</u>	<u>2,700,000</u>
Total	\$130,800,000	\$135,100,000	\$155,200,000

[Act 28 Sections: 2581 thru 2586]

3. ENVIRONMENTAL IMPROVEMENT FUND DEBT SERVICE [LFB Paper 180]

GPR	\$7,958,600
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Governor/Legislature: Provide \$143,900 in 2009-10 and \$7,814,700 in 2010-11 for estimated debt service costs for general obligation bonds. This would include: (a) \$107,800 in 2009-10 and \$7,629,300 in 2010-11 for clean water fund program debt service; and (b) \$36,100 in 2009-10 and \$185,400 in 2010-11 for safe drinking water loan program debt service.

GPR debt service payments from 2007-08 through 2010-11 are shown in the following table. Currently, 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>
2007-08 Actual	\$39,780,200	\$2,539,400	\$42,319,600
2008-09 Base Budget	46,484,500	2,915,800	49,400,300
2009-10 Budgeted	46,592,300	2,951,900	49,544,200
2010-11 Budgeted	54,113,800	3,101,200	57,215,000

4. CONVERT DEBT SERVICE FROM GPR TO SEG [LFB Paper 341]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	-\$6,000,000	-\$6,000,000	-\$12,000,000
SEG	<u>6,000,000</u>	<u>6,000,000</u>	<u>12,000,000</u>
Total	\$0	\$0	\$0

Governor: Convert \$3,000,000 annually from GPR to environmental improvement fund SEG to increase, from \$6 million to \$9 million, the amount of clean water fund program general obligation bond debt service paid by loan repayments received from municipalities from loans that were originally provided from the proceeds of general obligation bonds. While short-term GPR debt service costs would decrease, the long-term effect would be to increase the need for future issuance of general obligation bonds and revenue bonds because loan repayments would be used for debt service instead of clean water fund program loans.

Joint Finance/Legislature: Approve the Governor's recommendation, and convert an additional \$6,000,000 from GPR to SEG, on a one-time basis in 2009-10.

5. REDUCE CLEAN WATER FUND INTEREST RATE SUBSIDY [LFB Paper 340]

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 4.85%, with loans for 55% of the market rate currently provided at 2.668%, and loans for 70% of market currently provided at 3.395%. The change in the subsidy rate would first apply on the effective date of the budget act. Clean water fund program financial assistance agreements signed after that date would be subject to the higher interest rate.

Based on the October, 2008, 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 \$39.5 million in the need for general obligation bonding authority, and a reduction of \$51.5 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 2009-11 biennium would be expected to decrease by approximately \$51.5 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: Provide an interest rate subsidy for most clean water fund program projects at 60% of the market rate, instead of the previous 55%, or the 70% of the market rate recommended by the Governor. In addition, clarify that the interest rate for compliance maintenance projects and new or changed limits projects for which present value subsidy is allocated for a biennium before 2009-11 would be 55% of the market rate, and the interest rate for these projects for which the subsidy limit is allocated for 2009-11 and in any subsequent biennium would be 60% of the market rate.

[Act 28 Section: 2580]

6. LAND RECYCLING LOAN LIMIT

Governor/Legislature: Delete the requirement that, in a fiscal biennium, an eligible applicant may not receive more than 25% of the present value subsidy limit established for the land recycling loan program in that biennium. Retain the requirement that DOA may not allocate more than 40% of the land recycling loan program funds allocated in each fiscal year to projects to remedy contamination at landfills.

The land recycling loan program provides financial assistance to certain local governments for the investigation and remediation of contaminated (brownfields) properties.

[Act 28 Sections: 2588 and 2589]

7. TRANSFER TO DRY CLEANER ENVIRONMENTAL RESPONSE FUND [LFB Paper 342]

Governor/Legislature: Authorize the transfer of funds from the environmental improvement fund to the dry cleaner environmental response fund under certain conditions, and require that any transfer be repaid with interest. Specify that the maximum amount that could be transferred would be the lesser of \$6,200,000, or the difference between \$20,000,000 and the amount that has been expended for land recycling loans.

The dry cleaner environmental response program provides reimbursement for a portion of the costs of cleaning up discharges of dry cleaning solvents. The land recycling loan program is authorized to provide a maximum of \$20 million for financial assistance to certain local governments for the investigation and remediation of contaminated properties. DOA estimates approximately \$6,214,000 remains available for financial assistance under the land recycling loan program. For more detail about this provision, see the entry under "DNR -- Air, Waste, and Contaminated Land."

[Act 28 Sections: 264 and 677]

FINANCIAL INSTITUTIONS

Budget Summary							
Fund	2008-09 Base Year Doubled	2009-11 Governor	2009-11 Jt. Finance	2009-11 Legislature	2009-11 Act 28	Act 28 Change Over <u>Base Year Doubled</u>	
						Amount	Percent
PR	\$35,156,600	\$35,806,000	\$32,649,400	\$32,649,400	\$32,649,400	-\$2,507,200	- 7.1%

FTE Position Summary						
Fund	2008-09 Base	2010-11 Governor	2010-11 Jt. Finance	2010-11 Legislature	2010-11 Act 28	Act 28 Change
						Over 2008-09 Base
PR	139.04	135.54	135.54	135.54	135.54	- 3.50

Budget Change Items

1. STANDARD BUDGET ADJUSTMENTS [LFB Paper 345]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR-REV	\$0	\$398,400	\$398,400
PR	\$1,227,400	- \$398,400	\$829,000

Governor: Adjust the agency's base budget for: (a) full funding of salaries and fringe benefits (\$547,200 annually); (b) reclassifications (\$27,600 in 2009-10 and \$39,800 in 2010-11); (c) full funding of lease costs and directed moves (\$39,000 annually); and (d) turnover reduction (-\$6,200 annually).

Joint Finance/Legislature: Modify the standard budget adjustment for turnover reduction to reduce funding in the Department's general program operations appropriation by an additional \$199,200 PR, annually. At the end of each fiscal year, most unencumbered program revenue in this appropriation is lapsed to the general fund. As a result, GPR-Earned is expected to increase by \$199,200 annually.

2. ELIMINATE 2% GENERAL WAGE ADJUSTMENT

PR	- \$379,400
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Joint Finance/Legislature: Delete \$189,700 annually relating to the roll-back of 2% general wage adjustments that were scheduled to take effect on June 7, 2009.

3. STATE EMPLOYEE FURLOUGH

PR	- \$581,600
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Joint Finance/Legislature: Delete \$290,800 annually relating to the requirement that state employees take eight days of unpaid annual leave (furlough) in each year of the 2009-11 biennium.

4. STATE OPERATIONS REDUCTIONS

	Funding	Positions
PR	- \$226,400	- 2.50

Governor/Legislature: Delete 2.50 classified positions and \$113,200 (\$80,200 salary and \$33,000 fringe benefits) annually for general program operations.

5. ACROSS-THE-BOARD 1% REDUCTIONS [LFB Paper 174]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
PR	- \$351,600	\$1,400	- \$350,200

Governor: Delete \$175,800, annually, as part of an across-the-board 1% reduction in most non-federal appropriations. The reductions, by appropriation, are shown below:

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
PR	Investor education fund	\$100,000	-\$1,000
PR	Gifts, grants, settlements, and publications	65,000	-700
PR	General program operations	15,382,300	-153,800*
PR	Credit union general program operations	2,031,000	-20,300*

*Due to other budget items, the final funding level for this appropriation does not represent a 1% reduction.

Joint Finance/Legislature: Restore \$700, annually, to the appropriation for gifts, grants, settlements, and publications.

6. AGENCY 5.135% BUDGET REDUCTIONS

PR	- \$1,798,600
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Joint Finance/Legislature: Delete \$899,300 annually relating to increased agency across-the-board reductions. The reductions are generally equivalent to 5.135% of base level funding. Annual reduction amounts would be as follows:

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
PR	Investor education fund	\$100,000	-\$5,100
PR	General program operations	15,382,300	-789,900
PR	Credit union general program operations	2,031,000	-104,300

7. PAYMENT FOR STATE LEGAL SERVICES [LFB Paper 115]

	Position
PR	- 1.00

Governor: Delete 1.0 attorney position. Transfer \$68,100 annually from salary and fringe benefits to supplies and services for services of a newly created Division of Legal Services at the Department of Administration. [The deleted position is currently vacant.] Specify that the Division of Legal Services may provide legal services to state agencies and is required to assess agencies for services. Specify that "state agencies" includes an office, commission, department, independent agency, or board in the executive branch, including the Building Commission, but excluding the Departments of Justice and Public Instruction. [See "Administration -- Transfers to the Department."]

Joint Finance: Specify that DOA may only provide legal services, and charge for those services, for agencies in which the Governor appoints the Secretary (cabinet agencies).

Senate: Delete provision.

Conference Committee/Legislature: Restore the Joint Finance provisions.

[Act 28 Sections: 31, 48, 88, and 560]

8. FEE INCREASES ON SECURITIES TRADING [LFB Papers 346 and 347]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR-REV	\$24,169,600	\$21,830,400	\$46,000,000
PR-REV	24,169,600	21,830,400	46,000,000

Governor: Increase certain fees imposed by the Department of Financial Institutions (DFI) on securities trading. The proposal would first apply to filings received by DFI's Division of Securities on the day following publication of the budget bill. The administration estimates an increase in program revenue of \$12,084,800 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 securities filing fees, the transfer to the general fund in each year would be \$12,084,800 more than would occur in the absence of the fee increases.

Securities Trading Registration and Filing Fees for Mutual Funds. Under current law, DFI imposes a filing fee of \$750 for every registration of securities statement and notice of filing. Under the Governor's proposal, this fee would be increased to \$1,000. The administration estimates that this provision would increase program revenue by \$850,000 annually.

Under current law, DFI imposes an annual fee at the rate of 0.05% of the dollar amount of securities sold by mutual funds to persons in this state during the preceding state fiscal year. For each registration, the fee paid for securities sold in this state in the prior fiscal year must be a minimum of \$150 but not exceed \$1,500. The requirement to report the dollar amount of securities sold in this state may be waived if the filer elects to pay the maximum fee of \$1,500. Under the Governor's proposal, the 0.05% fee imposed on securities sold to persons in this state would remain as under current law; however, the minimum and maximum annual amounts of the fee would be increased to \$500 and \$10,000, respectively. The requirement to report the dollar amount of securities sold in this state could be waived under the proposal if the filer elected to pay the proposed maximum fee of \$10,000. The administration estimates that this provision would increase program revenue by \$8,434,800 annually.

Broker-Dealer Licensing Fees. Under current law, every applicant for an initial or annual renewal license of an agent representing a broker-dealer, an issuer, or an investment adviser representative for a securities transaction must pay a fee of \$30 to DFI. A broker-dealer, investment advisor, or federally covered advisor maintaining a branch office within this state for the purpose of trading securities must pay an additional annual filing fee of \$30 to DFI for each branch office. Under the Governor's proposal, these two fees would be increased from \$30 to \$60. The administration estimates that this provision would increase program revenue by \$2,800,000 annually.

Joint Finance/Legislature: Modify the Governor's recommendations as follows:

Securities Trading Registration and Filing Fees for Mutual Funds. Increase the registration of securities statement and notice of filing fee from \$750 to \$1,500, rather than \$1,000 as recommended by the Governor. Compared to the Governor's proposal, fee revenues would be higher by \$1,700,000 in each year. Compared to current law, revenues would increase by \$2,550,000 annually.

Increase the minimum and maximum annual filing fees from \$150 and \$1,500 to \$750 and \$15,000 respectively, rather than \$500 and \$10,000 as recommended by the Governor. Compared to the Governor's proposal, fee revenues would be higher by \$5,215,200 in each year. Compared to current law, revenues would increase by \$13,650,000 annually.

Broker-Dealer Licensing Fees. Increase the broker-dealer licensing fees described above from \$30 to \$80, rather than \$60 as recommended by the Governor. In addition, compared to the Governor's bill, estimate additional fee revenues as follows: (a) \$800,000 annually from the current \$30 fee; (b) \$800,000 annually from the \$30 increase proposed by the Governor; and (c) \$2,400,000 annually from the additional \$20 increase approved by the Committee.

With these revisions, total revenues from the current \$30 fee are estimated at \$3,600,000 per year, and revenues from the \$80 fee adopted by the Committee are estimated at \$9,600,000 annually, an increase of \$6,000,000 per year.

In total, compared to current law, the three fee increases approved by the Committee

generate additional estimated revenues of \$22,200,000 per year, and baseline revenues are estimated to be higher by \$800,000 per year.

[Act 28 Sections: 2997 thru 3002, and 9317(1)&(2)]

9. CONVERSION OF A CREDIT UNION TO A MUTUAL SAVINGS BANK

Joint Finance/Legislature: Provide that a credit union may convert to a mutual savings bank in the following manner:

Statutes Governing Credit Unions

Require that the proposition for a conversion must first be approved by a majority recommendation of the directors of the credit union. Specify that the directors must, by a majority vote of the directors, set a date for a meeting of the credit union members to vote on the conversion. Provide that the credit union members may also vote by written ballot to be filed on or before the meeting date. Require that written notice specifying the purpose and subject matter of the meeting and the date that is set for the meeting, and for voting by submission of a written ballot, must be sent to each member eligible to vote at the member's address appearing on the records of the credit union. Specify that the notice must be sent to each credit union member three times before the date of the meeting to vote on the conversion, once not more than 95 days nor less than 90 days, once not more than 65 days nor less than 60 days, and once not more than 35 days nor less than 30 days before the meeting to vote on the conversion. Require that the third notice must be accompanied by a written ballot, must clearly inform the member that the member may vote at the meeting or by submitting the written ballot, and must state the time and place of the meeting in addition to the date of the meeting. Require that approval of the proposition for conversion must be by affirmative vote, either in person or in writing, of a majority of the credit union members voting at the meeting or by written ballot.

Require that a credit union that proposes to convert to a mutual savings bank must file a notice of its intent to convert with the Office of Credit Unions (OCU) within DFI and, within ten days after the member vote on the conversion, must file a statement of the results of the member vote. Require the OCU to verify the credit union member vote to approve the proposition for conversion. Specify that if the OCU disapproves of the methods or procedures used in relation to that member vote, the member vote must be taken again as required by the OCU, as well as in the manner specified above.

Require that, upon approval by the credit union members of the proposition for conversion, the credit union must take all necessary action as required under state laws governing savings banks to complete the conversion to a mutual savings bank. Specify that the credit union must file a copy of the certificate with the OCU within ten days following receipt from DFI's Division of Banking of a certificate of incorporation as a mutual savings bank. Specify that the OCU must issue to a converting credit union a certificate of conversion to a mutual savings bank if the Office determines that the conversion complies with all state law requirements governing the conversion

of a credit union to a mutual savings bank, as well as all state laws governing savings banks. Specify that the date on the certificate of conversion is the effective date of the conversion.

Require that, upon conversion, the credit union must cease to be a credit union and must be a mutual savings bank, must no longer be subject to laws governing credit unions, must be subject to laws governing savings banks, and must be subject to all other provisions of law governing mutual savings banks. Specify that, upon conversion, the legal existence of the mutual savings bank must be a continuation of the credit union, and all property and every right, privilege, interest, and asset of the credit union immediately vests in the mutual savings bank without a conveyance, transfer, or further act of the mutual savings bank. Require that the resulting mutual savings bank must succeed to, and be vested with, all the rights, assets, obligations, and relations of the credit union. Specify that all actions and other judicial proceedings to which the credit union is a party may be prosecuted and defended to the same extent as though the conversion had not taken place.

Specify that no director or senior management official of a credit union may receive any economic benefit in connection with a conversion of the credit union to a mutual savings bank, except that a director or senior management official may receive director fees, as well as compensation and other benefits paid to directors and senior management officials of the converted mutual savings banks in the ordinary course of business. Define a "senior management official" to mean a chief executive officer, an assistant chief executive officer, a chief financial officer, and any other senior executive officer as defined by the appropriate federal banking agency as directed under federal law.

Statutes Governing Savings Banks

Modify the statutes governing savings banks to specify that a credit union may become a mutual savings bank by:

- a. Applying to the Division of Banking for authority to organize as a mutual savings bank and satisfying all the requirements for organizing as a savings bank;
- b. Satisfying all the above requirements; and
- c. Recording the mutual savings bank's articles of incorporation in the county in which its home office is located.

Specify that these provisions would take effect on January 1, 2010.

Under current law, a credit union is permitted to convert to a federal credit union, but is not permitted to convert directly from a credit union to a mutual savings bank. These provisions create specific criteria to permit a credit union to convert directly from a credit union to a mutual savings bank. The provisions specify regulations regarding credit union member voting rights prior to conversion from a credit union to a mutual savings bank. These provisions would also provide certain restrictions on compensation to directors and senior management officials of a credit union that converts to a mutual savings bank.

According to DFI, state chartered credit unions that wish to convert to a mutual savings bank can accomplish this transition under current law by first converting to a national credit union, and then converting from a national credit union to a mutual savings bank. These provisions are not expected to have a state fiscal effect, and would take effect on the general effective date of the budget bill.

Veto by Governor [C-10]: Delete provision.

[Act 28 Vetoed Sections: 2453w thru 2453y, 2476nm thru 2476t, and 9417]

10. CREDIT UNION SERVICE ORGANIZATIONS

Joint Finance/Legislature: Permit a Credit Union Service Organization (CUSO) to provide services related to the sale or leasing of motor vehicles as a routine daily operation of the credit union if the CUSO had provided services related to the sale or leasing of motor vehicles prior to January 1, 2009. Specify that a CUSO may provide such services only at the credit union's specific location where such services were provided prior to January 1, 2009. Prohibit CUSOs from providing services related to the sale or leasing of motor vehicles as a routine daily operation of the credit union, except in the manner specified above.

Under current law, for laws governing investments in CUSOs, unless the OCU approves a higher percentage, a credit union may invest not more than 1.5% of its total assets in the capital shares or obligations of CUSOs that, in the opinion of the OCU, are sufficiently bonded and insured and that satisfy certain conditions. Current law enumerates 16 different types of services a CUSO may provide related to the routine daily operations of credit unions, such as checking and currency services, consumer mortgage loan origination services, and tax preparation services. Current law does not enumerate any routine daily operation of credit unions a CUSO may provide that are related to retail sales.

According to the OCU, leasing activities are permitted for CUSOs, and the sale of the returned vehicles is considered part of the leasing business. However, the OCU has ruled that, under current law, the list of permitted services for CUSOs does not include retail and commerce activities, such as buying of vehicles for resale. The OCU, with regards to a case involving three motor vehicle dealerships operating in this state as a CUSO of a credit union that are providing vehicle sales, has ruled that these sales are not permitted under current law, and must cease such services no later than April 30, 2010. These provisions would permit these three motor vehicle dealerships operating in this state to continue providing vehicles sales by a CUSO as part of the routine daily operations for these three credit unions. These provisions would prohibit a CUSO from providing motor vehicle sales at any locations owned by a credit union which were not providing such services prior to January 1, 2009.

Under the provisions, a CUSO which had provided services related to the sale or leasing of motor vehicles prior to January 1, 2009, would be permitted to continue to provide such services as routine daily operations of credit unions. The provisions would prohibit any future CUSO from

providing services related to the sale or leasing of motor vehicles as a routine daily operation of a credit union. These provisions are not expected to have a state fiscal effect, and would take effect on the general effective date of the budget bill.

Veto by Governor [C-9]: Delete provision.

[Act 28 Vetoed Sections: 2453um and 2453v]

FOX RIVER NAVIGATIONAL SYSTEM AUTHORITY

Budget Summary							
Fund	2008-09 Base Year Doubled	2009-11 Governor	2009-11 Jt. Finance	2009-11 Legislature	2009-11 Act 28	Act 28 Change Over Base Year Doubled Amount	Percent
SEG	\$253,400	\$250,800	\$250,800	\$250,800	\$250,800	-\$2,600	- 1.0%

FTE Position Summary
There are no state authorized positions for the Fox River Navigational System Authority.

Budget Change Item

1. ACROSS-THE-BOARD 1% REDUCTIONS

SEG	-\$2,600
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Governor/Legislature: Delete \$1,300, annually, as part of an across-the-board 1% reduction in most non-federal appropriations. The reduction is shown below:

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
SEG*	Establishment and Operations	\$126,700	-\$1,300

* Funding is from the water resources account (motorboat gas tax) of the conservation fund.

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 the Legislature, along with the estimated fiscal effects in the 2009-11 biennium. There were no vetoes that affected general fund tax revenues, so the "Legislature" column also reflects Act 28 as signed by the Governor. The table does not include tax law changes that are estimated to have a minimal fiscal effect, or those that will not take effect until the 2011-13 biennium.

2009-11 General Fund Tax Changes--Biennial Fiscal Effects (Millions)

	<u>Governor</u>	<u>Jt. Finance</u>	<u>Legislature/ Act 28</u>
Income and Franchise Taxes			
Increase Top Income Tax Rate	\$311.76	\$287.32	\$287.32
Reduce Capital Gains Exclusion	180.60	170.20	242.50
Expand EdVest Deduction	0.00	0.00	-0.40
Quarterly Withholding by Pass-Through Entities	38.50	38.50	38.50
Qualified Domestic Production Activities Deduction	71.70	54.90	54.90
Internal Revenue Code Update	-46.05	-24.18	-24.18
Delay 2005 Act 25 Insurance Deduction	0.00	13.80	13.80
Delay 2007 Act 20 Insurance Deduction	0.00	73.80	73.80
Delay Child Care Deduction	0.00	15.90	15.90
Delay Electronic Medical Records Credit	14.50	14.50	14.50
Delay Community Rehabilitation Credit	0.00	6.60	6.60
Delay Biodiesel Fuel Credit	0.00	0.00	2.60
Research and Development Credit	-5.00	-5.00	-5.00
Include 100% of Throwback Sales in Sales Factor	95.20	80.50	80.50
Treatment of Air Carriers	8.00	8.00	0.00
Late Filing Fees/Pass-Through Entity Schedules	0.00	0.90	0.90
Additional Enforcement Efforts	0.00	52.55	52.55
Research Credit Sharing by Combined Groups	0.00	0.00	-6.00
General Sales and Use Tax			
Sales Tax on Affiliated Entities	40.80	40.80	40.80
Sales Tax Nexus Standard	3.00	3.00	3.00
Cap Retailer's Discount	0.00	8.10	10.70
Post Revoked Seller's Permits on Internet	0.00	0.40	0.40
Additional Enforcement Efforts	0.00	17.45	17.45
Delay Exemptions for Alternative Energy	0.00	0.00	2.60
Excise Taxes			
Increase Cigarette Tax	310.40	310.40	308.00
Increase Tobacco Products Tax	<u>33.20</u>	<u>24.80</u>	<u>26.78</u>
Total Tax Changes	\$1,056.61	\$1,193.24	\$1,258.52

Income and Franchise Taxes

1. ADDITIONAL INCOME TAX BRACKET [LFB Paper 355]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR-REV	\$311,757,000	- \$24,433,000	\$287,324,000

Governor: Create a fifth income tax bracket and extend a rate of 7.75% to income exceeding the following thresholds in tax year 2009: (a) \$225,000 for fiduciaries, single individuals, and heads of households; (b) \$300,000 for married persons filing joint returns; and (c) \$150,000 for married persons filing separate returns. The rate and bracket structure under current law and under the Governor's proposal are shown below.

				Tax Year 2009		
				Single	Married-Joint	Married-Separate
Rates and Estimated Brackets -- Current Law						
4.60%	Less than \$10,220	Less than \$13,620	Less than \$6,810			
6.15	10,220 to 20,440	13,620 to 27,250	6,810 to 13,620			
6.50	20,440 to 153,280	27,250 to 204,370	13,620 to 102,190			
6.75	153,280 and Over	204,370 and Over	102,190 and Over			
Governor's Proposed Rates and Estimated Brackets						
4.60%	Less than \$10,220	Less than \$13,620	Less than \$6,810			
6.15	10,220 to 20,440	13,620 to 27,250	6,810 to 13,620			
6.50	20,440 to 153,280	27,250 to 204,370	13,620 to 102,190			
6.75	153,280 to 225,000	204,370 to 300,000	102,190 to 150,000			
7.75	225,000 and Over	300,000 and Over	150,000 and Over			

				Tax Year 2010		
				Single	Married-Joint	Married-Separate
Rates and Estimated Brackets -- Current Law						
4.60%	Less than \$9,820	Less than \$13,090	Less than \$6,550			
6.15	9,820 to 19,640	13,090 to 26,190	6,550 to 13,090			
6.50	19,640 to 147,320	26,190 to 196,420	13,090 to 98,210			
6.75	147,320 and Over	196,420 and Over	98,210 and Over			
Governor's Proposed Rates and Estimated Brackets						
4.60%	Less than \$9,820	Less than \$13,090	Less than \$6,550			
6.15	9,820 to 19,640	13,090 to 26,190	6,550 to 13,090			
6.50	19,640 to 147,320	26,190 to 196,420	13,090 to 98,210			
6.75	147,320 to 216,250	196,420 to 288,330	98,210 to 144,160			
7.75	216,250 and Over	288,330 and Over	144,160 and Over			

Beginning in tax year 2010, the thresholds dividing the fourth and fifth brackets would be indexed using the same procedures currently authorized for indexing the existing tax brackets, except that the consumer price index as of August, 2008, as opposed to 1997, would be used as the base index for calculating the new thresholds. The bill would first extend the new bracket in tax year 2009, unless the bill's effective date is after August 31, in which case the new bracket would first apply to taxable years beginning on or after the following January 1.

The administration estimates that these modifications would increase individual income tax collections by \$175,563,000 in 2009-10 and \$136,194,000 in 2010-11. This assumes that the new bracket would first apply in tax year 2009, but that there would be no change in withholding or estimated tax payments until July 1, 2009. Consequently, the revenue increase for 2009-10 exceeds the increase for 2010-11 due to one-time effects from the withholding table change. Interest charges on tax underpayments would be waived if the deficiency is due to the creation of the new bracket.

Joint Finance/Legislature: Approve the Governor's recommendation and decrease estimated revenues by \$12,210,000 in 2009-10 and \$12,223,000 in 2010-11 to reflect reduced income tax collections, as indicated by the current economic forecast. Relative to current law, individual income tax collections would increase by an estimated \$163,353,000 in 2009-10 and \$123,971,000 in 2010-11.

[Act 28 Sections: 1545 thru 1552, 1591, and 9343(20)]

2. INDEXING OF INDIVIDUAL INCOME TAX PROVISIONS [LFB Paper 370]

Joint Finance/Legislature: Modify the indexing provisions for the sliding scale standard deduction and income tax brackets to specify that the annual indexing adjustment could not be a negative number, beginning with the 2012 tax year.

[Act 28 Sections: 1543s, 1551, and 1552]

3. DECREASE CAPITAL GAINS EXCLUSION [LFB PAPER 356]

	Governor (Chg. to Base)	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR-REV	\$180,600,000	-\$10,400,000	\$72,300,000	\$242,500,000

Governor: Decrease from 60% to 40% the percentage of capital gains that is subtracted from federal adjusted gross income for purposes of calculating income subject to the individual income tax. Extend this treatment to taxable years beginning on January 1 of the year the budget bill takes effect, but delay the treatment to the succeeding year if the effective date of the bill is after August 31. The administration estimates that this proposal would increase individual income tax collections by \$85,100,000 in 2009-10 and \$95,500,000 in 2010-11, assuming the

modification would first apply to tax year 2009. The capital gains exclusion applies to income from the sale or disposition of assets held more than one year or acquired from a decedent.

Joint Finance: Approve the Governor's recommendation and decrease the estimated additional revenue associated with this provision by \$4,400,000 in 2009-10 and \$6,000,000 in 2010-11 to reflect changes in economic conditions since the introduction of AB 75 (-\$9,700,000 in 2009-10 and -\$12,100,000 in 2010-11) and the interaction between the proposed change in the capital gains exclusion and the proposed additional income tax bracket (\$5,300,000 in 2009-10 and \$6,100,000 in 2010-11). Relative to current law, individual income tax collections would increase by \$80,700,000 in 2009-10 and \$89,500,000 in 2010-11.

Senate: Modify the provision by eliminating Wisconsin's individual income tax exclusion for long-term capital gains, other than gains on certain assets used in farming. Maintain the current 60% exclusion for income from the sale of capital assets held for more than one year if the asset is farm livestock, farm real property, depreciable farm property, or farm equipment. Extend this treatment to taxable years beginning on January 1 of the year the budget bill takes effect, but delay the treatment to the succeeding year if the effective date of the bill is after August 31. Compared to the Joint Finance provisions, income tax revenues would increase by an estimated \$149,400,000 in 2009-10 and \$166,000,000 in 2010-11. Compared to current law, revenues would increase by an estimated \$230,100,000 in 2009-10 and \$255,500,000 in 2010-11.

Conference Committee/Legislature: Modify the recommendation by the Governor and Joint Finance Committee by decreasing the percentage of capital gains that is subtracted from federal adjusted gross income for purposes of calculating income subject to the individual income tax to 30%, except for gains on certain assets used in farming. Maintain the current 60% exclusion for income from the sale of capital assets held for more than one year if the asset is farm livestock, farm real property, depreciable farm property, or farm equipment. Increase estimated income tax collections by \$34,400,000 in 2009-10 and \$37,900,000 in 2010-11, compared to the Joint Finance provision. Relative to current law, individual income tax collections would increase by \$115,100,000 in 2009-10 and \$127,400,000 in 2010-11.

[Act 28 Sections: 1543, 1543b, and 9343(13)]

4. TAXATION OF CAPITAL GAINS REINVESTED IN NEW BUSINESS VENTURES [LFB Paper 357]

Governor/Legislature: Authorize claimants to subtract from federal adjusted gross income any amount, up to \$10 million, of a long-term capital gain if the claimant: (a) deposits the gain into a segregated account in a financial institution; (b) invests all of the proceeds in the account in a qualified new business venture within 180 days of the sale of the asset generating the gain; and (c) notifies the Department of Revenue (DOR) that the capital gain has been reinvested and, therefore, will not be declared on the claimant's income tax return. The notification would be made on a DOR form accompanying the claimant's income tax return for the year to which the claim relates. Specify that the basis for the investment in the new business

venture would be calculated by subtracting the initial gain from the investment. Prohibit a claimant from using the initial gain to net capital gains and losses as otherwise allowed under current law. (State law limits the amount of capital losses that may be used to offset ordinary income to \$500 annually, with the remainder carried over to future years.) Define "claimant" as an individual; an individual partner or member of a partnership, limited liability company (LLC), or limited liability partnership; or an individual shareholder of a tax-option corporation. Define "long-term capital gain" as the gain realized from the sale of any capital asset held more than one year that is treated as a long-term gain under the Internal Revenue Code (IRC).

Require the Department of Commerce to implement a program to certify qualified new business ventures, and authorize Commerce to certify businesses as such if they are engaged in: (a) developing a new product or business process; or (b) manufacturing, agriculture, or processing or assembling products and conducting research and development. Specify that a business desiring certification must submit an application to Commerce in each taxable year for which certification is desired. Prohibit Commerce from certifying businesses that are engaged in real estate development; insurance; banking; lending; lobbying; political consultation; professional services provided by attorneys, accountants, business consultants, physicians, or health care consultants; wholesale or retail sales; leisure; hospitality; transportation; or construction. Require Commerce to maintain a list of certified businesses, to permit public access to the lists through its Internet Web site, to notify DOR of every certification it issues, and to notify DOR of the dates on which certifications are revoked or expire.

The new tax deferral would first apply for tax years beginning after December 31, 2010, so no fiscal effect is estimated for the 2009-11 biennium. At the time the bill was introduced, the administration estimated that this provision would reduce individual income tax collections by approximately \$14,000,000 annually, relative to current law. However, because the administration also proposed to reduce the capital gains exclusion from 60% to 40%, the effect of this provision, as introduced, is reestimated at \$21,000,000. The Legislature's subsequent reduction of the capital gains exclusion to 30% increases the reduction in individual income tax collections to an estimated \$25,000,000 annually, effective in the 2011-13 biennium.

[Act 28 Sections: 1535, 1544, and 3073]

5. DEDUCTION FOR CERTAIN HEALTH INSURANCE PREMIUMS

GPR-REV \$73,800,000

Joint Finance/Legislature: Postpone the scheduled phase-in of the deduction for health insurance premiums paid by employees whose employer pays some portion of the employee's health insurance costs by freezing the percentage of deductible expenses at 10% for tax years 2009 and 2010. Set the percentage of deductible expenses at 25% for tax year 2011, 45% for tax year 2012, and 100% for tax years 2013 and thereafter. Increase state tax revenues from the individual income tax by an estimated \$20,800,000 in 2009-10 and \$53,000,000 in 2010-11. This deduction for health insurance premiums was enacted as part of 2007 Wisconsin Act 20 and was scheduled to be phased in over a four-year period with the percentage of expenses that could be

deducted increasing from 10% for tax year 2008, to 25% for tax year 2009, to 45% for tax year 2010, and to 100.0% for tax year 2011. This provision would delay the phase-in for two years.

[Act 28 Sections: 1543h thru 1543hs]

6. DEDUCTION FOR CERTAIN MEDICAL CARE INSURANCE PREMIUMS

GPR-REV \$13,800,000

Joint Finance/Legislature: Postpone the scheduled phase-in of the deduction for medical care insurance premiums paid by an individual who does not have an employer and who has no self-employment income by freezing the percentage of deductible expenses at 66.7% for tax years 2009 and 2010. Set the percentage of deductible expenses at 100% for tax years 2011 and thereafter. Increase state tax revenues from the individual income tax by an estimated \$6,600,000 in 2009-10 and \$7,200,000 in 2010-11. This deduction for medical care insurance premiums was enacted as part of 2005 Wisconsin Act 25 and was scheduled to be phased in over a three-year period with the percentage of expenses that could be deducted increasing from 33.4% for tax year 2007, to 66.7% for tax year 2008, and to 100.0% for tax year 2009. This provision would delay the phase-in for two years.

[Act 28 Sections: 1543f and 1543fe]

7. DEDUCTION FOR CERTAIN CHILD AND DEPENDENT CARE EXPENSES

GPR-REV \$15,900,000

Joint Finance/Legislature: Delay the initial applicability of the deduction for certain expenses related to child and dependent care, which may be claimed under the federal credit for child and dependent care expenses, from tax year 2009 to tax year 2011. Postpone the phase-in of the deduction by two years by extending the deduction as follows: (a) for tax year 2011, up to \$750 for one qualified individual and up to \$1,500 for more than one qualified individual; (b) for tax year 2012, up to \$1,500 for one qualified individual and up to \$3,000 for more than one qualified individual; (c) for tax year 2013, up to \$2,250 for one qualified individual and up to \$4,500 for more than one qualified individual; and (d) for tax years 2014 and thereafter, up to \$3,000 for one qualified individual and up to \$6,000 for more than one qualified individual. Increase state tax revenues from the individual income tax by an estimated \$5,700,000 in 2009-10 and \$10,200,000 in 2010-11. The deduction for child and dependent care expenses was enacted as part of 2007 Wisconsin Act 20 and was scheduled to be phased in over a four-year period between tax years 2009 and 2012. This provision would delay the phase-in for two years.

[Act 28 Sections: 1543j thru 1543js]

8. EARNED INCOME TAX CREDIT [LFB Paper 358]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$46,882,300	\$8,607,700	\$55,490,000

Governor: Increase GPR funding for the earned income tax credit (EITC) by \$22,617,200 in 2009-10 (\$4,917,200 to reflect changes in the number of recipients and federal indexing provisions and \$17,700,000 to reflect federal law changes) and by \$24,265,100 in 2010-11 (\$6,065,100 to reflect changes in number of recipients and federal indexing provisions and \$18,200,000 to reflect federal law changes).

The state EITC is calculated as a percentage of the federal EITC, so changes to the federal credit affect expenditures for the state credit. For tax years 2009 and 2010, recent federal changes include creating a new third tier of the credit for families with three or more children and raising the income threshold at which the credit begins to phase out for married couples by \$1,880 (that is, the credit will start to phase-out at \$21,420 instead of \$19,540 for 2009). The credit percentage for the new tier will be set at 45%, as opposed to the previous rate of 40% that will be retained for claimants with only two children, and result in a maximum federal credit of \$5,657, which is \$629 higher than those claimants would have received previously. Because the state's credit is calculated as a percentage of the federal credit, the maximum state credit will increase by an estimated \$270 (from \$2,162 to \$2,432). By increasing the income threshold for married couples, claimants with incomes above the previous threshold (\$19,540 for tax year 2009) will receive higher credits. Also, the credit will phase-out at a higher income level (\$45,295 versus \$43,415 for 2009), thereby extending credits to some married couples not previously eligible.

The state credit 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 Children and Families (DCF). 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 \$121,317,200 in 2009-10 and \$122,965,100 in 2010-11, compared to base funding of \$98,700,000. However, the PR funding would be unchanged from a base level of \$6,664,200, while the estimated GPR sum sufficient portion would be increased from the base level of \$92,035,800 to \$114,653,000 in 2009-10 and \$116,300,900 in 2010-11. The net increases reflect the administration's estimates of the total cost of funding the EITC in the 2009-11 biennium.

Finally, two EITC provisions are included under the entry entitled "Internal Revenue Code Update" and the administration inadvertently reported their fiscal effects as impacting revenues, rather than expenditures. First, the federal Emergency Economic Stabilization Act allows claimants whose principal residence was in the Midwestern disaster area to calculate their earned income tax credit for the tax year that includes the disaster date using their earned income from the previous year. The administration estimates that adopting this federal

provision would increase GPR expenditures by \$3,160,000 in 2009-10. Second, the federal Heroes Earnings Assistance and Relief Act permits claimants to permanently treat combat zone compensation as earned income for purposes of the EITC, even though it is otherwise excluded from gross income. This treatment was previously permitted for tax years 2004 through 2007. The administration estimates that adopting this federal provision would increase GPR expenditures by \$240,000 in 2009-10 and \$90,000 in 2010-11.

Joint Finance/Legislature: Reestimate total funding for Wisconsin's earned income tax credit at \$127,100,000 in 2009-10 and \$125,790,000 in 2010-11. Increase the program's GPR sum sufficient appropriation by \$5,782,800 in 2009-10 and \$2,824,900 in 2010-11. These increases include \$2,382,800 in 2009-10 and \$2,734,900 in 2010-11 due to provisions in the federal American Recovery and Reinvestment Act, inflation adjustments, and increased levels of participation, and \$3,400,000 in 2009-10 and \$90,000 in 2010-11 due to the reclassification of revenues as expenditures in relation to provisions in the federal Emergency Economic Stabilization Act and Heroes Earnings and Tax Relief Act.

[Act 28 Section: 1250]

9. ADVANCE PAYMENT OF EARNED INCOME TAX CREDITS

GPR	\$200,000
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Senate/Legislature: Authorize individuals who claim the federal earned income tax credit and who receive an advance payment of that credit to request that their employer adjust their paycheck so that they receive an advance payment of their state earned income tax credit. Set the amount of the adjustment as the amount of the advanced payment of the federal credit multiplied by a percentage equal to the percentage used to calculate their state earned income tax credit (the state earned income tax credit is calculated as a percentage of the federal credit). Authorize employers to adjust their withholding payments to DOR to reflect the extension of advanced credits. Direct DOR to prepare forms and instructions to implement this provision. Extend these provisions beginning on January 1 of the year the budget bill takes effect. Delay the treatment to the succeeding year if the effective date of the bill is after August 31.

Employees with qualifying children who expect to qualify for the federal EITC can elect to receive payment of the federal credit in advance with their regular pay by filing a form with their employer. Advance payment is made by the employer, based on tables provided by the Internal Revenue Service, out of the employee's withheld income tax and the social security payroll taxes of the employee and employer that would otherwise be remitted to the federal government. At the end of the year, the advance payments are reported on the employee's W-2 wage statement and entered as a tax due amount on the employee's income tax return. The full credit is then calculated without consideration of the advance payments. If the credit exceeds the advance payments, a refund is provided to the taxpayer. If the advance payments exceed the credit, the claimant must repay the difference. This provision would increase state tax credit expenditures on a one-time basis by an estimated \$200,000 in 2009-10.

[Act 28 Sections: 1584p and 9343(12d)]

10. ITEMIZED DEDUCTION TAX CREDIT

Governor/Legislature: Permit taxpayers to include casualty losses that are directly related to a presidentially declared disaster, as provided under federal law, in the calculation of the state itemized deduction tax credit. The credit equals 5% of the difference between certain itemized deductions, as authorized for federal tax purposes, and the state sliding scale standard deduction. Casualty and theft losses may be deducted for federal individual income tax purposes, but those losses may not be included in calculating the state's itemized deduction credit. This provision would create an exception to that exclusion for casualty losses directly related to a presidentially declared disaster. This provision would first apply to taxable years beginning on January 1, 2009. [DOR estimates that this provision would reduce tax revenues by \$240,000 in 2009-10. However, this revenue loss has not been accounted for in the bill's general fund condition statement.]

[Act 28 Sections: 1572 and 9343(11)]

11. WITHHOLDING PAYMENTS FOR PASS-THROUGH ENTITIES [LFB Paper 359]

GPR-REV \$38,500,000

Governor/Legislature: Modify the current law withholding requirement for pass-through entities so that they would be required to make estimated withholding tax payments for non-resident individuals on a quarterly basis, rather than annually, effective with taxable years beginning on January 1, 2009. Repeal the current law provision relating to withholding tax payments for nonresidents by pass-through entities that requires the entity to make annual payments of withheld tax, and, instead, require pass-through entities to file an annual return, on the same dates that payments are currently required, reporting the entity's withholding tax payments during the entity's taxable year. Require DOR to allow an automatic extension for the annual return of seven months or until the due date of the entity's federal income tax return or return of partnership income, whichever is later, and impose interest at a rate of 12% annually on any payment covered by the extension. Subject entities that do not file an annual report by the extended due date to the civil penalty for taxpayer negligence authorized under current law, in addition to their liability for any unpaid tax, interest, and penalty otherwise assessable. Extend delinquent interest to any amounts where 90% of the withholding tax reported on the entity's annual return is unpaid by the unextended due date. Repeal the related provisions under current law.

Require pass-through entities to make estimated payments of withheld taxes in four installments on, or before, the 15th day of the third, sixth, ninth, and twelfth months of the taxable year. Establish a payment for each quarter equal to 25% of the lesser of 90% of the withholding tax due in the current year or 100% of the withholding tax due in the preceding year, unless the preceding tax year was less than 12 months or the entity did not file a return in the preceding year. As an alternative, authorize entities to calculate their payments based on their annualized income at the following percentages: (a) 22.5% for the first installment; (b) 45.0% for the second installment; (c) 67.5% for the third installment; and (d) 90.0% for the

fourth installment. Under this alternative calculation, "annualized income" would mean the entity's income for the months in the taxable year ending before the installment's due date, annualized under methods prescribed by DOR. In addition, authorize an entity using the annualized income payment alternative to use the apportionment percentage from its prior year tax return, provided the tax return was filed before the due date for the installment for which the income is being annualized and the percentage is greater than zero. Require any entity using the annualized income payment alternative to increase the next installment computed under the standard (25%) payment procedure by the difference between the amount paid under the alternative procedure and the amount that would have been paid under the standard procedure.

Assess interest at the annual rate of 12% on any underpayment of estimated withholding tax for the period of the underpayment. Define "period of the underpayment" as the time period between the installment's due date and the earlier of the unextended due date for the pass-through entity's annual return or the date for the installment payment. Waive interest payments on underpayments if the amount of withholding tax due is under \$500 or if the amount of withholding tax due is less than \$5,000, the pass-through entity had no withholding tax liability for the preceding taxable year, and the preceding taxable year was 12 months. Repeal the current law requirement that: (a) makes the pass-through entity liable for any unpaid tax, interest, and penalty; and (b) waives the pass-through entity's liability for the tax, but makes the pass-through entity liable for any interest and penalty payments on any unpaid withholding tax, if the nonresident taxpayer files a return and pays the tax.

Extend current law income and franchise tax provisions related to refunds, the carry-forward of refunds, prepayments, short-years, overpayments, and exceptions to final installments to the withholding tax for pass-through entities.

For payments due between January 1, 2009, and the bill's effective date, require DOR to consider withholding payments that become due as timely if the payments are made by the installment date following the bill's effective date unless the installment due date is less than 45 days after the bill's effective date. Provide that if that installment date is less than 45 days after the bill's effective date, withholding payments would be considered timely if received by the succeeding installment due date.

Wisconsin income allocable to nonresident shareholders, partners, members, or beneficiaries of pass-through entities is subject to Wisconsin's individual income tax. Pass-through entities are partnerships, LLCs, tax-option corporations, estates, and trusts that are treated as pass-through entities for federal tax purposes. Under current law, such entities must make a single estimated withholding tax payment for those non-resident individuals, no later than the unextended due date of the entity's income or franchise tax return. Wisconsin residents must make quarterly estimated payments on pass-through entity income. This proposal would require quarterly, rather than annual, withholding tax payments by pass-through entities for non-residents. The administration estimates that the provision would increase income tax

collections by \$38,500,000 on a one-time basis in 2009-10.

[Act 28 Sections: 1780 thru 1782, 1784 thru 1795, and 9343(3)]

12. VETERANS AND SURVIVING SPOUSES PROPERTY TAX CREDIT [LFB Paper 360]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$56,000	\$11,944,000	\$12,000,000

Governor: Decrease estimated amounts claimed by \$8,000 in 2009-10 and increase estimated amounts claimed by \$64,000 in 2010-11 for the refundable veterans and surviving spouses property tax credit, which is paid through a sum sufficient appropriation. Total funding for the credit is estimated at \$1,492,000 in 2009-10 and \$1,564,000 for 2010-11. The credit is equal to real and personal property taxes paid on a principal dwelling by certain veterans and surviving spouses.

Joint Finance/Legislature: Increase the sum sufficient appropriation for the veterans and surviving spouses property tax credit by \$5,808,000 in 2009-10 and \$6,136,000 in 2010-11 to reflect the estimated cost of the credit under current law. With these modifications, total funding for the credit would be \$7,300,000 in the first year and \$7,700,000 in the second year. The funding provided in the Governor's bill did not account for an expansion of the credit included in 2007 Act 20.

13. MINNESOTA-WISCONSIN INCOME TAX RECIPROCITY

GPR	\$21,308,000
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Governor/Legislature: Provide increases of \$7,376,000 in 2009-10 and \$13,932,000 in 2010-11 to reflect estimated expenditures under the Minnesota-Wisconsin individual income tax reciprocity agreement. Total funding would be \$81,950,000 in 2009-10 and \$88,506,000 in 2010-11. The most recent payment to Minnesota was \$75,880,000, which was made in December, 2008, for tax year 2007.

14. ILLINOIS-WISCONSIN INCOME TAX RECIPROCITY

GPR	\$11,466,000
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Governor/Legislature: Provide increases of \$4,150,000 in 2009-10 and \$7,316,000 in 2010-11 to reflect the anticipated payments to Illinois under the Illinois-Wisconsin individual income tax reciprocity agreement. Total funding would be \$45,229,000 in 2009-10 and \$48,395,000 in 2010-11. The most recent payment to Illinois was \$42,267,000, which was made in December, 2008, for tax year 2007.

15. INTEREST ON TAX OVERPAYMENTS

GPR	- \$4,000,000
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Governor/Legislature: Decrease the sum sufficient appropriation for interest on tax overpayments by \$2,000,000 annually. With these adjustments, base level funding of \$4,500,000 would decrease to \$2,500,000 annually.

16. INDIVIDUAL AND CORPORATE INCOME AND FRANCHISE TAXES -- DOMESTIC PRODUCTION ACTIVITIES DEDUCTION [LFB Paper 361]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR-REV	\$71,700,000	-\$16,800,000	\$54,900,000

Governor: Eliminate state individual income and corporate income and franchise tax references to Internal Revenue Code provisions that provide a deduction for domestic production activities income. As a result, the deduction could not be taken under the state individual and corporate income and franchise taxes. The decoupling from the IRC provision would apply to tax years beginning on or after January 1, 2009. Eliminating the deduction would increase state income and franchise tax revenues by an estimated \$38,200,000 in 2009-10, and \$33,500,000 in 2010-11.

In 2000, Congress enacted an income tax exclusion for extraterritorial income (ETI) and repealed foreign sales corporation (FSC) exclusion provisions. This was a response to a World Trade Organization (WTO) ruling that the FSC provisions were an illegal export subsidy. Wisconsin did not adopt the federal ETI provisions. However, in 2002, the WTO ruled that ETI violated WTO rules and authorized the European Union to impose sanctions on the U.S. In October, 2004, the American Jobs Creation Act was enacted. The Act repealed the ETI provisions (through a scheduled phase-out) and provided a deduction for income attributable to domestic production activities.

Effective for tax years beginning after December 31, 2004, a deduction against gross income is provided for a portion of the income attributable to domestic production activities. The deduction is phased in from 2005 through 2010, and is equal to the lesser of a specified percentage of the business' qualified production activities income or its taxable income. However, the amount of the deduction for any tax year is limited to 50% of the W-2 wages that are properly allocable to domestic production gross receipts. For 2005 and 2006, the deduction equaled 3% of the lesser of: (a) qualified production activities income; or (b) taxable income for the tax year. For 2007 through 2009, the percentage increases to 6%. When the deduction is fully phased-in in 2010, it will equal 9% of the lesser of: (a) qualified production activities income; or (b) taxable income.

"Qualified production activities income" is determined by reducing domestic production gross receipts by the cost of goods sold and other deductions, expenses, or losses directly allocable to such receipts and a ratable amount of indirect expenses. "Domestic production gross

receipts" are the gross receipts of the business that are derived from:

- a. The lease, rental, license, sale, exchange, or other disposition of: (1) qualifying production property (generally, tangible personal property, computer software, and sound recordings) manufactured, produced, grown, or extracted by the taxpayer in whole or in significant part in the United States; (2) any qualified film produced by the business in the U.S.; and (3) electricity, natural gas, or potable water produced by the taxpayer in the U.S.
- b. Construction performed in the U.S.
- c. Engineering or architectural services performed in the U.S. for construction projects located in the U.S.

Joint Finance/Legislature: Adopt the Governor's recommendation but reestimate the fiscal effect to be a revenue increase of \$27,300,000 in 2009-10 and \$27,600,000 in 2010-11. These amounts are lower than the administration's estimates by \$10,900,000 in the first year and \$5,900,000 in the second year.

[Act 28 Sections: 1534, 1541, 1542, 1608, 1617, 1634, 1687, and 1699]

17. INTERNAL REVENUE CODE UPDATE [LFB Paper 362]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR-REV	-\$46,050,000	\$21,870,000	-\$24,180,000

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 2007 and through December, 2008, with certain exceptions. Under current law, state tax references generally refer to the IRC in effect as of December 31, 2006. However, federal provisions enacted under the Tax Increase Prevention Act of 2005, the Pension Protection Act of 2006, and the Tax Relief and Health Care Act of 2006 are not currently referenced in state statutes but are recommended for incorporation in this proposal. Not all federal provisions adopted in 2007 and 2008 are included in the proposal. These include, with some exceptions, provisions related to accelerated depreciation, depletion, and expensing, as well as provisions that are unique to the federal tax code. With the proposed changes, state tax references would generally refer to the IRC in effect as of December 31, 2008.

The proposed changes would take effect at the same time for state tax purposes as for federal tax purposes, and the administration estimates that the provisions would reduce state income and franchise tax revenues by \$40,560,000 in 2009-10 and \$5,490,000 in 2010-11. Most of the fiscal effect is due to provisions included in the federal Worker, Retiree, and Employer Recovery Act and the Emergency Economic Stabilization Act. For calendar year 2009, the former act would waive the minimum distribution amount from tax-deferred retirement

savings accounts. Otherwise, a 50% federal penalty is imposed on individuals failing to take a minimum distribution. The administration proposes to suspend the state's penalty, which equals 33% of the federal penalty, for the same calendar year period. This provision accounts for more than one-half of the total fiscal effect (-\$18,080,000 in 2009-10 and -\$6,100,000 in 2010-11).

It should be noted that the IRC update would also affect taxes for tax years beginning before January 1, 2009, in some instances. DOR indicates that the fiscal effect of many of these provisions is expected to be minimal, but has included the impact of those items with measurable effects in the estimates for the 2009-11 biennium, reflecting the filing of amended returns. Other provisions would be phased in or delayed to future tax years, thereby postponing their effect outside the 2009-11 biennium. DOR indicates that the proposal would reduce revenues by an estimated \$2,430,000 in 2011-12 and \$8,700,000 in 2012-13.

Joint Finance/Legislature: Modify the Governor's recommendation by deleting all of the recommended IRC update provisions except the waiver of the state penalty on individuals who do not make required minimum distributions from certain retirement accounts. Increase estimated revenues by \$22,480,000 in 2009-10 and decrease estimated revenues by \$610,000 in 2010-11 compared to the Governor's proposal. Compared to current law, revenues would decrease by \$18,080,000 in the first year and \$6,100,000 in the second year.

[Act 28 Sections: 1526 thru 1534, 1600 thru 1617, 1626 thru 1634, 1679 thru 1687, 1691 thru 1699, and 9143(2)]

18. INDIVIDUAL INCOME TAX DEDUCTION FOR COLLEGE SAVINGS ACCOUNT CONTRIBUTIONS

GPR-REV - \$400,000

Senate: Modify current law provisions allowing an individual income tax deduction for contributions to college savings accounts (EdVest) by extending the deduction to contributions made by parents where the beneficiary is their child, but is not their dependent under federal individual income tax provisions. Set the total annual deduction at \$3,000 per beneficiary, claimed by married persons filing jointly or separately or by divorced or legally separated parents of a child. Provide that the total annual deduction, per beneficiary, claimed by a married person filing separately or by a previously married person filing separately may not exceed \$1,500 per claimant, but provide that a former spouse may claim a higher amount if a divorce judgment specifies a different division of the \$3,000 maximum contribution. Extend this treatment to taxable years beginning on January 1 of the year the act takes effect, but delay the treatment to the succeeding year if the effective date of the act is after August 31. It is estimated that this provision would result in a revenue loss of \$400,000 per year.

Conference Committee/Legislature: Modify the Senate provision so that it would first apply to taxable years beginning on January 1, 2010. As a result, the \$800,000 biennial revenue loss attributed to the Senate provision would be reduced by half, to \$400,000.

[Act 28 Sections: 1543c thru 1543cg and 9343(13x)]

19. INDIVIDUAL INCOME TAX CHECK-OFF FOR DONATIONS TO FOOD BANKS

Assembly: Create a tax check-off on the individual income tax form for donations to Second Harvest Food Banks in Wisconsin that are members of Feeding America. Permit every individual who has a tax liability or is entitled to a tax refund to designate on the return any amount of additional payment or any amount of a refund due that taxpayer as a donation to Second Harvest Food Banks in Wisconsin that are members of Feeding America. The administration of the check-off would operate in the same manner as the administration of tax check-offs provided under current law. Create a continuing, program revenue appropriation to distribute amounts designated through the check-off and credit monies designated through the check-off, net of any Department of Revenue administrative expenses, to the appropriation. Require the net amount in the appropriation to be distributed as indicated to Second Harvest food banks in the following municipalities: (a) Milwaukee, 65%; (b) Madison, 20%; and (c) Eau Claire, 15%. These provisions would first apply to taxable years beginning on January 1 of the year in which the act takes effect, except that if the act takes effect after July 31, the provisions would first apply to taxable years beginning on January 1 of the following year.

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 28 Sections: 602s, 632i, 1593g, and 9343(6q)]

20. INDIVIDUAL INCOME TAX CHECK-OFF FOR DONATIONS TO MILITARY FAMILY RELIEF FUND

Assembly: Create a tax check-off on individual income tax forms for contributions to a newly-created military family relief fund. Permit every individual who has a tax liability or is entitled to a tax refund to designate on the return any amount of additional payment or any amount of a refund due that taxpayer as a donation to the military family relief fund. The administration of the check-off would operate in the same manner as the administration of tax check-offs provided under current law. Require amounts designated through the check-off, net of any Department of Revenue administrative expenses, to be deposited in the military family relief fund. These provisions would first apply to taxable years beginning on January 1 of the year in which the act takes effect, except that if the act takes effect after July 31, the provisions would first apply to taxable years beginning on January 1 of the following year. A related entry on the military family relief fund is located under the Department of Military Affairs.

Senate: Delete provision.

Conference Committee/Legislature: Include Assembly provision.

[Act 28 Sections: 540s, 602s, 665ss, 668s, 1593e, 2773s, 9136(2c), and 9343(5c)]

**21. INDIVIDUAL AND CORPORATE INCOME AND FRANCHISE TAXES --
THROWBACK SALES [LFB Paper 363]**

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR-REV	\$95,200,000	- \$14,700,000	\$80,500,000

Governor: Require the following sales to be included 100%, rather than 50%, in the sales factor of the apportionment formula:

a. Sales of tangible personal property that is shipped from an office, store or warehouse, factory, or other place of storage in Wisconsin, and delivered to the federal government outside the state, and the taxpayer is not within the jurisdiction, for income tax purposes, of the destination state.

b. Sales of tangible personal property that is shipped from an office, store, warehouse, factory, or other place of storage in Wisconsin to a purchaser, other than the federal government, and the taxpayer is not within the jurisdiction, for income tax purposes, of the destination state.

c. Sales of tangible personal property by an office in Wisconsin to a purchaser in another state, that are not shipped or delivered from Wisconsin if the taxpayer is not within the jurisdiction, for income tax purposes, of either the state from which the property is delivered or shipped, or of the destination state.

The provisions would first apply to tax years beginning on or after January 1, 2009.

DOR would deem as timely paid the estimated tax payments attributable to the difference between a person's tax ability under the revised throwback provisions and the tax liabilities under current law for installments that became due during the period beginning on January 1, 2009, and ending on the bill's effective date, if such estimated tax payments were paid by the next installment due date that follows in sequence following the effective date. However, if the next installment due date that follows in sequence following the bill's effective date was less than 45 days after the effective date, such estimated tax payments, in addition to the payment due less than 45 days after the effective date, would be deemed timely paid if paid by the next subsequent installment due date.

These provisions would increase state income and franchise tax revenues by an estimated \$57,700,000 in 2009-10 and \$37,500,000 in 2010-11.

In general, a single sales factor apportionment formula is used to apportion the income of a multistate corporation to Wisconsin. (The income of certain types of corporations, such as public utilities, is apportioned using different apportionment formulas). The sales factor is the ratio of the total sales of the taxpayer in the state to total sales everywhere. Sales are generally all gross receipts from the course of the taxpayer's regular trade or business operations which produce apportionable business income. For the sales factor, sales of tangible personal property

are generally considered to be in Wisconsin if the property is delivered or shipped to a purchaser within Wisconsin or if the property is shipped from Wisconsin and the taxpayer is not subject to the taxing jurisdiction of the state of destination. The latter type of sales are "throwbacks" and 50% of such sales are included in the apportionment formula. In addition, sales of tangible personal property from an office in the state, but shipped from an out-of-state supplier to an out-of-state customer are considered throwback sales, if the taxpayer is not subject to the taxing jurisdiction of the states in which the supplier or customer are located. Sales to the federal government are only considered to be in Wisconsin if they are shipped from a location within the state and are delivered to the federal government at a location within the state or if they are "throwback" sales. Fifty percent of federal throwback sales are included in the apportionment formula.

Joint Finance/Legislature: Adopt the Governor's recommendation but reestimate the fiscal effect to be a revenue increase of \$44,500,000 in 2009-10 and \$36,000,000 in 2010-11. These amounts are lower than the administration's estimate by \$13,200,000 in the first year and \$1,500,000 in the second year.

[Act 28 Sections: 1537, 1619, 1798, and 9343(21b)(a)]

22. INDIVIDUAL AND CORPORATE INCOME AND FRANCHISE TAXES -- ELECTRONIC MEDICAL RECORDS TAX CREDIT EFFECTIVE DATE DELAY [LFB Paper 364]

GPR-REV	\$14,500,000
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Governor/Legislature: Provide that the electronic medical records tax credit under the state individual income and corporate income and franchise taxes could first be claimed for tax years beginning after December 31, 2011, rather than for tax years beginning after December 31, 2009, as under current law. Also, the credit could be used to offset individual income tax minimum tax liability, to provide comparable treatment to that provided for other tax credits. The delayed effective date would increase state income and franchise tax revenues by an estimated \$4,500,000 in 2009-10 and \$10,000,000 in 2010-11.

The 2007-09 biennial budget act (2007 Wisconsin Act 20) created an electronic medical records tax credit under the individual and corporate income and franchise taxes. The tax credit equals 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 can be carried forward up to 15 years to offset future tax liabilities. The maximum total amount of electronic medical records tax credits that can be claimed in a tax year is \$10 million, and is allocated to claimants by the Department of Commerce.

Commerce is 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 is required to allocate tax credits to individual claimants, subject to the annual total credit limit of \$10 million. Commerce must inform DOR of every health care

provider that is certified and of the amount of tax credits allocated to each provider. Commerce must also, in consultation with DOR, promulgate rules to administer the certification and tax credit allocation process.

[Act 28 Sections: 1582, 1662, and 1728]

23. FILM PRODUCTION TAX CREDITS [LFB Paper 251]

	Governor (Chg. to Base)	Jt. Finance /Leg (Chg. to Gov)	Veto (Chg. to Leg)	Net Change
GPR	-\$10,000,000	\$3,000,000	-\$2,000,000	-\$9,000,000

Governor: Sunset the film production services and film production company investment tax credits by disallowing any tax credit claims for tax years beginning after December 31, 2008. Unused film tax credits claimed for tax years beginning before January 1, 2009, could be carried forward to tax years beginning after December 31, 2008. In addition, \$5,000,000 GPR would be deleted annually from the sum sufficient film production services tax credit appropriation used to pay refundable credits, to reflect the sunset of the tax credit. The credits would be replaced by a film project grants program administered by the Department of Commerce. [See "Commerce -- Economic Development"]

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 income and corporate income and franchise taxes. For the purposes of claiming the tax credits, Commerce is required to: (a) accredit productions; (b) determine the amount of expenditures that are directly used to produce an accredited production; and (c) certify expenses that are related to establishing a film production company in Wisconsin.

Film Production Services Tax Credit. The film production services tax credit consists of three components. An eligible taxpayer can claim as a credit against the individual income and corporate income and franchise taxes any of the following.

a. An amount equal to 25% of the eligible salary or wages paid by a claimant to the claimant's employees, up to a maximum credit of \$25,000 per employee, for services rendered in Wisconsin to produce an accredited production and paid to employees who were residents of Wisconsin at the time they were paid. Unused credit amounts can be carried for up to 15 years to offset future tax liabilities.

b. An amount equal to 25% of production expenses paid by the claimant to produce the accredited production. Amounts not used to offset tax liabilities are refundable.

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 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 income and corporate income and franchise taxes for the first three 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 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.

b. The amount expended to 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, and 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, and 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 liability.

Joint Finance/Legislature: Delete the provisions that would sunset the film production services and film production company investment tax credits and provide a film project grants program with annual funding of \$470,000 GPR. Instead:

a. Repeal the current film production services tax credit and create a new refundable film production services tax credit equal to:

1. 25% of salaries, wages and/or contract payments to all Wisconsin residents, including actors that work on a production in Wisconsin. The salaries and wages of individuals with compensation from the production in excess of \$250,000 would be excluded from the credit. An additional 3% tax credit would be provided for salaries and wages and contract payments to Wisconsin residents living in economically distressed areas.

2. 20% of salaries, wages, and/or contract payments to all nonresidents up to a maximum of \$20,000 per worker. Above-the-line expenses (such as nontechnical crew members standard to the industry, producers, writers, casting directors and actors) and salaries and wages of individuals with compensation from the production in excess of \$250,000 would be excluded.

3. 25% of non-labor production expenses incurred in Wisconsin.

b. At least 35% of the project's total budget would have to be spent in Wisconsin. The amount of credits that could be allocated to a project would be limited to \$10.0 million.

c. The film production company investment tax credit would be modified as follows:

1. An entity would be eligible for the credit if the purpose of the investment was for the making of accredited productions.

2. Existing companies could claim the credit.

3. The credit would be refundable and a sum sufficient appropriation would be created to pay credit claims.

4. The total amount of credits that could be allocated to a project would be \$10.0 million.

d. "Production expenditures" would mean any expenditures that were incurred in Wisconsin and directly used to produce an accredited production, including expenditures for set construction and operation, wardrobes, make-up, clothing accessories, photography, sound recording, sound synchronization, sound mixing, lighting, editing, film processing, film transferring, special effects, visual effects, renting or leasing facilities or equipment, renting or leasing motor vehicles, food, lodging, and any other similar expenditures as determined by the Department of Commerce.

e. "Accredited production" would mean a film, video, broadcast advertisement, or television production, as approved by Commerce, for which the aggregate salary and wages included in the cost of the production for the period ending 12 months after the month in which the principal filming or taping of the production begins exceeded \$100,000 for a production that is 30 minutes or longer or \$50,000 for a production that was less than 30 minutes. "Accredited production" would also mean an electronic game, as approved by Commerce, for which the aggregate salary and wages included in the cost of the production for the period ending 36 months after the month in which the principal programming, filming, or taping of the production begins exceeded \$100,000. An "accredited production" would not include any of the following, regardless of production costs: (a) news, current events, or public programming or a program that includes weather or market reports; (b) a talk show; (c) a production with respect to a questionnaire or contest; (d) a sports event or sports activity; (e) a gala presentation or awards show; (f) a finished production that solicits funds; (g) a production for which the company is required under 18USC 2257 to maintain records with respect to a performer portrayed in a single media or multimedia program; (h) a production produced primarily for industrial, corporate, or institutional purposes.

f. In order to claim a production services or production company investment tax credit for purchases of products, the products would have to be purchased from a Wisconsin vendor.

g. An application fee equal to 2% of budget requested or \$5,000, whichever amount is

less, would be required to be paid to the Department.

h. Commerce would be required to submit an annual report to the Joint Finance Committee. The report would include the number of entities receiving tax credits, total expenditures associated with the credits made in-state and the location expenditures were made in counties and municipalities, and the total number of individuals employed on the accredited projects. The Department would be required to use financial tracking forms and permits standard to the industry.

i. The total number of production services and production company tax credits that could be claimed during the 2009-11 biennium would be \$1,500,000 in 2009-10 and in 2010-11. There would be no limit beginning in 2011-12.

j. All changes would be effective for tax years beginning after December 31, 2008.

Provide \$1,500,000 GPR annually to reflect restoration of the film production tax credits. [see "Commerce -- Economic Development"]

Veto by Governor [C-7]: Modify the provisions passed by the Legislature as follows:

a. Reduce the annual statewide limit on film production services and film production company investment tax credits to \$500,000 annually. The partial veto reduces annual Chapter 20 expenditure authority for the film production company services tax credit from \$1,500,000 to \$500,000, and the Governor indicates that he is requesting that the Secretary of Administration reestimate annual film tax credit expenditures at this amount. In addition, the veto converts the film production company investment tax credit appropriation from a sum sufficient to an annual appropriation.

b. Delete the film production services tax credit for 20% of salaries, wages, and/or contract payments to nonresidents.

c. Delete the film production services additional tax credit for 3% of salaries, wages, and/or contract payments to Wisconsin residents living in economically distressed areas.

d. Delete the \$10 million limit on the amount of tax credits that could be allocated to a project under the film production services and production company investment tax credits.

e. Eliminate the requirement that the salaries and wages for 12 months included in the cost of production must exceed \$100,000 for a production of 30 minutes or longer for that production to be an "accredited production." As a result, salaries and wages would have to be \$50,000 for all productions, regardless of length.

f. Delete the requirement that Commerce file an annual report to the Joint Committee on Finance that includes information related to the film tax credits.

[Act 28 Sections: 621m, 1579x thru 1580yh, 1580yk thru 1580ym, 1589b, 1591v, 1591w, 1593b, 1659y thru 1660g, 1660i thru 1660k, 1676d, 1676e, 1677b, 1725w thru 1726yg, 1726yj thru

1726yL, and 1740d thru 1741b]

[Act 28 Vetoed Sections: 176 (as it relates to s. 20.835(2)(bL)&(bm)), 621m, 1579x, 1580yj, 1580yk, 1659y, 1660h, 1660i, 1725w, 1726yh, 1726yj, and 3070m]

24. INDIVIDUAL AND CORPORATE INCOME AND FRANCHISE TAXES -- ANGEL AND EARLY STAGE SEED INVESTMENT TAX CREDITS HOLDING PERIODS

Governor/Legislature: Provide that, for calendar years beginning after December 31, 2007, an investment for which the angel investment tax credit was claimed must be held for three years, (rather than the current one year requirement) or the claimant would be required to pay DOR, in a manner prescribed by the Department, the amount of the credit that the claimant received related to the investment. In addition, for calendar years beginning after December 31, 2007, an investment for which the early stage seed investment tax credit was claimed would have to be held for three years, or the claimant would be required to pay DOR, in a manner prescribed by the Department, the amount of the credit that the claimant received related to the investment. These provisions would have a minimal fiscal effect.

Under current law, as affected by 2009 Wisconsin Act 2, The angel investment tax credit is provided under the state individual income tax, and is equal to 25% of the claimant's bona fide angel investment made directly in a qualified new business venture in a tax year. Unused credit amounts can be carried forward up to 15 years to offset future tax liabilities. The maximum aggregate amount of angel investment tax credits that may be claimed for a tax year is \$5.5 million for tax years before December 31, 2010, and \$18.0 million, plus an additional \$250,000 for tax credits claimed for investments in nanotechnology businesses, for tax years beginning after December 31, 2010. The maximum total amount of tax credits that can be claimed for all tax years is \$47.5 million.

The early stage seed investment credit is provided under the individual income and corporate income and franchise taxes, and the insurance premiums tax, and is equal to 25% of the claimant's investment paid in the tax year to a certified fund manager that the fund manager invests in a qualified business venture certified by Commerce. 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 \$6.0 million for tax years before December 31, 2010, and \$18.5 million, plus an additional \$250,000 for investments in nanotechnology businesses, for tax years beginning after December 31, 2010.

[Act 28 Sections: 1575, 1579, 1659, and 1725]

25. CORPORATE FRANCHISE TAX -- ETHANOL AND BIODIESEL FUEL PUMP TAX CREDIT ORDER OF COMPUTATION

Governor/Legislature: Modify the order of computation for the ethanol and biodiesel

fuel pump tax credit, under the corporate income and franchise tax, to conform with the order of computation under the individual income and corporate franchise tax on insurance companies. In addition, allow the credit to be used to offset individual income tax minimum tax liability to provide comparable treatment to that for other tax credits. These changes would apply retroactively to tax years beginning after December 31, 2007. These provisions would have a minimal fiscal effect.

2007 Act 20 created an ethanol and biodiesel fuel pump tax credit under the state individual and corporate income 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 can be claimed for tax years beginning after December 31, 2007, and before January 1, 2018. The maximum tax credit for a tax year cannot exceed \$5,000 for each service station that claims a credit for an installed or retrofitted pump. Unused credit amounts may be carried forward up to 15 years to offset future tax liabilities.

[Act 28 Sections: 1583, 1670, 9343(2)&(14), and 9443(2)]

26. INSURANCE COMPANY CORPORATE FRANCHISE TAX -- ADD-BACK OF TECHNOLOGY ZONES TAX CREDIT

Governor/Legislature: Require that the technology zones tax credit be included in net income calculations for insurance companies subject to the state franchise tax. The provision would retroactively apply to tax years beginning on or after January 1, 2002. This would provide comparable treatment for technology zone tax credits to that required under the state individual income and corporate income and franchise taxes, and to that required for other tax credits. The provision would have a minimal fiscal effect.

The state corporate franchise tax is imposed on most domestic nonlife insurance companies and on the nonlife insurance business of domestic life insurance companies. Under state law, the amount of tax that an insurance company pays under the state franchise tax cannot exceed 2% of gross Wisconsin premiums.

The technology zones tax credit equals the sum of the following: (a) the amount of real and personal property taxes paid during the tax year; (b) 10% of capital investments made, including the purchase price of depreciable, tangible personal property, and the amount expended to acquire, construct, rehabilitate, remodel, or repair real property in a technology zone; and (c) 15% of the amount spent for the first 12 months of wages for each job created in a technology zone. Credits may be used to offset the income or franchise tax liability of the claimant. Credits that are not entirely used to offset income or franchise taxes in the current year can be carried forward up to 15 years to offset future tax liabilities.

[Act 28 Sections: 1702d, 1827, 9343(15), and 9443(10)]

27. INDIVIDUAL AND CORPORATE INCOME AND FRANCHISE TAXES -- MODIFICATIONS TO THE SUPPLEMENT TO FEDERAL HISTORIC REHABILITATION TAX CREDIT [LFB Paper 365]

Governor/Legislature: Modify statutory provisions of the state supplement to the federal historic rehabilitation tax credit as follows:

a. Require that, in order to claim the tax credit, a claimant must include, with the claimant's return, evidence that the rehabilitation was recommended by the state historic preservation officer for approval by the U.S. Secretary of the Interior before the physical work of construction, or destruction in preparation for construction, began, and that the Secretary of the Interior approved the rehabilitation.

b. Require that the credit must be claimed at the same time as the federal credit is claimed.

c. Provide that, for shareholders of a tax-option corporation, the credit may be allocated in proportion to the ownership interest of each shareholder. Credits computed by a partnership or limited liability company could be claimed in proportion to the ownership interests of the partners or members, or allocated to partners or members as provided in a written agreement among the partners or members that was entered into no later than the last day of the taxable year of the partnership or LLC, for which the credit was claimed. For a partnership or LLC that placed property in service after June 29, 2008, and before January 1, 2009, the credit attributable to such property could be allocated, at the election of the partnership or LLC, to partners or members for a taxable year of the partnership or LLC that ended after June 29, 2008, and before January 1, 2010. Any partner or member who claimed the credit under these provisions would be required to attach a copy of the agreement, if applicable, to the tax return on which the credit was claimed. A person claiming the credit as provided under these provisions would be solely responsible for any tax liability arising from a dispute with the Department of Revenue related to claiming the credit.

d. Specify that a person who elected to claim the credit based on claiming amounts for expenditures as the expenditures were paid, rather than when the rehabilitation work was completed, would be required to file an election form with DOR, in a manner prescribed by the Department. DOR would be authorized to adjust or disallow the credit claimed within four years after the date that the state Historical Society notified the Department that the expenditures for which the credit was claimed did not comply with the standards for certification promulgated by the Historical Society by rule.

These provisions would apply to property placed in service on or after June 30, 2008, and are estimated to have a minimal fiscal effect.

Under current law, an individual or corporation may claim a credit against state income or franchise taxes due for up to 5% of qualified rehabilitation expenditures for certified historic structures. A certified historic structure is defined as a building that is listed in the National

Register of Historic Places or that is determined to be historic and will be listed in the National Register. The building must be used for the production of income, such as commercial, industrial, or residential rental purposes. "Qualified rehabilitation expenditures" are amounts incurred that must be capitalized and added to the basis of the building rather than being deducted. Qualified expenditures do not include any amount being depreciated under an accelerated method, the cost of acquiring the building itself, or any expense for enlargement of an existing building. Expenses capitalized or properly chargeable to a capital account are those that are properly includable in calculating the basis of real property, such as architectural, engineering, and site survey fees, and construction period interest and taxes that are treated by the taxpayer as chargeable to a capital account. Also included are legal and development fees, insurance premiums, and construction costs.

Qualified rehabilitation expenditures are eligible for the credit only if incurred in connection with substantial rehabilitation of property located in the state, if the physical work of construction or destruction in preparation for construction begins after December 31, 1988, and the rehabilitated property is placed in service after June 30, 1989. The test of substantial rehabilitation generally is met if the qualified expenditures during a two-year period (60 months for phased rehabilitation) exceed the greater of \$5,000 or the adjusted basis of the building. Unused credit amounts can be carried forward up to 15 years to offset future tax liabilities.

In order to claim a credit, the claimant must include, with the tax return, evidence that the rehabilitation was approved by the U.S. Secretary of the Interior.

Partnerships, LLCs, and S corporations may not claim the credit, but the eligibility for and the amount of the credit are based on each entity's eligible investments. The partnership, LLC, or S corporation must compute the amount of credit that each of its partners, members, or shareholders may claim and provide that information to each of them. Partners, members of LLCs, and shareholders of S corporations claim the credit in proportion to their ownership interest.

[Act 28 Sections: 823, 1585 thru 1588, 1663 thru 1666, 1729 thru 1732, and 9343(17)]

28. ENTERPRISE ZONES TAX CREDIT SUM SUFFICIENT REESTIMATE

GPR	- \$9,510,000
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Governor/Legislature: Delete \$4,875,000 in 2009-10 and \$4,635,000 in 2010-11 from the sum sufficient appropriation for the enterprise zones jobs tax credit to re-estimate tax credit claims during the biennium. The re-estimates reflect projections of program participation based on recent experience. With these adjustments, total funding would be decreased from an adjusted base level of \$6,500,000 to \$1,625,000 in 2009-10 and \$1,865,000 in 2010-11.

29. ENTERPRISE ZONES CAPITAL INVESTMENT TAX CREDIT

Assembly/Legislature: Create a refundable capital investment tax credit equal to up to 10% of the claimant's significant capital expenditures in an enterprise zone as, determined by the Department of Commerce. Commerce would be authorized to certify a business that made a significant capital expenditure in an enterprise zone to receive additional tax benefits in an amount determined by the Department, but not exceeding 10% of the firm's capital expenditures. Commerce would be required to allocate the tax benefits received by a business over the remainder of the life of the enterprise zone. The Department would be required to define "significant capital expenditure" by rule.

[Act 28 Sections: 1571d thru 1571g, 1655m thru 1655r, 1721m thru 1721r, 3121g, and 3121r]

30. SUPER RESEARCH AND DEVELOPMENT TAX CREDIT [LFB | | | |---------|---------------| | GPR-REV | - \$5,000,000 | |---------|---------------| Paper 366]

Governor/Legislature: Create, under the state corporate income and franchise tax, for tax years beginning on or after January 1, 2011, a super research and development tax credit. The credit would equal the amount of qualified research expenses paid or incurred by the corporation in a tax year that exceeded 1.25 times the average annual amount of qualified research expenses paid or incurred in the previous three tax years. Unused credit amounts could be carried forward up to five years to offset future tax liabilities. Current law provisions related to adjustments for acquisitions and dispositions, annualization and proration of tax credits, change of business ownership, DOR administration, and timely credit claims would apply to the super research and development tax credit.

"Qualified research expenses" would be qualified research expenses as defined under the Internal Revenue Code incurred by the claimant for research conducted in Wisconsin for the tax year. (This is the same definition used for the research credit under current law.)

The super research and development tax credit would reduce state corporate income and franchise taxes by an estimated \$5,000,000 in 2010-11 and \$10,000,000 annually in 2011-12 and thereafter.

Under current law, a state research credit is provided under the corporate income and franchise tax equal to 5% of the increase in a corporation's qualified research expenditures in Wisconsin over the base amount. The "base amount" is calculated by multiplying the taxpayer's average annual gross receipts for the preceding four years by a fixed-base percentage. The "fixed-base" percentage is the percentage that the taxpayer's total aggregate qualified research expenditures for a specified period is of the taxpayer's total aggregate gross receipts for those years. The fixed-base percentage cannot exceed 16%. In addition, the base amount cannot be less than 50% of research expenses in the year for which the credit is claimed. Consequently, the state research credit is 5% of the lesser of: (a) the excess of current year research expenses over the base amount; or (b) 50% of current year research expenses.

In addition, a 10% tax credit can be claimed for qualified research expenses (less the base amount) for the following activities:

a. Designing internal combustion engines for vehicles, including expenses related to designing vehicles that are powered by such engines, and improving production processes for such engines and vehicles.

b. Designing and manufacturing energy efficient lighting systems, building automation and control systems, or automotive batteries for use in hybrid-electric vehicles that reduce the demand for natural gas or electricity or improve the efficiency of its use.

The credits apply only to research expenditures paid or incurred in connection with the trade or business of the taxpayer that are research and development costs in an experimental or laboratory sense. In general, qualifying expenses are non-capital, and thus, do not include spending for buildings and equipment. Qualified research expenses are the sum of: (a) in-house expenditures for research, wages and supplies used in research, plus certain amounts paid for research use of laboratories, equipment, computers, or other personal property; and (b) 65% of the amount paid by the taxpayer for qualified research conducted on behalf of the taxpayer. Examples of eligible costs include: (a) the costs incident to the development of an experimental or pilot model, a plant process, a product, a formula, an invention, or similar property; and (b) the cost of improving this type of property. Qualified research is research which is undertaken for the purpose of discovering information which 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. In addition, substantially all of the activities of the research must be elements of a process of experimentation relating to a new or improved function, performance, reliability, or quality.

[Act 28 Sections: 1597, 1624, 1635, 1656, 1669, 1690, 1722, and 1734]

31. **INDIVIDUAL AND CORPORATE INCOME TAXES -- JOBS TAX CREDIT** [LFB Paper 367]

Governor: Create a refundable jobs tax credit under the individual income and corporate income and franchise taxes, for tax years beginning after December 31, 2011. In order to claim the credit, a person would have to be certified by the Department of Commerce. Commerce could certify a person, for up to 10 years, if: (a) the person was operating or intended to operate a business in this state; and (b) the person applied and entered into a contract Commerce.

A person that was certified could claim the jobs tax credit if, in each year for which the person claimed the tax credit, the person increased net employment in the person's business and one of the following applied:

a. In a tier I county or municipality, an eligible employee, for whom the person claimed a tax credit, earned at least \$20,000 but not more than \$100,000 in wages, in the year for

which the credit was claimed.

b. In a tier II county or municipality, an eligible employee, for whom the person claimed a tax credit, earned at least \$30,000 but not more than \$100,000 in wages, in the year for which the credit was claimed.

c. In a tier I or tier II county or municipality, the person improved the job-related skills of any eligible employee, trained any eligible employee on the use of job-related new technologies, or provided job-related training to any eligible employee whose employment with the person represented the employee's first full-time job.

The jobs tax credit would equal up to 10% of the wages paid to an eligible employee and/or the amount of costs incurred to undertake training activities in a tax year, as determined by Commerce. Specifically, Commerce could award jobs credits of up to 10% of wages of at least \$20,000 but not more than \$100,000 in a tier I county or municipality, and of at least \$30,000 but not more than \$100,000 in a tier II county or municipality, paid by the person to each eligible employee. Commerce could also award tax credits in an amount determined by rule for costs incurred by the person to undertake training activities. The credit would be refundable. As a result, if the allowable amount of the credit claimed exceeded the tax otherwise due, the amount of the claim not used to offset the tax due would be certified by DOR to the Department of Administration for payment by check, share draft, or other draft drawn from a newly-created GPR appropriation for refund payments. The maximum amount of tax credits that Commerce could allocate in a calendar year would be \$10 million.

Partnerships, LLCs, and tax-option corporations could not claim the credit, but the eligibility for, and the amount of, the credit would be based on their payment of amounts eligible for the credit. A partnership, LLC, or tax-option corporation would be required to compute the amount of credit that each of its partners, members, or shareholders could claim and provide that information to each of them. Partners, members of LLCs, and shareholders of tax-option corporations could claim the credit in proportion to their ownership interests.

A claimant would be required to include a copy of the Commerce certification for tax credits along with the claimant's tax return submitted to DOR. Current law provisions related to change of ownership and timely filing of claims would apply to the jobs tax credit. DOR would have full power to take administrative action, conduct any procedure, and to proceed as authorized under the state income and franchise tax laws.

Commerce would be required to notify DOR when it certified a person to receive tax benefits, and within 30 days of revoking a certification. Commerce would also determine the maximum amount of the tax credits that a certified business could claim and notify DOR of this amount. A claimant could be required to repay any tax credits claimed for a year in which the claimant failed to maintain employment at a level required under the contract with Commerce. Commerce would annually verify the information submitted by the person claiming tax credits.

Commerce would be required to promulgate rules for the implementation and operation

of the jobs tax credit, including rules relating to the following:

a. The definitions of a tier I county or municipality and a tier II county or municipality. The Department could consider all of the following information when establishing the definitions: (1) unemployment rate; (2) percentage of families with incomes below the poverty line established under federal law; (3) median family income; (4) median per capita income; and (5) other significant or irregular indicators of economic distress, such as a natural disaster or mass layoff.

b. A schedule of additional tax benefits for which a person who is certified for tax credits, and who incurred costs related to job training may be eligible.

c. Conditions for the revocation of a certification.

d. Conditions for the repayment of tax credits.

Commerce would be authorized to promulgate emergency rules that would remain in effect until July 1, 2010, or the date on which permanent rules took effect, whichever was sooner. The Department would not be required to provide evidence that promulgating these rules as emergency rules was necessary for the preservation of the public peace, health, safety, or welfare and would not be required to provide a finding of emergency. If the Secretary of Administration required Commerce to prepare an economic impact report for the rules required under the provisions of the bill, the Department could submit the proposed rules to the Legislature for review before Commerce completed the economic impact report and before the Department received a copy of DOA approval of the report.

"Business" would mean any organization or enterprise operated for profit, including a sole proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation, LLC, or association, but would not include a store or shop in which retail sales was the principal business. "Eligible employee" would be defined as a person employed in a full-time job by a person certified by Commerce

"Full-time job" would be defined as a regular, nonseasonal full-time position in which an individual, as a condition of employment, was required to work at least 2,080 hours per year, including paid leave and holidays, and for which the individual received pay that was equal to at least 150% of the federal minimum wage and benefits that were not required by federal or state law. "Full-time job" would not include initial training before an employment position begins.

Since it would first apply to tax years beginning after December 31, 2011, the jobs tax credit would not have a fiscal effect during the 2009-11 biennium. It is estimated that the credit would increase general fund expenditures by \$4,500,000 in 2012-13 and \$10,000,000 annually thereafter.

Under current law, persons may deduct as ordinary and necessary expenses paid or incurred in carrying on a trade or business, a reasonable allowance for salaries and other

compensation for personal services actually rendered. Amounts an employer pays or incurs for training are generally deductible as business expenses. The Business Development in Wisconsin Tax Incentives program was created by 2009 Wisconsin Act 2. The program provides income and franchise tax credits to eligible persons conducting specified types of economic development projects in the state, including job creation and employee training projects. Under the program, Commerce has a total of \$65.29 million in tax credits to allocate to eligible projects.

Assembly: Modify the proposed jobs tax credit as follows:

a. Provide that the credit could be claimed for tax years beginning after December 31, 2009, but that credit claims could not be paid until tax years beginning after December 31, 2011.

b. Limit the total amount of credits that could be claimed for tax years beginning on or after January 1, 2010, and ending on June 30, 2013, to \$14,500,000. As a result, credits could be claimed during the 2009-11 biennium, but could not be paid until the 2011-13 biennium, and the total cost of the credit in the 2011-13 biennium would not increase, but would remain the same as under the provisions recommended by the Governor and approved by the Joint Committee on Finance.

c. Eliminate the \$100,000 cap on eligible wages and, instead, provide that the credit would equal 10% of wages up to \$100,000, in cases where an employee's wages were greater than \$100,000. Wages would still have to exceed \$20,000 in tier I counties and municipalities, and \$30,000 in tier II counties and municipalities.

Senate: Delete the Assembly modifications.

Conference Committee/Legislature: Adopt the first two Assembly provisions, which would:

a. Provide that the proposed jobs credit could be claimed for tax years beginning after December 31, 2009, but credit claims could not be paid until tax years beginning after December 31, 2011; and

b. Limit the total amount of jobs tax credits that could be claimed for tax years beginning on or after January 1, 2010, and ending on June 30, 2013, to \$14,500,000.

In addition, limit the maximum amount of jobs tax credits that could be claimed in a year to \$5,000,000, rather than \$10,000,000 as provided under the Governor's recommendation and the Joint Finance version of the budget.

[Act 28 Sections: 620, 1540d, 1569, 1593b, 1598d, 1625d, 1654, 1677b, 1688d, 1702d, 1720, 1741b, 1873d, 3070, 9110(6)&(7), and 9443(11)]

32. INDIVIDUAL AND CORPORATE INCOME AND FRANCHISE TAXES -- BEGINNING FARMER AND FARM ASSET OWNER TAX CREDITS [LFB Paper 368]

Governor/Legislature: Create a refundable beginning farmer tax credit and a refundable farm asset owner tax credit under the state individual income and corporate income and franchise taxes, including the individual income minimum tax, for tax years beginning after December 31 2010.

The beginning farmer tax credit would equal the amount paid by the beginning farmer to enroll in a financial management program in the year to which the claim related. The credit could be claimed on one-time basis, and the maximum credit that could be claimed would be \$500. If the allowable amount of the claim exceeded the income taxes otherwise due on the beginning farmer's income, the amount of the claim not used as an offset against those taxes would be certified by DOR to DOA for payment to the claimant by check, share draft, or other draft from a newly-created GPR sum-sufficient appropriation.

The farm asset owner tax credit would equal 15% of the lease amount received by an established farmer in the year to which the claim related. The credit could only be claimed for the first three years of any lease of the established farmer's assets to a beginning farmer. If the allowable amount of the credit claim exceeded the income taxes otherwise due on the established farmer's income, the amount of the claim not used as an offset against those taxes would be certified by DOR to DOA for payment to the claimant by check, share draft, or other draft from the sum-sufficient GPR appropriation created for payment of beginning farmer and farm asset owner tax credits (described above).

Partnerships, LLCs, and tax-option corporations could not claim the farm asset owner tax credit, but the eligibility for, and the amount of the credit would be based on the amounts received by the entities. A partnership, LLC, or tax-option corporation would compute the amount of credit that each of its partners, members, or shareholders could claim and provide that information to each of them. Partners, members of LLCs, and shareholders of tax-option corporations could claim the credit in proportion to their ownership interests.

Tax credits would have to be claimed within four years of the due date for the claimant's tax return. Along with an income tax return, a claimant would be required submit to DOR the certificate of eligibility provided to the claimant by the Department of Agriculture, Trade, and Consumer Protection (DATCP). A part-year resident or a nonresident could not claim the credit. The right to file a tax credit claim would be personal to the claimant, and would not survive the claimant's death. However, if a claimant died after having filed a timely credit claim, the credit would be disbursed to the claimant's personal representative, or surviving relative as provided under current law. The right to file a claim could be exercised on behalf of a living claimant by the claimant's legal guardian or attorney-in-fact.

Current law provisions related to change of ownership and timely filing of claims would apply to the beginning farmer and farm asset owner tax credits. DOR would have full power to take administrative action, conduct any procedure, and to proceed as authorized under the state income and franchise tax laws.

In order to claim a tax credit, both a beginning farmer and an established farmer would have to apply to be certified by DATCP, after review of the application. A beginning farmer would be required to include all of the following in an application:

- a. The beginning farmer's name and address.
- b. Information showing that the beginning farmer met the definition of a "beginning farmer".
- c. A business plan that included a current balance sheet and projected balance sheets for three years, cash flow statements, and income statements along with a detailed description of all significant accounting assumptions used in developing the financial projections.
- d. A description of the beginning farmer's education, training, and experience in the type of farming in which the beginning farmer used the leased agricultural assets.
- e. A copy of the beginning farmer's completed federal profit or loss from farming form, schedule F, or other documentation approved by DATCP.
- f. Any other information required by DATCP.

To claim the beginning farmer educational credit, the beginning farmer would be required to include in the application, a description of the financial management program completed and a statement of the amount that the beginning farmer paid the educational institution to enroll in the financial management program. DATCP would provide a beginning farmer with a certificate of eligibility for the educational credit, if the Department had issued a certificate of eligibility for the experienced farmer from whom the beginning farmer leased farm assets, and the information provided regarding the financial management program showed that the beginning farmer had completed the program.

An individual would be a beginning farmer if, at the time the individual submitted an application, all of the following applied: (a) the individual had a net worth of less than \$200,000; (b) the individual had farmed for fewer than 10 years out of the preceding 15 years; (c) the individual had entered into a lease for a term of at least three years with an established farmer for the use of the established farmer's agricultural assets; and (d) the individual used the leased agricultural assets for farming.

An established farmer would be required to include in the application for certification the established farmer's name and address, information showing that the established farmer met the definition of established farmer, a description of the leased agricultural assets and their location, a copy of the lease, and any other information required by DATCP. The Department would provide an established farmer with a certificate of eligibility for the farm asset owner tax credit if all of the following applied: (a) the established farmer's application included the required information; (b) the beginning farmer's application included the required information; and (c) DATCP determined that the business plan submitted and the education, training, or experience described in the beginning farmer's application showed that the beginning farmer

has sufficient resources and education, training, or experience for the type of farming in which the beginning farmer used the leased agricultural assets.

A person would be an established farmer if, at the time the person submitted an application, all of the following applied: (a) the person has engaged in farming for a total of at least 10 years; (b) the person owned agricultural assets; and (c) the person had entered into a lease for a term of at least three years with a beginning farmer for the use of the person's agricultural assets by the beginning farmer.

DATCP would be authorized to approve providers of courses in farm financial management for the purposes of the beginning farmer educational tax credit. The Department could also assist beginning farmers in developing business plans and in the negotiation of leases of farm assets that could enable persons to qualify for tax credits.

"Agricultural asset" would mean machinery, equipment, facilities, or livestock that was used in farming. An "educational institution" would include the Wisconsin Technical College System, the University of Wisconsin-Extension, the University of Wisconsin-Madison, or any other institution that would be approved by DATCP. The definition of "farming" would be referenced to the Internal Revenue Code and would mean the cultivation of land or the raising or harvesting of any agricultural or horticultural commodity including the raising, shearing, feeding, caring for, training, and management of animals. "Financial management program" would mean a course in farm financial management that was offered by an educational institution.

Because the tax credits would first apply to tax years beginning after December 31, 2010, there would not be a fiscal effect during the 2009-11 biennium. However, the tax credits would reduce individual and corporate income and franchise revenues by an estimated \$700,000 in 2011-12, and \$1,000,000 annually thereafter.

Under current law, gross business income is income that is generated by a taxpayer in the active conduct of a trade or business. Business income includes gross profit, dividends, interest, rents, royalties, capital gains or losses, and other income.

Under current law, an individual can deduct the costs of qualifying work-related education as a business expense if it meets one of the following two tests: (a) the education is required by an employer or the law to keep the individual's present salary, status, or job; or (b) the education maintains or improves skills needed in the individual's present work. However, even if the education meets one or both of these tests, it is not qualifying work-related education if it: (a) is needed to meet the minimum educational requirements of the individual's present trade or business; or (b) is part of a program of study that will qualify the individual for a new trade or business.

[Act 28 Sections: 627, 1540d, 1584, 1589b, 1593b, 1598d, 1625d, 1667, 1677b, 1686, 1702d, 1733, 1741b, 1873d, and 1974]

**33. INDIVIDUAL AND CORPORATE INCOME AND FRANCHISE TAXES --
DEFINITION OF AIR CARRIER [LFB Paper 369]**

	Governor (Chg. to Base)	Legislature (Chg. to Gov)	Net Change
GPR-REV	\$8,000,000	-\$8,000,000	\$0

Governor: Provide that "air carrier" would be defined as a person who provides or offers to provide air transportation and who has control over the operational functions performed in providing that transportation, under the state individual income and corporate income and franchise taxes. As a result, certain corporations engaged in air transportation activities would be required to use the single sales factor apportionment formula. This provision would increase state income and franchise tax revenues by an estimated \$4,000,000 annually.

Under current law, for state income and franchise tax purposes, most corporations, insurance companies, nonresident individuals, estates, and trusts apportion income to Wisconsin using a single sales factor apportionment formula. However, certain types of businesses, including interstate air carriers, are required to use different apportionment formulas to determine net taxable income. Specifically, the apportionable income of interstate air carriers is apportioned to Wisconsin on the basis of a ratio obtained by taking the arithmetical average of the following three ratios:

- a. Ratio of aircraft arrivals and departures in state to total aircraft arrivals and departures.
- b. Ratio of revenue tons handled at airports in state to total revenue tons handled.
- c. Ratio of originating revenue in state to total originating revenue.

No specific definition of "air carrier" is provided under current law.

Joint Finance: Delete the Governor's recommendation and, instead, define "air carrier" to mean a person who provides or offers to provide air transportation and whose business is 51% or more the provision of air transportation during the tax year. "Air carrier" would not include an air freight forwarder, or an aircraft lessor.

Senate/Legislature: Delete provision.

34. KENOSHA DEVELOPMENT OPPORTUNITY ZONE

Joint Finance/Legislature: Require the Department of Commerce to designate an area in the City of Kenosha as a development opportunity zone that would exist for five years. Any business that located and conducted activity in the zone would be eligible to claim the development zone environmental remediation and jobs tax credit and the development zone capital investment tax credit, and the maximum amount of tax credits that could be claimed by

businesses in the zone would be \$5.0 million. In order to claim tax credits, a business that conducts economic activity in the Kenosha development opportunity zone would have to submit a project plan to Commerce, and comply with other statutory provisions governing development opportunity zones. Commerce could extend the zone an additional five years, and provide an additional \$5.0 million in tax credits, if it would support economic development in the city. There would be an estimated minimal revenue loss in the 2009-11 biennium. The \$5 million in tax credits would be claimed over the next two biennia.

[Act 28 Sections: 3092g, 3092r, 3110e, 3110h, and 3110p thru 3110y]

35. JANESVILLE DEVELOPMENT OPPORTUNITY ZONE

Joint Finance/Legislature: Require the Department of Commerce to designate an area in the City of Janesville as a development opportunity zone that would exist for five years. Any business that located and conducted activity in the zone would be eligible to claim the development zone environmental remediation and jobs tax credit and the development zone capital investment tax credit, and the maximum amount of tax credits that could be claimed by businesses in the zone would be \$5.0 million. In order to claim tax credits, a business that conducts economic activity in the Janesville development opportunity zone would have to submit a project plan to Commerce, and comply with other statutory provisions governing development opportunity zones. Commerce could extend the zone an additional five years, and provide an additional \$5.0 million in tax credits, if it would support economic development in the city. There would be an estimated minimal revenue loss in the 2009-11 biennium. The \$5 million in tax credits would be claimed over the next two biennia.

[Act 28 Sections: 3092g thru 3110b, 3110h, 3110L, and 3110r thru 3110y]

36. DELAY COMMUNITY REHABILITATION PROGRAM TAX CREDIT EFFECTIVE DATE

GPR-REV	\$6,600,000
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Joint Finance/Legislature: Delay implementation of the community rehabilitation program tax credit enacted in 2007 Act 20 until tax years beginning on or after July 1, 2011, rather than July 1, 2009, under current law. Act 20 created a community rehabilitation program tax credit equal to 5% of the amount that a claimant pays to a community rehabilitation program to perform work for the claimant's business, pursuant to a contract. The credit will be available under the individual income tax and the corporate income and franchise tax. Under current law, the credit will first apply for tax years beginning on or after July 1, 2009. This provision would delay implementation of the credit by two years, which would result in estimated increased income and franchise tax revenues of \$3,300,000 in 2009-10 and 2010-11.

[Act 28 Sections: 1583d, 1662d, and 1728d]

**37. CORPORATE INCOME AND FRANCHISE TAX -- COMBINED REPORTING
TECHNICAL AND MINOR POLICY MODIFICATIONS**

Joint Finance/Legislature: Make the following modifications to state income and franchise tax provisions related to combined reporting: (a) provide that, in the computation of the business income of the combined group, that combined groups operating wholly in Wisconsin be treated the same as multistate groups in determining modifications for an expanded dividends received deduction, deferral of intercompany gains and losses, application of charitable contribution limitations, and the sharing of net business losses; (b) specify that the definition of doing business in the state is subject to the limitations of federal Public Law 86-272, and that taxpayers that have nexus with the state for any part of the year would be considered to have nexus for the entire year; (c) repeal certain throwback provisions for sales of items other than tangible personal property; (d) clarify that a corporation engaged in a unitary business with one or more other corporations in a commonly controlled group must use combined reporting; (e) modify provisions related to the required duties of designated agents to allow DOR, through administrative rules, to authorize other entities to perform certain duties; (f) delete the requirement that a corporation must be a member of a combined group for 365 days to eliminate dividends paid by that corporation to another combined group member in determining income; and (g) authorize DOR to promulgate administrative rules necessary to conform state treatment of transactions between members of a combined group with those that apply to members of a federal consolidated group.

[Act 28 Sections: 1537, 1538b thru 1539d, 1599d, 1619, 1620b thru 1621e, 1621f thru 1621k, 1621L, 1621m thru 1621r, 1798, and 9343(21b)]

**38. CORPORATE INCOME AND FRANCHISE TAX -- COMBINED
GROUP TAX CREDIT SHARING**

GPR-REV - \$6,000,000

Assembly/Legislature: Provide that, for any year that a corporation that was a member of a combined group had an unused research credit (including the 10% credit related to designing internal combustion engines and the 10% credit for designing and manufacturing certain lighting or building automation systems, or car batteries) and/or research facilities tax credit or credit carry-forward, the corporation could, after using the credit or carry-forward to offset the corporation's own tax liability, use the unused credit or credit carry-forward to offset the tax liability of all the other members of the combined group, on a proportionate basis. If the corporation was not included in the combined group, the corporation could only apply unused tax credits to that corporation's tax liability, unless otherwise provided by DOR by rule. This provision would apply to tax years beginning on or after January 1, 2009, and would reduce corporate income and franchise tax revenues by an estimated \$3,000,000 in 2009-10 and 2010-11.

[Act 28 Sections: 1621km, 1621Ld, and 9343(21b)]

39. CORPORATE INCOME AND FRANCHISE TAX -- ELECTION TO INCLUDE MEMBERS OF CONTROLLED GROUP IN COMBINED REPORT

Assembly/Legislature: Authorize the designated agent of a combined group to elect, without first obtaining written approval from DOR, to include in its combined group every corporation in its commonly controlled group, regardless of whether those corporations are engaged in the same unitary business as the designated agent. Corporations included in the combined group through this election would be required to use combined reporting only to the extent required under current law provisions that specify the corporations required to use combined reporting. The commonly controlled group would have to calculate its Wisconsin income and apportionment factors under current law combined reporting provisions. All income of all members of the commonly controlled group would be required to be treated as apportionable income for the purposes of the combined report, regardless of whether or not the income would be subject to apportionment, or be allocable to a particular state, in the absence of an election to include all members of the commonly controlled group in the combined group.

The election to include all members of a commonly controlled group in the combined group would have to be executed by the designated agent on an original, timely filed combined report for the group. Any corporation that was included in the commonly controlled group subsequent to the year of election would be considered as having waived any objection to being included in the group's combined report.

An election to include all members of a commonly controlled group in a combined report would be effective for 10 years, and could be renewed for an additional 10 years without prior written approval by DOR, after the election had been effective for 10 years. The renewal would have to be made on an original, timely filed return for the first tax year after the first 10-year election period was completed. An election that was not renewed would be revoked, and could not be renewed for the following three years. DOR would be authorized to disregard the tax effect of an election, or disallow an election, for any controlled group member, if DOR determined the election was for tax avoidance purposes.

This provision would apply to tax years beginning on or after January 1, 2009.

[Act 28 Sections: 1621eb and 9343(21b)]

40. INDIVIDUAL AND CORPORATE INCOME AND FRANCHISE TAX -- BIODIESEL FUEL PRODUCTION TAX CREDIT

GPR-REV	\$2,600,000
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Conference Committee/Legislature: Delay the effective date for the biodiesel fuel production tax credit, under the state individual income and corporate income and franchise taxes, to apply to tax years beginning after December 31, 2011, and before January 1, 2015. This would increase state individual income and corporate income and franchise tax collections by an estimated \$800,000 in 2009-10 and \$1,800,000 in 2010-11. Under current law, the credit is equal to 10 cents per gallon of biodiesel fuel produced by biodiesel fuel producers in the state

that produce at least 2.5 million gallons of biodiesel fuel per year. The maximum credit that can be claimed is \$1,000,000. Under current law, the credit is effective for tax years beginning after December 31, 2009, and before January 1, 2013.

[Act 28 Sections: 1554d, 1643d, and 1709d]

41. DAIRY MANUFACTURING FACILITIES INVESTMENT TAX CREDIT

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	- \$14,000	- \$71,800	- \$85,800

Governor: Reduce funding for the refundable dairy manufacturing facilities tax credit by \$7,000 annually as part of 1% across-the-board budget reductions.

Joint Finance/Legislature: Delete an additional \$35,900 annually relating to increased across-the-board budget reductions. The reductions are generally equivalent to 5.135% of base level funding. Total annual funding of \$657,100 would remain for tax credit claims.

General Sales and Use Tax

1. SALES AND USE TAX TREATMENT OF DISREGARDED ENTITIES [LFB Paper 375]

GPR-REV \$40,800,000

Governor: Provide that a single-owner entity that is disregarded as a separate entity for income or franchise tax purposes would also be disregarded as a separate entity for sales and use tax purposes. The proposal would become effective on the day after publication of the budget bill. Assuming an effective date of July 1, 2009, the administration estimates that the proposal would increase sales and use tax revenue by \$19,800,000 in 2009-10 and \$21,000,000 in 2010-11.

A disregarded entity is a separate entity from its owner, but the disregarded entity and its owner are treated as a single entity for income or franchise tax purposes. Businesses may establish separate entities from their owners, such as single-member limited liability companies, for liability reasons; so that if the business is sued, the owner would not be liable for the lawsuit. The owner then chooses to disregard these separate entities for the purposes of the business owner's income or franchise tax return.

Under current law, the owner of a single-owner entity that is disregarded as a separate entity for purposes of the income or franchise tax is regarded as a separate entity for purposes

of the sales and use tax. According to the Department of Revenue, separate entity treatment under the sales and use tax for disregarded entities has encouraged some businesses to engage in a number of tax avoidance strategies, some of which have become common practice. Some examples are described below:

Separate Transportation Companies. An owner entity may create a separate transportation company solely to haul products for the owner. In the absence of the separate company, the owner would owe tax on its purchases of trucks, trailers, and other hauling equipment. However, the separate transportation company would qualify for the sales tax exemption for vehicles purchased by common or contract carriers.

Sales for Resale. The sales and use tax is imposed on sales at retail. Purchases of merchandise by sellers for resale are exempt from the tax. DOR indicates that business owners may establish a separate entity to purchase items for resale to the owner for \$1, which results in the sales tax being imposed on the final sale for \$1 rather than on the original purchase price of the items.

Construction Contractors. Under current law, construction contractors are required to pay the sales tax on materials they purchase and use in real property construction, even if the structure is sold to a governmental unit or other exempt entity. DOR indicates that contractors may create separate supply companies that purchase the materials and then resell them to the exempt entity for which the structure is being built. Such arrangements result in the materials remaining untaxed since the supply company purchases the materials without tax for resale, and the sale of the materials to the exempt entity is not taxable.

The Governor's proposal would eliminate the ability of parent companies to avoid the sales and use tax for these types of purchases made by subsidiary entities which are disregarded for purposes of the income or franchise tax.

Joint Finance/Legislature: Approve the Governor's proposal with modifications to include the following transitional provisions requested by the Department of Revenue:

- a. Clarify that purchases made prior to the effective date of the disregarded entity provisions would be treated as provided under current law.
- b. Specify that purchases of building materials, if the materials are affixed and made a structural part of real estate and the amount payable to the contractor is fixed without regard to the costs incurred in performing a written contract that was irrevocably entered into prior to the effective date of the disregarded entity provisions, or that resulted from the acceptance of a formal written bid accompanied by a bond or other performance guaranty that was irrevocably submitted before the effective date of the disregarded entity provisions, would not be subject to the proposed change in sales tax treatment.

The intent of these modifications is to prevent the sales and use tax from being imposed on purchases made prior to the effective date of the disregarded entity provisions, and to prevent the imposition of the sales tax on purchases made pursuant to contracts which were

agreed upon and cannot be rebid on to account for the entity's proposed change in tax treatment.

[Act 28 Sections: 1833, 1833b, 1855, 1855b, and 9443(9d)]

2. SEPARATE SALES TAX RETURNS FOR DISREGARDED ENTITIES

Governor/Legislature: Provide that owners of disregarded entities for purposes of the income or franchise tax may elect to file separate electronic sales and use tax returns for each disregarded entity. Under the proposal, if an owner of more than one entity that is disregarded as a separate entity under the income or franchise tax elects to file a separate sales tax return for one disregarded entity, the owner would have to file separate returns for all of its disregarded entities. Under current law, the owner of entities that are disregarded for purposes of the income or franchise tax must file a single sales and use tax return including all entities. The provision would become effective on the first day of the third month beginning after publication of the budget bill. The administration estimates that the provision would have a minimal fiscal effect.

According to DOR, the process of compiling the necessary information by an owner from each of its disregarded entities can be burdensome for an owner that has a relatively large number of disregarded entities, but a relatively small tax department. The proposal would allow a business owner of a disregarded entity the flexibility to either file a single sales and use tax return that includes all of its disregarded entities, or to file separate a sales and use tax return for each disregarded entity.

[Act 28 Sections: 1852, 1852b, and 9443(9)&(14q)]

3. SALES AND USE TAX DEFINITION OF NEXUS [LFB Paper 376]

GPR-REV \$3,000,000

Governor/Legislature: Expand the definition of nexus for purposes of the sales and use tax to include certain businesses that have affiliates in this state.

Under current law and administrative rule, 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 generally 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 the 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.

The Department of Revenue reports that under current law, certain separate affiliates of brick and mortar businesses in this state do not collect and remit the sales and use tax on their Internet sales to Wisconsin residents, even if the purchase is made from a computer located at the Wisconsin store. Certain businesses provide in-store kiosks for the purchase of online sales from a store's out-of-state affiliate. These brick and mortar businesses accept returned merchandise on the affiliate's behalf, and provide in-store credit for the dollar amount of the returned affiliate's merchandise. Current law provides that an Internet retailer is engaged in business in this state if an affiliate who has nexus with Wisconsin performs specified services on its behalf [item (d) above]; however, current law does not clearly subject these types of transactions by an online affiliate to the sales and use tax.

Under the Governor's proposal, nexus would be extended to specifically include any person who has an affiliate in this state, if the person is related to the affiliate and if the affiliate uses facilities or employees in this state to advertise, promote, or facilitate the establishment of or market for sales of items by the related person to purchasers in this state or for providing services to the related person's purchasers in this state, including accepting returns of purchases or resolving customer complaints. For purposes of this provision, two persons would be "related" if any of the following apply:

- a. One person, or each person, is a corporation and one person and any person related to that person in a manner that would require a stock attribution from the corporation to the person or from the person to the corporation, as defined under federal law, owns directly, indirectly, beneficially, or constructively at least 50% of the corporation's outstanding stock value.
- b. One person, or each person, is a partnership, estate, or trust and any partner or beneficiary; and the partnership, estate, or trust and its partners or beneficiaries; own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the profits, capital, stock, or value of the other person or both persons.
- c. An individual stockholder and the members of the stockholder's family, as defined under federal law, owns directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of both persons' outstanding stock value.

The Governor's proposal would become effective on the day following publication of the budget bill. Based on the administration's estimates and assuming an effective date of July 1, 2009, the proposal would increase use tax revenue by \$1,500,000 in 2009-10 and in 2010-11.

[Act 28 Section: 1836]

4. SALES AND USE TAX ON TOWING AND HAULING OF MOTOR VEHICLES

Governor/Legislature: Create a statute to specifically impose the sales and use tax on the towing and hauling of motor vehicles.

Under current law, the sales tax is applicable to certain services including "towing... of all items of personal tangible property," which includes the towing of motor vehicles. The current sales tax statutes do not include a definition for the word "tow." Therefore, the dictionary definition must be used to define that term. Based on dictionary definitions for "tow," DOR has determined that the term only includes those motor vehicle towing services which "draw or pull along behind by a chain or line..." Based on the dictionary definition, DOR has determined that current law does not allow the sales tax to be imposed on services that "haul," or drive a car onto a flatbed "tow" truck and "haul" a vehicle to a repair facility. The Department indicates, with input from industry members, that hauling rather than towing an automobile from an accident has become the industry standard because of modern vehicles' "...fragile fiberglass fascia and plastic body panels..." Most towing service providers currently collect the sales tax for hauling motor vehicles, but they may not be required to under the current statutory language.

The Governor's proposal would specify that both the hauling and towing of motor vehicles would be subject to the sales and use tax. The proposal would take effect on the day after publication of the budget bill. The proposal would preserve the sales tax collection of an estimated \$2,400,000 in 2009-10 and \$2,500,000 in 2010-11 related to flatbed hauling of motor vehicles. If the proposal is not adopted, the state could eventually lose these revenues.

[Act 28 Sections: 1839, 1839b, and 9443(14q)]

5. SALES TAX EXEMPTION FOR ADMISSION TO YOUTH LEAGUE SPORTS

Governor/Legislature: Create an exemption from the sales and use tax for admissions sold by nonprofit organizations to participate in any sports activity in which more than 50% of the participants are of age 19 or younger. The proposal would become effective on the day following publication of the bill, and is expected to have a minimal fiscal effect.

Under current law, the state sales and use tax is generally imposed on the sale of admissions to amusement, athletic, entertainment, or recreational events.

[Act 28 Sections: 1837 and 1838]

6. SALES TAX DEFINITION OF MANUFACTURING

Governor/Legislature: Modify certain sales and use tax exemptions for tangible personal property or services consumed in the process of manufacturing. The proposal would take effect on the first day of the second month beginning after publication of the budget bill.

Background. Under current law, exemptions from the sales and use tax related to manufacturing include: (a) property that becomes an ingredient or component or that is consumed or destroyed in the process of manufacturing tangible personal property that is subsequently sold; (b) fuel and electricity consumed in manufacturing tangible personal

property in Wisconsin; (c) manufacturing machinery and equipment (including safety attachments); and (d) packing and shipping materials and containers used to transfer merchandise to customers or to pack or ship meat products.

For purposes of the exemption for machinery and equipment [item (c) above], current law defines manufacturing 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. "Manufacturing" includes, but is not limited to: crushing, washing, grading, and blending sand, rock, gravel, and other minerals; ore dressing, including the mechanical preparation, by crushing and other processes, and the concentration, by flotation and other processes, of ore, and beneficiation, including but not limited to the preparation of ore for smelting.

According to DOR, the proposed modifications to current law would clarify the statutory definition of "manufacturing" to reflect current practices under administrative rule. The provisions would prevent manufacturers from claiming the exemption for tangible personal property that is consumed indirectly within the scope of manufacturing. The provision would help DOR minimize potential litigation time and resources challenging manufacturing sales tax exemption claims for items indirectly used in the scope of manufacturing, such as brooms and mops purchased by janitorial services hired by manufacturers or pens and pencils purchased by a manufacturer's accounting department.

Definition of "Manufacturing." The Governor's proposal would create the following two definitions relating to the process of manufacturing:

"Plant" would mean a parcel of property or adjoining parcels of property, including parcels that are separated only by a public road, and the buildings, machinery, and equipment that are located on the parcel, that are owned by or leased to the manufacturer.

"Plant inventory" would not include unsevered mineral deposits.

The proposal would amend the current definition of "manufacturing" to mean the production by machinery of a new article of tangible personal property with a different form, use, and name from existing materials by a process popularly regarded as manufacturing, and that begins with conveying raw materials and supplies from plant inventory to the place where work is performed in the same plant and ends with conveying finished units of tangible personal property to the point of first storage in the same plant.

As under current law, "manufacturing" would specifically include: (a) crushing, washing, grading, and blending sand, rock, gravel, and other minerals; and (b) ore dressing, including the mechanical preparation, by crushing and other processes, and the concentration, by flotation and other processes, of ore, and beneficiation, including the preparation of ore for smelting.

In addition, the bill would specify that "manufacturing" includes conveying work in progress directly from one manufacturing process to another in the same plant; testing or inspecting, throughout the manufacturing process, the new article of tangible personal property

that is being manufactured; storing work in progress in the same plant where the manufacturing occurs; assembling finished units of tangible personal property; and packaging a new article of tangible personal property, if the manufacturer, or another person on the manufacturer's behalf, performs the packaging and if the packaging becomes part of the new article as it is customarily offered for sale by the manufacturer.

Under the bill, "manufacturing" would specifically not include storing raw materials or finished units of tangible personal property, research or development, delivery to or from the plant, or repairing or maintaining plant facilities.

Under the Governor's proposal, the new definition of "manufacturing" would apply to all of the sales tax exemptions, not just the exemption for machinery and equipment. The administration indicates that this change would not significantly affect the application of other current exemptions.

Exemption for Inputs for Manufacturing. Current law provides an exemption from the sales tax for the gross receipts from the sales of and the storage, use, or other consumption of tangible personal property becoming an ingredient or component part of an article of tangible personal property or which is consumed or destroyed or loses its identity in the manufacture of tangible personal property destined for sale. Under the Governor's proposal, the exemption would only apply if the tangible personal property that becomes an ingredient or component part were used exclusively and directly by a manufacturer in manufacturing an article of tangible personal property. The proposal would also incorporate current administrative rules as statutory law by requiring that the tangible personal property inputs would only be exempt if the manufactured article were destined for sale.

Exemption for Shoppers Guides, Newspapers, and Periodicals. Current law provides an exemption from the sales tax for the gross receipts from the sale of and the storage, use, or other consumption of tangible personal property or services that become an ingredient or component of shoppers guides, newspapers, or periodicals or that are consumed or lose their identity in the manufacture of such publications, whether or not the publications are transferred without charge to the recipient. Under the Governor's proposal, the sales tax exemption would only apply if the tangible personal property and services that were to become an ingredient or component of shoppers guides, newspapers, or periodicals were used exclusively and directly by a manufacturer in manufacturing such publications.

[Act 28 Sections: 1571, 1643, 1709, 1830f thru 1832b, 1834, 1835, 1842 thru 1843c, 1843g thru 1846, and 9443(5f)&(14q)]

7. SALES AND USE TAX EXEMPTIONS FOR BIOTECHNOLOGY AND MANUFACTURING RESEARCH [LFB Paper 377]

Governor: Create exemptions from the sales and use tax for purchases of: (a) machinery and equipment, including attachments, parts, and accessories, that are sold to persons who are

engaged primarily in manufacturing or biotechnology in this state and are used exclusively and directly in qualified research; and (b) tangible personal property that is sold to persons who are engaged primarily in manufacturing or biotechnology in this state, if the property is consumed, destroyed, or loses its identity while being used exclusively and directly in manufacturing or biotechnology qualified research.

The Governor's proposal would create the following definitions to specify what activities would relate to qualified research in biotechnology and manufacturing:

"Biotechnology" would mean the application of biotechnologies, including recombinant deoxyribonucleic acid techniques, biochemistry, molecular and cellular biology, genetics, genetic engineering, biological cell fusion, and other bioprocesses, that use living organisms or parts of an organism to produce or modify products to improve plants or animals or improve animal health, develop microorganisms for specific uses, identify targets for small molecule pharmaceutical development, or transform biological systems into useful processes and products.

"Primarily" would mean more than 50%.

"Qualified research" would mean research undertaken for the purpose of discovering information which is technological in nature, and the application of which was intended to be useful in the development of a new or improved business component of the taxpayer.

"Used exclusively" would mean used to the exclusion of all other uses except for other use not exceeding 5% of total use.

As under the current property tax statutes, "machinery" would mean a structure or assemblage of parts that transmits forces, motion, or energy from one part to another in a predetermined way by electrical, mechanical, or chemical means, but "machinery" would not include a building.

"Manufacturing" would be defined as described in the previous entry.

The proposal would become effective January 1, 2012. There is no fiscal effect for the 2009-11 biennium. The exemption is estimated to reduce sales tax revenue by \$5,000,000 in 2011-12 and \$10,000,000 in 2012-13 and annually thereafter.

[An amendment would be required to achieve the administration's intent to refer to the new definition of "manufacturing" proposed under the bill and described in the previous entry.]

Joint Finance: Approve the Governor's provisions. In addition, provide a technical modification to the definition of "manufacturing" for purposes of this provision to refer to the definition of "manufacturing" as modified under the budget bill, and reestimate reduced sales and use tax revenues under the provisions at \$13 million per year, beginning January 1, 2012.

Senate: In addition to the Joint Finance provisions, create new sales and use tax

exemptions for:

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. Tangible personal property used exclusively and directly in raising animals that are sold 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 that is primarily engaged in qualified research in biotechnology or manufacturing, including: (i) sales of certain tangible personal property the sales of which are currently exempt when used in the business of farming (seeds for planting, plants, feed, fertilizer, soil conditioners, animal bedding, sprays, pesticides, fungicides, breeding other livestock, poultry, farm work stock, baling twine and baling wire, containers for fruits, vegetables, grain, hay silage, animal wastes, and plastic bags, sleeves, and sheeting used to store or cover hay or silage); (ii) medicines; (iii) semen for artificial insemination; (iv) fuel; and (v) electricity; and

c. Animals that are sold to a biotechnology business and used exclusively and directly in qualified biotechnology research.

Define "animals" to include bacteria, viruses, and other microorganisms. Define "biotechnology business" to mean a business, as certified by DOR in the manner prescribed by the Department, that is primarily engaged in the application of biotechnologies that use a living organism or parts of an organism to produce or modify products to improve plants or animals, develop microorganisms for specific uses, identify targets for small molecule pharmaceutical development, or transform biological systems into useful processes and products.

These additional exemptions would take effect on January 1, 2012, and are expected to reduce revenues by a minimal amount.

Conference Committee/Legislature: Approve the Senate provisions except for the proposed exemption under "c" for animals sold to a biotechnology business.

[Act 28 Sections: 1851 and 9443(12)]

8. SALES TAX EXEMPTION FOR NATIVE AMERICAN PURCHASERS [LFB Paper 378]

Governor/Legislature: Create an exemption from the sales and use tax for purchases made by any federally recognized American Indian tribe or band in this state. This provision would become effective the first day of the second month beginning after publication of the bill, and is estimated to reduce sales tax revenues by a minimal amount.

[Act 28 Sections: 1848 and 9443(8)]

9. USE TAX CREDIT FOR PURCHASES MADE ON NATIVE AMERICAN LANDS [LFB Paper 683]

Governor: Provide a credit against the use tax equal to the amount of sales, use, or excise tax paid to a federally recognized American Indian tribe or band if the purchase, rental, or lease of tangible personal property or service occurred on tribal lands.

Under current law, if the purchase, rental, or lease of tangible personal property or service subject to the 5% use tax was subject to a sales tax by another state in which the purchase was made, the amount of sales tax paid to the other state is applied as a credit against and deducted from the use tax owed to this state. The Governor's proposal would provide a similar credit for the amount of sales, use, or excise tax paid to a federally recognized American Indian tribe or band. The proposal would become effective on the day after publication of the budget bill. The administration estimates that the proposal would reduce use tax revenues by a minimal amount.

According to DOR, no tribes in this state impose a sales tax; however, certain tribes in this state do impose room taxes. Tribes in other states (such as Minnesota, North Dakota, and South Dakota) currently impose a sales tax, and some Wisconsin tribes have expressed interest in adopting and imposing a sales tax on sales that occur on tribal lands. The proposal would allow for a credit against the use tax owed to Wisconsin for any future sales, use, or excise tax paid to any federally recognized American Indian tribe or band.

Joint Finance/Legislature: Modify the Governor's provision to: (a) only allow the proposed use tax credit as determined by an agreement between DOR and the tribal council; and (b) clarify that the credit would only apply if the tribal tax was imposed prior to imposition of the use tax. The intent of these provisions is to ensure that any revenue-sharing agreements between the state and the tribes will not result in double-taxation of state residents if the agreements include a tribal sales, use, or excise tax.

[Act 28 Sections: 1815, 1841, 1841b, and 9443(14q)]

10. STREAMLINED SALES AND USE TAX AGREEMENT MODIFICATIONS [LFB Paper 379]

Joint Finance/Legislature: Adopt a number of technical modifications to the sales and use tax statutes. These provisions are intended to reconcile various provisions in AB 75 with legislation enacted pursuant to 2009 Wisconsin Act 2, which will take effect October 1, 2009. Several provisions modify technical changes to the statutes that were not addressed in Act 2.

[Act 28 Sections: 1830b thru 1830f, 1831b, 1832b, 1833b, 1835e, 1835f, 1836c, 1836d, 1836f thru 1836j, 1839b thru 1840h, 1841b, 1841d, 1842d, 1843c thru 1843g, 1846d thru 1846f, 1849b thru 1849d, 1849s, 1850b thru 1850e, 1850ef, 1851e thru 1851h, 1852b thru 1852g, 1853d, 1855b, 1855d, 1858b, 1864m, 1874b, 1887b, 1889d, 9143(3q), and 9443(14a)&(14q)]

11. RETAILER'S DISCOUNT

	Jt. Finance (Chg. to Base)	Legislature (Chg. to JFC)	Net Change
GPR-REV	\$8,100,000	\$2,600,000	\$10,700,000

Joint Finance: Impose a \$1,000 limit on the amount a retailer may deduct under the retailer's discount for filing a sales and use tax return with DOR. Specify that the provision would first apply to sales and use taxes that are payable on the last day of the first month following the first calendar quarter that begins after the budget bill's general effective date.

Under current law, sales tax returns and payments are generally due on a quarterly basis, but the Department may require sellers with a quarterly liability exceeding \$600 to report monthly, due on the last day of the next month. Sellers with a quarterly liability exceeding \$3,600 may be required to report monthly, due on the 20th day of the next month. Retailers with a sales and use tax liability of \$300 or less have the option of filing annually. The Department may also permit a different reporting period. Sellers may deduct the retailer's discount from taxes due as compensation for administrative costs equal to the greater of \$10 or 0.5% of the tax liability per reporting period, but not more than the amount of tax actually payable. If reports and payments are delinquent, the discount is forfeited.

The provision would provide that for each filing, a retailer would not be permitted to deduct more than \$1,000 under the retailer's discount. The provision would limit the maximum discount a retailer could receive if the retailer remits in excess of \$200,000 of sales and use tax revenue per filing.

The provision would first apply to sales and use taxes that are payable on the last day of the first month following the first calendar quarter that begins after the budget bill's general effective date. Therefore, if the bill takes effect in July, 2009, the provision would first apply to taxes payable on January 31, 2010. According to information provided by DOR and assuming an effective date of January 31, 2010, the provision would reduce the retailer's discount by an estimated \$2,600,000 in 2009-10, and by \$5,500,000 in 2010-11. As a result, it is estimated that state sales tax collections would increase by the same amounts.

Conference Committee/Legislature: Make the Joint Finance provision first apply to sales and use taxes payable August 1, 2009. As compared to the Joint Finance provision, the new effective date would reduce the retailer's discount by an estimated \$2,600,000 in 2009-10. As a result, it is estimated that state sales tax collections would increase by the same amount.

[Act 28 specifies that this provision first applies to sales and use taxes payable on August 1, 2009. However, the provision amends a current statute, pursuant to 2009 Act 2, which will take effect on October 1, 2009. Due to the effective date of Act 2, DOR has interpreted the provision to first apply to sales and use taxes payable on October 1, 2009. The later effective date is estimated to reduce tax revenue by \$900,000 in 2009-10 as compared to the revenue estimates described above.]

[Act 28 Sections: 1852m and 9343(21f)]

12. SALES AND USE TAX EXEMPTION FOR FUEL USED BY CHARTERED FISHING VESSELS

Joint Finance/Legislature: Create a sales and use tax exemption for fuel consumed by boats during business associated with chartered fishing by persons possessing a sport trolling license. It is estimated that this provision would reduce state sales and use tax revenue by a minimal amount. The provision would take effect on the first day of the second month beginning after publication of the budget bill.

[Act 28 Sections: 1849m and 9443(8d)]

13. SALES TAX EXEMPTIONS FOR ALTERNATIVE ENERGY -- DELAYED EFFECTIVE DATE

GPR-REV	\$2,600,000
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Conference Committee/Legislature: Delay the effective date of the following two sales and use tax exemptions until July 1, 2011: (a) 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 alternative current or 600 British thermal units per day; and (b) electricity or energy that is produced from such a product.

Under current law, pursuant to 2007 Act 20, these two sales and use tax exemptions were scheduled to take effect July 1, 2009, and are estimated to reduce revenue by \$1,300,000, annually. Due to the delayed effective date, the estimated reduced tax revenue would not occur until 2011-12.

[Act 28 Sections: 1850ed, 1850ef, and 9443(8bu)&(14q)]

Excise Taxes and Regulation of Alcohol and Tobacco

1. CIGARETTE AND TOBACCO PRODUCTS TAX INCREASE [LFB Paper 385]

	Governor (Chg. to Base)	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR-REV	\$343,600,000	-\$8,400,000	-\$420,000	\$334,780,000
GPR	20,470,000	- 1,670,000	0	18,800,000

Governor: Increase the cigarette tax by \$0.75 per pack (from \$1.77 to \$2.52), increase the general tax rate on tobacco products from 50% of the manufacturer's established list price to 71% of the manufacturer's established list price, increase the maximum allowable tax per cigar

from 50 cents per cigar to 71 cents per cigar, increase the tax on moist snuff from \$1.31 per ounce to \$1.87 per ounce, and create and impose an inventory tax on moist snuff. Specify that the increases would become effective September 1, 2009, or on the first day of the third month beginning after publication of the budget bill, whichever is later.

The cigarette, tobacco products, and moist snuff 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 0.7% discount on cigarette tax stamp purchases as compensation for their administrative costs. Under the bill, the manufacturers and distributors discount would be reduced to 0.5%.

The bill would also create an inventory tax on moist snuff that would become effective on the date of any increase in the tax rate. The inventory tax would be calculated by multiplying the difference between the prior tax rate and the new tax rate by the ounces of moist snuff held in inventory for sale or resale on which the moist snuff tax had already been paid. Sellers would be required to file a return and pay the tax due within 30 days of the effective date of the tax increase. Any person who failed to file a moist snuff tax return when due would have to pay a late filing fee of \$10. If any person did not timely pay the inventory tax, that person would be liable for interest at the rate of 1.5% per month or fraction of a month from the date the tax were due until the date when the tax were paid. If any person were to file a false or fraudulent return, that person would also be liable for an amount equal to the amount of tax the person evaded or attempted to evade in addition to the amount of the tax due. These provisions are similar to the current inventory (or "floor") tax on cigarettes.

Under the Governor's proposal, assuming an effective date of September 1, 2009, the administration estimates an increase in cigarette tax revenues of \$153,900,000 in 2009-10 and \$156,500,000 in 2010-11. The administration estimates an increase in tobacco products tax revenue of \$15,200,000 in 2009-10 and \$18,000,000 in 2010-11.

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. To account for the proposed tax increases, the bill would increase the estimate of sum sufficient funding required for cigarette and tobacco products tax refunds by \$10,170,000 in 2009-10 and \$10,300,000 in 2010-11.

Joint Finance: Approve the Governor's recommendation with the following modifications:

- a. Decrease the estimated revenue from the tobacco products tax increase by

\$3,700,000 in 2009-10 and \$4,700,000 in 2010-11. With these revisions, the tobacco products tax increase is estimated to generate additional revenues of \$11,500,000 in the first year and \$13,300,000 in the second year.

b. Reduce the estimated additional amount of tribal refunds by \$1,670,000 GPR in 2009-10. With this adjustment, compared to current law, tribal refunds are estimated to increase by \$8,500,000 in 2009-10 and \$10,300,000 in 2010-11 as a result of the tax increases.

c. Specify that the tax increases would take effect on the later of September 1, 2009, or the first day of the second month beginning after publication of the budget bill (rather than the first day of the third month beginning after publication).

Assembly: Delete the provision increasing the maximum tax per cigar from 50 cents to 71 cents and, instead, maintain the current law maximum tax per cigar of 50 cents. As compared to the Joint Finance provisions, tobacco products tax revenue would be reduced by an estimated \$420,000 in 2009-10 and \$500,000 in 2010-11.

Senate: Approve the Assembly provision regarding the tax on cigars. In addition, convert the tax on moist snuff from a weight-based tax at a rate of \$1.87 per ounce to a price-based tax at a rate of 97% of the manufacturer's established list price. Delete provisions related to the imposition of a floor tax on moist snuff. As compared to the Assembly provision, estimated tobacco products tax revenue would increase by \$400,000 in 2009-10 and by \$1,000,000 in 2010-11.

Conference Committee/Legislature: Approve the Senate provisions with a modification to set the price-based tax on moist snuff at a rate of 100% of the manufacturer's established list price rather than 97%. In addition, delete the provision reducing the manufacturers and distributors discount from 0.7% to 0.5% on cigarette tax stamp purchases and, instead, maintain the 0.7% discount rate under current law. As compared to the Senate provision, estimated tobacco products tax revenue would increase by \$700,000 in 2009-10 and \$800,000 in 2010-11 due to the higher tax rate. Under all prior versions of the budget, the manufacturers and distributors discount would have been reduced to 0.5%. As compared to all prior versions of the budget bill, retaining the 0.7% discount would reduce cigarette tax revenues by an estimated \$1,100,000 in 2009-10 and \$1,300,000 in 2010-11.

Effective September 1, 2009, the net results of these provisions are as follows: (a) the cigarette tax will be increased from \$1.77 per pack to \$2.52 per pack; (b) the manufacturers and distributors discount under the cigarette tax will remain at 0.7%; (c) the tax on moist snuff will be converted from a weight-based tax equal to \$1.31 per ounce to a price-based tax equal to 100% of the manufacturer's list price; (d) the tax on all other tobacco products will be increased from 50% of the manufacturers list price to 71%; (e) the maximum tax on cigars will remain at 50 cents per cigar; and (f) there will be no floor tax imposed on moist snuff.

Compared to current law, cigarette tax revenues will increase by an estimated \$152,800,000 in 2009-10 and \$155,200,000 in 2010-11, and tobacco products tax revenues will

increase by an estimated \$12,180,000 in 2009-10 and \$14,600,000 in 2010-11. Tribal refunds will increase by an estimated \$8,500,000 in 2009-10 and \$10,300,000 in 2010-11.

[Act 28 Sections: 2332, 2333, 2392, 2395, and 9443(14)]

2. CIGARETTE AND TOBACCO PRODUCT TAX REFUNDS -- CURRENT LAW REESTIMATE [LFB Paper 386]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$23,700,000	-\$2,800,000	\$20,900,000

Governor: Increase funding for cigarette and tobacco products tax refunds by \$11,500,000 in 2009-10 and \$12,200,000 in 2010-11 to reflect higher estimates of the sum sufficient appropriation amounts required to reimburse Native American tribes under present law.

2007 Act 20 enacted higher tax rates for cigarettes (\$1.77 per pack from \$0.77 per pack) and tobacco products (50% of manufacturer's price and \$1.31 per ounce of moist snuff from 25% of manufacturer's price). The higher taxes took effect on January 1, 2008. In order to account for the impact of the tax increases, funding for tribal refunds was increased from a 2006-07 base level of \$12,200,000 to \$17,800,000 in 2007-08 and \$20,900,000 in 2008-09. However, actual expenditures totaled \$20,300,000 in 2007-08 and are estimated at \$30,700,000 in 2008-09. The Governor's funding amounts for the 2009-11 biennium reflect the higher-than-anticipated expenditures that have occurred since the tax increases took effect.

[As noted in the previous entry, the bill includes another increase in the state excise taxes on cigarettes and tobacco products, and provides \$10,170,000 GPR in 2009-10 and \$10,300,000 GPR in 2010-11 to account for larger tribal refunds associated with the proposed tax increases. With the current-law reestimate described in this entry and the funding associated with the new tax increases, the total amount appropriated under the bill for the tribal refunds would be \$42,570,000 in 2009-10 and \$43,400,000 in 2010-11.]

Joint Finance/Legislature: Reestimate funding for cigarette and tobacco product tax refunds under current law at \$31,000,000 in 2009-10 and at \$31,700,000 in 2010-11. The reestimate reflects lower consumption expectations of cigarette and tobacco products in response to increased federal excise tax rates. The revised estimates are higher than the base funding level by \$10,100,000 in 2009-10 and \$10,800,000 in 2010-11. Compared to the Governor's proposal, the revised estimates decrease funding for the refunds by \$1,400,000 in each year.

[As noted in the previous entry, the bill includes another increase in the state excise taxes on cigarettes and tobacco products, and provides a reestimated increase of \$8,500,000 GPR in 2009-10 and \$10,300,000 GPR in 2010-11 to account for larger tribal refunds associated with the proposed tax increases. With the current-law reestimate described in this entry and the funding associated with the new tax increases, the total amount appropriated under the bill for the tribal

refunds would be \$39,500,000 in 2009-10 and \$42,000,000 in 2010-11.]

3. EXPAND THE NATIVE AMERICAN CIGARETTE AND TOBACCO PRODUCTS TAX REFUNDS [LFB Paper 387]

Governor/Legislature: Authorize the Department of Revenue to provide refunds of state excise taxes on cigarettes and other tobacco products sold by tribal retailers if the land on which the sale occurred was designated a reservation or trust land on or before January 1, 1983, or on a later date as determined by an agreement between DOR and the tribal council. Under current law, DOR may only enter into agreements with, and pay refunds to, tribes whose land was designated a reservation or trust land prior to January 1, 1983. This provision is estimated to increase cigarette and tobacco products refunds by a minimal amount.

[Act 28 Sections: 2338 and 2401]

4. 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 three years confinement and three years extended supervision, 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 2005 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 the holder of a use tax registration certificate 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 a limited liability company, 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.

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 (subject to nondiscrimination provisions under current law); (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 use tax registration certificate 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.

The bill would prohibit a corporation or LLC organized under the laws of the state, or of any other state or foreign country, from being issued a cigarette or tobacco products retailer's license unless the corporation or LLC: (a) first appoints an agent in the manner prescribed by the city, village, or town who is satisfactory to the municipality with respect to character, record, and reputation, as well as satisfies all of the qualifications of a person attaining a municipal license [as listed in the paragraph above]; and (b) vests in the agent via properly authorized and executed written delegation full authority and control of the premises described in the entity's license and of the conduct of all business on the premises relative to the sale of cigarette and tobacco products that the licensee could have and exercise if it were a natural person. A corporation or LLC could cancel the appointment of an agent and appoint a successor for the remainder of the license year if the successor agent meets the same qualifications required of the first appointed agent and the entity notifies the municipality, in writing, of the appointment of the successor agent and the reason for the cancellation and new appointment. The successor agent would have all the authority, perform all of the functions, and be charged with all the duties of the previous agent until the next regular or special meeting of the municipality is held. However, the license of the corporation or LLC would cease to be in force if, prior to the next regular or special meeting of the municipality, the municipal clerk were to receive a notice of disapproval of the successor agent by a peace officer of the licensing city, village, or town. The license of the corporation or LLC would not be in force after the next regular or special meeting of the municipality unless and until the successor agent or another qualified agent were appointed and approved by the city, village, or town. The corporation or LLC would pay a fee of \$10 following the approval of each successor agent. If an agent were to resign, the bill would require that the LLC or corporation and the municipality receive 48 hours notification in writing from the agent.

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, unless pardoned, a person who has been convicted of a felony or as a repeat or habitual offender. The provision would also require a person to be the holder of or be in the process of obtaining a seller's permit or use tax registration certificate (regardless of whether they are a retailer). 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.

The bill would prohibit a corporation or LLC organized under the laws of this state, or of any other state or foreign country, from being issued a cigarette direct marketer's permit unless the corporation or LLC: (a) first appoints an agent in the manner prescribed by DOR who is satisfactory to the Department with respect to character, record, and reputation as well as satisfies all of the qualifications of a person attaining a permit [as listed in the preceding paragraphs]; and

(b) vests in the agent via properly authorized and executed written delegation full authority and control of the premises described in the entity's license and of the conduct of all business on the premises relative to the sale of cigarettes that the permittee could have and exercise if it were a natural person. A corporation or LLC could cancel the appointment of an agent and appoint a successor for the remainder of the license year if the successor agent meets the same qualifications required of the first appointed agent and the entity notifies the Department, in writing, of the appointment of the successor agent and the reason for the cancellation and new appointment. The successor agent would have all the authority, perform all of the functions, and be charged with all of the duties of the previous agent. The corporation or LLC would pay a fee of \$10 following the approval of each successor agent. If an agent were to resign, the bill would require that the corporation or LLC and the Department receive 48 hour notification, in writing, from the agent.

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. Under current law, a direct marketer must verify the consumer's name and address, and that the consumer is at least 18 years of age, prior to the sale of cigarettes by any of the following methods: (a) using a database that includes information based on public records; and (b) receiving from the consumer, at the time of purchase, a copy of a government issued identification; or (c) using a different mechanism approved by DOR. Under the proposal, a direct marketer would be required to verify the consumer's identity and address rather than the consumer's name and address. Additionally, the bill would modify item (b) to require receiving from the consumer, at the time of purchase, a copy of an identification card (as defined under the bill) and verifying 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.

d. Under current law, 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 that affirms that the addressee is at least 18 years of age. Additionally, no person may deliver a package of cigarettes to a consumer in this state unless the seller provides proof to the person making the delivery that the seller has complied with all the requirements related to the cigarette statutes; and a seller has no course of action against any person who refuses to deliver cigarettes. Under the bill, these provisions would be deleted.

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 would 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 or tax indicia.

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). The bill would, however, eliminate the provision granting the Secretary of DOR the choice to provide seized cigarettes to a charitable or penal institution for free distribution to patients or inmates.

Class I Felony. The bill would provide that any person who manufactures or sells cigarettes in this state without holding the proper permit or license 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 18 months confinement and two years extended supervision, 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 under the section "Additional Provisions Affecting Both Cigarettes and Tobacco Products," this general penalty would be changed to a fine of no more than \$10,000, imprisonment of no more than nine months, or both.)

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 or resale (underline added to emphasize the location of the phrases "in this state" and "or resale"). 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, ship, or transport 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 by using a database that includes information based on public records, by receiving from the consumer, at the time of purchase, a copy of an identification card and verifying 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, or by using a different 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.

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 would 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.

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 cigarettes, take orders for cigarettes for resale, solicit cigarette sales, or sell or solicit sales of 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 cigarettes, take orders for cigarettes, solicit cigarette sales, or sell or solicit sales of 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 sale or solicitation of 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.)

List of Direct Marketers. Under current law, DOR is required to maintain a list of direct marketers who have complied with the provisions on direct marketing of cigarettes, maintain a list of direct marketers who the Department knows have not complied with such requirements, and provide copies of these lists to the Attorney General and to each person who delivers cigarettes to consumers in this state that are sold by direct marketing. The bill would delete the requirement that the Department compile and report to the Attorney General and persons that deliver cigarettes a list of direct marketers who the Department knows have not complied with the provisions on direct marketing of cigarettes.

Similar to the above requirements regarding direct marketing of cigarettes, 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 of tobacco products. DOR would be required to provide copies of the list to the Attorney General and to each person delivering tobacco products to consumers in the state sold by direct marketing.

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

These provisions would first apply with respect to sales of cigarettes and tobacco products made on the budget bill's general effective date.

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

5. MUNICIPAL LIQUOR LICENSES

Joint Finance: Permit a fourth class city located in Dane County with a population between 8,000 and 9,000 people, as of the 2000 Census, to issue one "Class B" license in addition to the number of "Class B" licenses permitted under the municipality's current law quota.

Also, permit a city immediately adjacent to the southern border of the City of Milwaukee, and whose eastern boundary is Lake Michigan to issue three "Class B" licenses in addition to the number of "Class B" licenses permitted under the municipality's current law quota.

A retail "Class B" license authorizes the retail sale of intoxicating liquor and wine for consumption on the premises where sold. Municipalities are subject to a quota on the total number of "Class B" licenses that may be issued within each municipality. Quotas are generally calculated by a formula based on a municipality's population, as well as the number of licenses that were in effect in the municipality as of December 1, 1997. Certain exemptions from the quota on "Class B" licenses exist, such as for full-service restaurants with a seating capacity of 300 or more persons.

Senate/Legislature: Approve the Joint Finance provisions. In addition, permit a third class city located in Dane County with a population between 15,000 and 16,000 people, as of the 2000 Census, to issue two "Class B" licenses in addition to the number of "Class B" licenses permitted under the municipality's current law quota.

[Act 28 Sections: 2318g thru 2318im]

6. ALCOHOL SALES AT HERITAGE HILL STATE HISTORICAL PARK

Joint Finance/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 Heritage Hill State Historical Park for special events held at the Park.

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 more 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 Heritage Hill State Historical Park 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.

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 Heritage Hill State Historical Park even though the Park is not part of the caterer's licensed premises, and even if the Park 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 Heritage Hill State Historical Park to sell beer at retail or to procure or stock beer for purposes of retail sale. Specify that all of the provisions described above with respect to sales of beer by a caterer at the Heritage Hill State Historical Park would not apply if, at any time, the Park 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).

These provisions would allow sales of beer, wine, and liquor at special events held at Heritage Hill State Historical Park and are identical to current law provisions for the National Railroad Museum in Green Bay, which were included in 2007 Act 20.

[Act 28 Sections: 2318e and 2318f]

7. BEER AND WINE PROVIDED BY A NON-PROFIT ORGANIZATION DURING FUNDRAISING EVENTS

Joint Finance: Allow any non-profit organization to provide beer or wine, free of charge, during either an indoor or outdoor fundraising event, without requiring the non-profit organization to hold any municipal license.

Assembly: Delete provision.

Senate: Permit a non-profit organization holding a fundraising event to be included as an entity that qualifies for a picnic beer and wine license for purposes of laws governing temporary Class "B" licenses and laws governing temporary "Class B" licenses. Specify that such temporary licenses would authorize the sale of beer and wine and the provision of beer and wine free of charge. Specify that temporary Class "B" and temporary "Class B" licenses issued to a non-profit for purposes of a fundraising event would be exempt from the restriction that no Class "B" or "Class B" license or permit may be granted for any premises where any other business is conducted in connection with the premises. For purposes of this provision, define a non-profit organization as a section 501(3)(c) organization under the federal Internal Revenue Code. Under current law, not more than two temporary "Class B" licenses may be issued to a permitted issuer in any 12-month period. A non-profit organization holding a fund raising event would also be subject to this restriction.

Conference Committee/Legislature: Delete provision.

8. MANUFACTURER AND RECTIFIER RETAIL SALES, WINERY PERMITS, AND SAMPLING OF INTOXICATING LIQUOR

Joint Finance: Modify the following laws relating to manufacturers and rectifiers of intoxicating liquor:

Specify that the holder of a manufacturer's or rectifier's permit is authorized to provide intoxicating liquor that is manufactured or rectified on premise in the form of retail sales for consumption on or off premise, or in the form of free taste samples that do not exceed a total of 1.5 fluid ounces to any one person for consumption on premise.

Specify that DOR may prescribe additional regulations under the above provisions for the sale of intoxicating liquor if the additional regulations do not conflict with the requirements applicable to holders of "Class B" licenses.

Specify that these provisions apply to a person holding a manufacturer's or rectifier's permit in addition to both a winery permit and either a "Class A" license or a "Class B" license issued to a winery, all issued for the same premises or portions of the same premises.

Prohibit a person holding a manufacturer's or rectifier's permit from allowing the sale or provision of taste samples of intoxicating liquor on the manufacturing or rectifying premises unless there is, on the premises, the licensee or permittee, the agent named in the license or permit if the licensee or permittee is a corporation or a limited liability company, or some person who has an operator's (bartender's) license, and who is responsible for the acts of all persons selling or serving any intoxicating liquor to customers.

Permit a person to hold a manufacturer's or rectifier's permit in addition to a winery permit and either a "Class A" or a "Class B" license. Specify that a person holding this combination of licenses is authorized to make retail sales and provide taste samples as authorized under a "Class

A" or a "Class B" license, respectively. Specify that the holder of such a combination of licenses may hold a direct or indirect interest in a manufacturer, rectifier, winery, or retailer.

Under current law, DOR is authorized to provide certain permits regarding the production and consumption of intoxicating liquor. Manufacturers' and rectifiers' permits authorize the manufacture or rectification, respectively, of intoxicating liquor on the premises covered by the permit, and authorize the manufacture and bottling of wine without obtaining a winery permit. A manufacturer's or rectifier's permit entitles the permittee to sell intoxicating liquor to wholesalers, wineries, and to other manufacturers and rectifiers from the premises described in the permit. According to DOR, the Department currently issues four manufacturer's permits and five rectifier's permits in this state. Three of these permit holders hold both a manufacturer's permit and a rectifier's permit. Under current law, no sales may be made by a person holding a manufacturer's or rectifier's permit for consumption on or off the premises of a permittee.

Under the Joint Finance provisions, a person holding a manufacturer's or rectifier's permit would be authorized to make sales of intoxicating liquor that is manufactured or rectified on the premises for consumption on or off the premises. A person holding a manufacturer's or rectifier's permit would not be required to obtain any other municipal license to make such sales. These provisions would authorize a person holding a manufacturer's or rectifier's permit to provide free taste samples of intoxicating liquor that is manufactured or rectified on the premises in an amount not to exceed 1.5 fluid ounces to any one person for consumption on the premises.

Under current law, municipalities may issue "Class A" and "Class B" licenses authorizing the sale of intoxicating liquor within the municipality. A "Class A" license authorizes the retail sale of intoxicating liquor for consumption off the premises where sold and in the original packages and containers. A "Class B" license authorizes the retail sale of intoxicating liquor for consumption on the premises where sold by the glass and not in the original package or container, and authorizes the sale of wine in the original package or container in any quantity to be consumed off the premises. Authorization of a "Class B" license is subject to certain restrictions, such as whether a municipality has adopted an ordinance related to "Class B" licenses. A "Class B" license issued to a winery authorizes the sale of wine to be consumed by the glass or in opened containers only on the premises where sold, and also authorizes the sale of wine in the original package or container to be consumed off the premises where sold, but does not authorize the sale of beer or any other type of intoxicating liquor other than wine.

Under current law, in general, no intoxicating liquor manufacturer, rectifier, winery, out-of-state shipper permittee, or wholesaler may hold any direct or indirect interest in any "Class A" license or establishment, and no "Class A" licensee may hold any direct or indirect interest in a wholesale permit or establishment. However, a winery that has a winery permit may have an ownership interest in a "Class A" license.

The Joint Finance provisions would amend current law to also allow the holder of a manufacturer's or rectifier's permit to hold both a "Class A" license and a winery permit, and to make retail sales and provide taste samples as authorized under the provisions.

Current law provides that, in general, no intoxicating liquor manufacturer, rectifier, winery, out-of-state shipper permittee, or wholesaler may hold any direct or indirect interest in any "Class B" license or permit or establishment, and no "Class B" licensee or permittee may hold any direct or indirect interest in a manufacturer, rectifier, winery, out-of-state shipper, or wholesale permit or establishment. However, a winery may be issued a "Class B" license authorizing the sale of wine to be consumed by the glass or in opened containers only on the premises where sold and the sale of wine in the original package or container to be consumed off the premises where sold. Such wineries may have an ownership interest in the "Class B" license.

The Joint Finance provisions would specify that a person may hold a "Class B" license and both a winery permit and a manufacturer's or rectifier's permit, and may make retail sales and provide taste samples as authorized under the "Class B" license and these provisions.

The Joint Finance provisions would also prohibit persons who hold a manufacturer's or rectifier's permit from allowing the sale or provision of taste samples of intoxicating liquor on the manufacturing or rectifying premises unless there is upon the premises either the permittee, the agent named in the permit if the permittee is a corporation or a limited liability company, or some person who has an operator's (bartender's) license and who is responsible for the acts of all persons selling or serving any intoxicating liquor to customers. These requirements currently apply to other establishments that serve alcohol for on-premises consumption.

Senate: Delete provision.

Conference Committee/Legislature: Restore the Joint Finance provisions.

[Act 28 Sections: 2318j thru 2318x]

9. TRIBAL MUNICIPAL BEER AND LIQUOR PERMITS

Senate/Legislature: Require the Department of Revenue to issue Class "B" beer and "Class B" liquor permits to tribal applicants. Specify that a Class "B" and/or a "Class B" permit issued to a tribe would authorize the retail sale of beer, wine, and liquor for on and off premise consumption in a similar manner as authorized for Class "B" and "Class B" municipal licenses. Upon application by a tribe, the Department would be required to issue a Class "B" and/or a "Class B" permit to a tribal applicant if the tribal applicant meets the general permit qualification and application requirements for Class "B" and/or "Class B" permits. Specify that a "tribe" means a federally recognized American Indian tribe in this state having a reservation created pursuant to treaty with the United States encompassing not less than 60,000 acres nor more than 70,000 acres or any business entity that is wholly owned and operated by such a tribe. An issuer of a Class "B" and/or a "Class B" permit under this provision would be subject to all laws that generally apply to an issuer of a Class "B" beer and a "Class B" liquor license.

[Act 28 Sections: 2318em and 2318it]

10. MUNICIPAL LIQUOR LICENSES -- CAPITAL IMPROVEMENT AREAS

Senate: Create statutory provisions authorizing the issuance of additional "Class B" liquor licenses to qualified applicants located in capital improvement areas enumerated by the Legislature. Specify that the geographic area composed of all land within the Tax Incremental District Number 3 within the City of Oconomowoc in Waukesha County that lies either south of Valley Road and east of State Highway 67 or south of I-94 and west of State Highway 67 would be enumerated as a capital improvement area.

Specify that, notwithstanding current law governing "Class B" license quotas, upon application by a qualified applicant, the governing body of any municipality containing an enumerated capital improvement area would be required to issue one license to a qualified applicant in addition to the number of licenses determined for the municipality's reserve "Class B" licenses, and any licenses issued to certain entities exempt from municipal quotas. After a qualified applicant has filed an application and upon application by an initial qualified applicant, the governing body of any municipality containing an enumerated capital improvement area would have to determine the improvement increment within the capital improvement area for the calendar year in which the application was filed and, if the improvement increment was at least \$10 million above \$50 million, the governing body of the municipality would have to issue to the initial qualified applicant a "Class B" license.

For each \$10 million of improvement increment above \$50 million, the governing body of the municipality would be authorized to issue one "Class B" license and, upon each application by a qualified applicant subsequent to that of the initial qualified applicant, the governing body of the municipality would be required to issue a "Class B" license to the qualified applicant until all licenses authorized for the capital improvement area have been issued. If the governing body of any municipality would receive an application by a qualified applicant in a calendar year subsequent to the calendar year in which it would receive the application of the initial qualified applicant, the governing body of the municipality would be required to re-determine the improvement increment for that year for the purpose of determining the number of "Class B" licenses authorized for the capital improvement area. The "Class B" licenses that a municipality would be authorized to issue would be in addition to the number of licenses determined for the municipality's reserve licenses, any license for exempt entities, and the original license for the capital improvement area.

Specify that no more than ten "Class B" licenses could be issued under these provisions for premises within the same capital improvement area, and that no municipality could issue a license for a capital improvement area after July 1, 2017. Notwithstanding the prior sentence, any license issued pursuant to an enumerated capital improvement area could be transferred, pursuant to laws governing the transfer of alcohol beverage licenses and permits, to a premise within the same capital improvement area. If a license issued for a capital improvement area were surrendered to the issuing municipality, revoked, or not renewed, the municipality could reissue the license to a qualified applicant for a premise that is located within the same capital improvement area in which the license was originally issued, provided the license was

originally issued prior to July 1, 2017.

Define the following five terms for purposes of capital improvement areas under laws governing quotas on "Class B" liquor licenses:

a. "Capital improvement area" would mean a geographic area that has been enumerated by the Legislature as having an improvement increment exceeding \$50 million in the year in which the area is enumerated, and being located within a municipality with insufficient reserve "Class B" licenses to issue a "Class B" license for each business or proposed business that would reasonably require one;

b. "Improvement increment" would mean the aggregate assessed value of all taxable property in a capital improvement area as of January 1 of any year minus the area base value;

c. "Area base value" would mean the aggregate assessed value of all taxable property located within the geographic bounds of a capital improvement area on January 1 of the year five years prior to the year in which such capital improvement area is enumerated as a capital improvement area;

d. "Qualified applicant" would mean an applicant that complies with all requirements under current law governing qualifications for licenses and permits for alcohol beverages and any applicable ordinance, that certifies by affidavit that the applicant has made a good faith attempt to purchase the business of a person holding a "Class B" license within the municipality and have that license transferred to the applicant pursuant to laws governing the transfer of alcohol beverage licenses and permits, and for whom the issuing municipality has determined that these requirements have been met; and

e. "Good faith," with respect to an applicant's attempt to purchase a "Class B" licensed business, would include an applicant making an offer to purchase the business for an amount exceeding \$25,000 in total value, without additional significant conditions placed on the purchase by either party, after having given notice of the applicant's interest in purchasing a licensed business to all current "Class B" license holders within the municipality where the business is located, by U.S. mail addressed to either the licensee's last known address or to the licensed premises. An offer in an amount of \$25,000 or less could also be considered to be in good faith depending on the fair market value of the business, the availability of other licensed businesses for purchase, and any conditions attached to the sale.

As compared to current law, it is estimated that the number of "Class B" licenses that could be issued by the City of Oconomowoc would increase by 10. These provisions would also establish a framework under which the Legislature could enumerate additional capital improvement areas to provide additional "Class B" liquor licenses to qualified applicants.

A retail "Class B" license authorizes the retail sale of intoxicating liquor and wine for consumption on the premises where sold. Municipalities are subject to a quota on the total number of "Class B" licenses that may be issued within each municipality. Quotas are generally

calculated by a formula based on a municipality's population, as well as the number of licenses that were in effect in the municipality as of December 1, 1997. Certain exemptions from the quota on "Class B" licenses exist, such as for full-service restaurants with a seating capacity of 300 or more persons.

Conference Committee/Legislature: Approve the Senate provisions with the following modifications: (a) reduce the number of "Class B" licenses that could be issued under these provisions for premises within the same capital improvement area from ten to eight; and (b) require that a qualified applicant receiving a "Class B" liquor license under these provisions must pay a fee of not less than \$10,000 to the municipal governing body.

As compared to current law, it is estimated that the number of "Class B" licenses that could be issued by the City of Oconomowoc would increase by eight. As compared to the Senate's provisions, it is estimated that the number of "Class B" licenses that could be issued by the City of Oconomowoc would be reduced by two. Under current law, each municipal governing body must establish a fee of not less than \$10,000 for the initial issuance of each reserve "Class B" license. The modification would require a similar fee be paid for the initial issuance of each "Class B" license to a qualified applicant in an enumerated capital improvement area.

[Act 28 Sections: 2318fm and 2318ip]

GENERAL PROVISIONS

1. CONTRIBUTORY NEGLIGENCE [LFB Paper 390]

Governor: Modify statutory language related to contributory negligence. Current law provides that contributory negligence does not bar recovery in actions to recover damages for negligence resulting in death or in injury to person or property, if that negligence was not greater than the negligence of the person against whom recovery is sought, but any damages allowed are diminished in proportion to the amount of negligence attributed to the person recovering. The negligence of the plaintiff is measured separately against the negligence of each person found to be causally negligent. The liability of each person found to be causally negligent whose percentage of causal negligence is less than 51% is limited to the percentage of the total causal negligence attributed to that person. A person found to be causally negligent whose percentage of causal negligence is 51% or more is jointly and severally liable for allowed damages. However, if two or more parties act in accordance with a common scheme or plan, those parties are jointly and severally liable for all damages resulting from that action.

Under the bill, statutory language would be modified to provide that contributory negligence does not bar recovery in actions to recover damages for negligence resulting in death or in injury to person or property, if that negligent was not greater than the combined negligence of all of the persons against whom recover is sought, but any damages allowed will be diminished in proportion to the amount of negligence attributed to the person recovering. Any person found to be causally negligent whose percentage of cause negligence is equal to or greater than the negligence of the person recovering will be jointly and severally liable for the damages allowed. Further, the bill would provide that, in civil actions involving contributory negligence, the court must explain to the jury the effect on awards and liabilities of the percentage of negligence found by the jury to be attributable to each party.

Joint Finance: Delete the provision which specifies that any person found causally negligent whose percentage of causal negligence is equal or greater than the negligence of the plaintiff is jointly and severally liable. Instead, maintain a threshold for the application of joint and several liability, but reduce the threshold percentage from the current law 51% of causal negligence to 20% causal negligence. Specify that recovery may be sought if a plaintiff's negligence is not greater than the combined negligence of all of the persons against whom recovery is sought who are liable in tort to the person recovering and of any person with whom the plaintiff has settled. Specify that, except for persons who have settled with the plaintiff, no comparison of negligence may be made between the plaintiff and the negligence of any person who is not a party to the action to recover damages.

Assembly/Legislature: Delete provision.

2. SUCCESSOR ASBESTOS-RELATED LIABILITY

Joint Finance/Legislature: Create statutory provisions under Chapter 895 of the Statutes (Damages, Liability, And Miscellaneous Provisions Regarding Actions In Courts) related to successor asbestos-related liability.

The provisions use the following definitions:

a. "Successor corporation" is a corporation that has assumed or incurred successor asbestos-related liabilities before January 1, 1972, or that is any of that successor corporation's successors.

b. "Transferor" means a corporation from which a successor asbestos-related liability is or was assumed or incurred.

c. "Successor asbestos-related liabilities" means any liability that is related to an asbestos claim and that was assumed or incurred by a corporation as a result of or in connection with any of the following: 1. a merger or consolidation with a transferor; 2. the plan of merger or consolidation with a transferor related to the merger or consolidation with or into another corporation; or 3. an asbestos claim based on the exercise of control or ownership of stock or a corporation before the merger or consolidation with a transferor. The term also includes liability that, after the time of the merger or consolidation with a transferor for which the fair market value of the total gross assets of the successor corporation was determined, was paid, discharged, or committed to be paid or discharged by or on behalf of the corporation, successor corporation, or transferor in connection with a settlement, judgment, or discharge in this state or in another jurisdiction.

d. "Asbestos claim" means a claim for damages, losses, indemnification, contribution, or other relief arising out of or related in any way to asbestos, including all of the following: 1. a claim related to the health effects of exposure to asbestos, including a claim related to any of the following: (a) personal injury or death, (b) mental or emotional injury, (c) increased risk of disease or other injury, or (d) costs of medical monitoring or surveillance; 2. a claim made by or on behalf of any person exposed to asbestos, or by a spouse, parent, child, or other relative of the person; and 3. a claim related to the installation, presence, or removal of asbestos.

Specify that except as further limited in the following paragraph, the cumulative successor asbestos-related liabilities of a successor corporation are limited to the fair market value of the total gross assets of the transferor determined as of the time of the merger or consolidation. The successor corporation does not have responsibility for successor asbestos-related liabilities in excess of this limitation.

If the transferor to the successor corporation had assumed or incurred successor asbestos-related liability in connection with a prior merger or consolidation with a prior transferor, then the fair market value of the total assets of the prior transferor determined as of the time of the earlier merger or consolidation is substituted for the limitation above for purposes of determining the limitation on liability of the successor corporation.

Specify that the limitations do not apply to any of the following: (a) worker's compensation benefits paid under Chapter 102 of the Statutes or a comparable worker's compensation law of another jurisdiction; (b) any claim against a successor corporation that does not constitute a successor asbestos-related liability; (c) any obligation under federal labor relations provisions, or under any collective bargaining agreement; or (d) a successor corporation that, after a merger or consolidation with a transferor, continued in the business of mining asbestos, selling or distributing asbestos fibers, or manufacturing, distributing, removing, or installing asbestos-containing products that were the same or substantially the same as those products that were previously manufactured, distributed, removed, or installed by the transferor.

Specify that a successor corporation may establish the fair market value of total gross assets by any reasonable method, including any of the following: (a) by reference to the going concern value of the assets; (b) by reference to the purchase price attributable to or paid for the assets in an arms-length transaction; or (c) in the absence of other readily available information from which the fair market value can be determined, by reference to the value of the assets recorded on a balance sheet.

Specify that to the extent that total gross assets include liability insurance that was issued to the transferor whose assets are being valued, the applicability, terms, conditions, and limits of the insurance are not affected. The rights and obligations of an insurer, transferor, or successor corporation are not affected under any insurance contract or related agreement, including all of the following: (a) a preenactment settlement resolving a coverage-related dispute; (b) the right of an insurer to seek payment for applicable deductibles, retrospective premiums, or self-insured retentions; or (c) the right of an insurer to seek contribution from a successor corporation for an uninsured or self-insured period or for a period when insurance is uncollectible or unavailable.

Specify that to the extent that total gross assets include any liability insurance, a settlement of a dispute concerning the liability insurance coverage entered into by the transferor or successor corporation with the insurer of the transferor before the effective date of the bill, will be determinative of the total coverage of the liability insurance for inclusion in the calculation of the transferor's total gross assets.

Allow for adjustments to fair market value. Specify that, except as provided below, the fair market value of the total gross assets at the time of the merger or consolidation with the transferor is increase annually at a rate equal to the sum of the following: (a) the weekly prime rate for the first week of each calendar year since the merger or consolidation, as reported by the federal reserve board in federal reserve statistical release H. 15; and (b) one percent. The determined rate may not be compounded.

Specify the scope of the new provisions as follows: (a) the provision is intended to be construed liberally with regard to successors; and (b) the provision apply to all asbestos claims filed against a successor on or after the first day of the second month beginning after publication of the bill and to asbestos claims pending against a successor corporation in which a trial has not commenced on the effective date.

[Act 28 Sections: 3283g, 9309(3f), and 9409(2f)]

3. ESTABLISHMENT OF DOMESTIC PARTNERSHIP AND RELATED RIGHTS AND BENEFITS [LFB Paper 391]

Governor: Create requirements for the establishment of same-sex domestic partnerships and provide domestic partners with certain rights and benefits that parallel some of the rights and benefits provided to spouses under current law. Define: (a) "domestic partner" as an individual who has signed and filed a declaration of domestic partnership in the office of the register of deeds of the county in which he or she resides; and (b) a "domestic partnership" as the legal relationship that is formed between two individuals under the following provisions:

Criteria for Forming a Domestic Partnership. Permit two individuals to form a domestic partnership if they satisfy all of the following criteria: (a) each individual is at least 18 years old and capable of consenting to the domestic partnership; (b) neither individual is married to, or in a domestic partnership with, another individual; (c) the two individuals share a common residence [even if only one of the individuals has legal ownership of the residence or one or both of the individuals have one or more additional residences not shared with the other individual, or one of the individuals leaves the common residence with the intent to return]; (d) the two individuals are not nearer of kin to each other than second cousins, whether of the whole or half blood or by adoption; and (e) the individuals are members of the same sex.

[Note: for the purposes of the Wisconsin Retirement System and state employee benefits under Chapter 40 of the statutes, and family or medical leave under s. 103.10 of the statutes, the bill provides a different definition of domestic partnership that would include both same-sex and opposite-sex domestic partners. For these statutes, the bill would define domestic partnership as a relationship between two individuals that satisfies all of the following criteria: (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. See the summary item under "Employee Trust Funds" for the provisions affecting the Wisconsin Retirement System and state employee benefits.]

Unless otherwise noted, the following provisions apply to same-sex domestic partnerships only.

Application. Require that individuals who wish to form a domestic partnership must apply for a declaration of domestic partnership to the county clerk of the county in which at least one of the individuals has resided for at least 30 days immediately before applying. The county clerk would not be authorized to issue a declaration of domestic partnership until at least five days after receiving the application for the declaration of domestic partnership, except that the county clerk may, at his or her discretion, issue a declaration of domestic partnership in less than five days, if the applicant pays an additional fee of not more than \$10 to cover any increased processing cost incurred by the county. Require the county clerk to pay this fee into the county treasury.

Under the bill, no declaration of domestic partnership would be issued unless: (a) the application for it is subscribed to by the parties intending to form the domestic partnership; (b) it contains the social security number of each party who has a social security number; and (c) it is filed with the clerk who issues the declaration of domestic partnership. Require that each party must present satisfactory, documentary proof of identification and residence and must swear, or affirm, to the application before the clerk who is to issue the declaration of domestic partnership. Require that, in addition to the social security number of each party who has a social security number, the application must contain such informational items as the Department of Health Services (DHS) directs. The portion of the application form that is collected for statistical purposes only would be required to indicate that the address of an applicant may be provided by a county clerk to a law enforcement officer under certain conditions specified below.

Require each applicant to exhibit to the clerk a certified copy of a birth certificate and any judgment, certificate of termination of domestic partnership, or death certificate affecting the domestic partnership status. If any applicable birth certificate, death certificate, notice of termination of domestic partnership, or judgment is unobtainable, other satisfactory documentary proof may be presented instead. Whenever the clerk is not satisfied with the documentary proof presented, he or she would be required to submit the proof, for an opinion as to its sufficiency, to a judge of a court of record in the county of application.

If these requirements are complied with, require the county clerk to issue a declaration of domestic partnership. With each declaration of domestic partnership the county clerk would be required to provide a pamphlet describing the causes and effects of fetal alcohol syndrome. After the application for the declaration of domestic partnership is filed, the clerk must, upon the sworn statement of either of the applicants, correct any erroneous, false, or insufficient statement in the application that comes to the clerk's attention and must notify the other applicant of the correction, as soon as reasonably possible.

Completion and Filing of Declaration. In order to form the legal status of domestic partners, the individuals would be required to complete the declaration of domestic partnership, sign the declaration, having their signatures acknowledged before a notary, and submit the declaration to the register of deeds of the county in which they reside. Require the register of deeds to record the declaration and forward the original to the State Registrar of Vital Statistics.

Termination of a Domestic Partnership. Under the bill, a domestic partner may terminate the domestic partnership by filing a completed notice of termination of domestic partnership form with the county clerk who issued the declaration of domestic partnership and paying a fee, as specified below. Require that the notice be signed by one or both domestic partners and notarized. If the notice is signed by only one of the domestic partners, that individual must also file with the county clerk an affidavit stating either of the following: (a) that the other domestic partner has been served in writing [in accordance with civil procedure law relating to commencement of action and venue] that a notice of termination of domestic partnership is being filed with the county clerk; or (b) that the domestic partner seeking termination has been

unable to locate the other domestic partner after making reasonable efforts and that notice to the other domestic partner has been made in a newspaper of general circulation in the county in which the residence most recently shared by the domestic partners is located. The notice would not need to be published more than one time.

Upon receiving a completed, signed, and notarized notice of termination of domestic partnership, the affidavit, if required, and the required fee, the county clerk would be required to issue to the domestic partner filing the notice of termination a certificate of termination of domestic partnership. Require that the domestic partner submit the certificate of termination of domestic partnership to the register of deeds of the county in which the declaration of domestic partnership is recorded. The register of deeds would record the certificate and forward the original to the State Registrar of Vital Statistics.

Under the bill, the termination of a domestic partnership would be effective 90 days after the certificate of termination of domestic partnership is recorded, except that, if a party to a domestic partnership enters into a marriage that is recognized as valid in this state, the domestic partnership is automatically terminated on the date of the marriage.

Department of Health Services (DHS) Forms Development. Require that the application and declaration of domestic partnership, the notice of termination of domestic partnership, and the certificate of termination of domestic partnership contain such information as the DHS determines is necessary. The form for the declaration of domestic partnership must require both individuals forming a domestic partnership to sign the form and attest to satisfying all of the required criteria. Require DHS to prepare and distribute forms in sufficient quantities to each county clerk.

Fees. Require each county clerk to receive as a fee for each declaration of domestic partnership issued and for each certificate of termination of domestic partnership issued in the same amount that the clerk receives for issuing a marriage license. Of the amount received, the clerk would be required to pay into the state treasury the same amount that the clerk pays into the state treasury from the fee collected for issuing a marriage license (\$25). The remainder would be funds of the county. For each declaration of domestic partnership issued and for each certificate of termination of domestic partnership issued, the clerk would also receive a standard notary fee in the same amount as a standard notary fee in connection with issuing a marriage license (\$0.50). Provide that the fee may be retained by the clerk, if the clerk is operating on a fee or part-fee basis, but would otherwise be funds of the county.

Records. Require the county clerk to maintain a suitable book, called the declaration of domestic partnership docket, as a complete record of the applications for, and the issuing of, all declarations of domestic partnership, and of all other matters which the clerk would be required to ascertain related to the rights of any person to obtain a declaration of domestic partnership. Provide that an application may be recorded by entering into the docket the completed application form, with any portion collected only for statistical purposes removed. Provide that the declaration of domestic partnership docket would be open for public inspection or examination at all times during office hours.

Provide that a county clerk may provide the name of a declaration of domestic partnership applicant and, from the portion of the application form that is collected for statistical purposes, may provide the address of the declaration of domestic partnership applicant to a law enforcement officer. Require a county clerk to provide the name and, if it is available, the address, to a law enforcement officer who requests, in writing, the name and address for the performance of an investigation or the service of a warrant. If a county clerk has not destroyed the portion of the declaration of domestic partnership application form that is collected for statistical purposes, he or she would be required to keep the information on the portion confidential, except as authorized by law. Provide that, if a written request is made by a law enforcement officer, the county clerk must keep the request with the declaration of domestic partnership application form and, if the county clerk destroys the declaration of domestic partnership application form, he or she must also destroy the written request.

Upon the basis of the above provisions, the bill would establish certain rights and benefits for domestic partners. These provisions are summarized below.

Victim Notification by the Department of Corrections. Modify current law related to crime victim notification to include domestic partner in the definition of a "member of the family."

Under current law, Corrections is required to notify an adult member of a victim's family (if the victim died as the result of the crime) of an offender's release into the community in the following circumstances: (a) the offender was convicted of certain homicides, sexual assaults, and child-related crimes, and is being placed in the community residential confinement program, the intensive sanctions program, or has a sentence which is about to expire; (b) escape; (c) application for parole; and (d) request for pardon.

In addition, under the sex offender registration laws, notification is provided to a victim or a victim's family member of the initial registration of a sex offender or any change of information regard that offender, if the victim or family member requests the information.

Evidences - Privileges. In addition to "spouse," include domestic partner in all provisions related to husband-wife privilege. Under current law, a person has a privilege to prevent the person's spouse or former spouse from testifying against the person as to any private communication by one to the other during their marriage.

Damages, Recovery, and Miscellaneous Provisions Regarding Actions in Court. In addition to "spouse," include domestic partner in all provisions related to wrongful death actions.

Crime Victim Compensation Program. Expand the definition of "dependent" under the program to include a domestic partner and a parent of a domestic partner. Expand the definition of "family member" under the program to include a domestic partner and a parent or sibling of a domestic partner.

The crime victim compensation program compensates victims and their dependents for

the cost of medical treatment (both physical and mental), lost wages, funeral and burial expenses, loss of support to dependents of a deceased victim, and replacement costs of any clothing or bedding that is held for evidentiary purposes. In addition, victim compensation awards may be made to family members of a victim of a homicide.

Ownership of Property-Joint Tenancy. In addition to "husband and wife" in situations where the marital property law does not apply, create a presumption for domestic partners named as owners in a document of title, transferees in an instrument of transfer, or buyers in a bill of sale, that they take ownership of the property as joint tenants if they are described in the document, instrument, or bill of sale as domestic partners, or if they are in fact domestic partners.

A joint tenancy is ownership of property by two or more persons in which each person owns an undivided interest in the whole property with a right of survivorship. An example of this situation would be one in which two people own a home as joint tenants and one dies, and upon the first person's death the remaining tenant is the sole owner of the home.

Administration and Transfer of a Deceased Individual's Estate

a. ***Definitions.*** In addition to the previously defined terms domestic partner and domestic partnership, define a "surviving domestic partner" to mean a person who was in a domestic partnership with the deceased individual, at the time of the deceased individual's death.

b. ***Revocation of Certain Provisions in Favor of a Former Spouse.*** Under current law, a "divorce, annulment or similar event": (1) revokes any revocable transfer of property made by the deceased individual to his or her former spouse or a relative of the former spouse (such as under a will); (2) revokes any disposition created by law to the former spouse or a relative of the former spouse (such as the default rules for property distribution in the absence of a will discussed below); (3) revokes any revocable provision made by the deceased individual in a legal instrument conferring a power of appointment on the former spouse or a relative of the former spouse; (4) revokes the deceased individual's revocable nomination of the former spouse or a relative of the former spouse to serve in any fiduciary or representative capacity; and (5) severs the interests of the deceased individual and former spouse in property held by them as joint tenants with the right of survivorship or as survivorship marital property and transforms the interests of the decedent and former spouse into tenancies in common. [With a tenancy in common, on the deceased individual's death his or her interest in the property does not automatically transfer to the surviving former spouse as it would with either a joint tenancy or survivorship marital property.]

Provide that a "divorce, annulment or similar event" would include a termination of a domestic partnership, or other event or proceeding that would exclude a person as a surviving domestic partner. Provide that a "former spouse" would include a person whose domestic partnership with the deceased individual had been the subject of a "divorce, annulment or similar event."

As with a remarriage between spouses under current law, these provisions do not apply if the deceased individual and his or her partner had entered into a new domestic partnership before the death of the deceased individual.

c. *Unintentional Exclusion from a Deceased Individual's Will.* As with a surviving spouse under current law, provide that a surviving domestic partner is generally entitled to a share of the deceased domestic partner's probate estate, notwithstanding the deceased partner's execution of a will prior to the recording of the domestic partnership that did not provide for the surviving domestic partner. The surviving domestic partner would receive the share he or she would have received had the deceased partner died without a will equal to the net estate, but the net estate would be reduced by the value of gifts to the deceased partner's children born prior to the domestic partnership and their heirs.

As with a surviving spouse under current law, a surviving domestic partner is not entitled to a portion of the deceased partner's estate under if it appeared from the will or other evidence that the will: (1) was made in contemplation of the domestic partnership with the surviving domestic partner; or (2) was intended to be effective notwithstanding any subsequent domestic partnership, or there was sufficient evidence that the deceased partner considered revising the will after the domestic partnership but decided not to.

d. *Default Rules for the Transfer of Property to Heirs in the Absence of a Will.* Provide that for purposes of distributing the assets of a deceased individual's net estate, a surviving domestic partner would be treated the same as a surviving spouse under current law. Under current law, these default rules determine who among the surviving spouse, children, parents, brothers and sisters, grandparents, and their descendants will receive the net assets of an estate if the deceased individual died without a will.

e. *Priority with Respect to Certain Personal Property.* In addition to a surviving spouse, provide that a surviving domestic partner may file with a probate court a written selection of the following personal property, which must then be transferred to the domestic partner: (1) wearing apparel and jewelry held for personal use by the deceased individual or the surviving spouse/domestic partner; (2) automobile; (3) household furniture, furnishings and appliances; and (4) other tangible personal property not used in trade, agriculture or other business, not to exceed \$3,000 in inventory value. This selection of personal property may not include items specifically bequeathed to another individual, except that the surviving spouse/domestic partner may in every case select the normal household furniture, furnishings, and appliances necessary to maintain the home. [Antiques, family heirlooms, and collections that are specifically bequeathed are not classifiable as normal household furniture or furnishings.]

As with a surviving spouse under current law, provide that the "net estate" of a deceased individual be reduced by the selections of personal property made by a surviving domestic partner under the prior paragraph.

f. *Right to Purchase Deceased Individual's Interest in Joint Home.* In addition to a surviving spouse, provide that a surviving domestic partner also has the right to purchase the

home in which he or she lived with his or her domestic partner prior to the domestic partner's death.

Under current law, if a deceased individual who was married had a property interest in a home, the deceased individual's entire interest in the home must be transferred to the surviving spouse if the surviving spouse petitions the probate court requesting the transfer, and if a legal document does not provide a specific transfer of the deceased individual's interest in the home to someone other than the surviving spouse. The court must transfer the interest in the home to the surviving spouse upon payment of the value of the deceased individual's interest in the home that does not otherwise pass to the surviving spouse.

g. *Exempting Certain Property Transferred to the Surviving Spouse or Surviving Domestic Partner from General Creditors' Claims.* As with a surviving spouse under current law, provide that once the amount of claims against the deceased individual's estate has been ascertained the surviving domestic partner may petition the probate court to set aside as exempt from general creditors' claims an amount of property reasonably necessary for the support of the domestic partner, not to exceed \$10,000 in value, if it appears that the deceased individual's assets are insufficient to pay all claims and still leave the surviving domestic partner such an amount of property in addition to certain other allowances.

h. *Family Support During Administration of the Deceased Individual's Estate.* Provide that a probate court may order payment for the support of a surviving domestic partner. Under current law, a probate court may order payment of an allowance as the court determines necessary or appropriate for the support of the surviving spouse and any minor children of the deceased individual during the administration of the deceased individual's estate.

i. *Accelerated Distribution and Closure of Small Estates.* Expand these provisions to include a domestic partner. Under current law, a probate court may settle the estate of a deceased person under an accelerated process whenever the estate (less the amount of the debts for which any property in the estate is security) does not exceed \$50,000 in value and the deceased individual is survived by a spouse or one or more minor children or both. When an estate is closed in this manner, any property not otherwise transferred must be transferred to the surviving spouse or minor children or both.

Active State Duty National Guard Member Civil Relief. Include a domestic partner as an individual who may not be evicted from a rented dwelling during a National Guard member's active state duty.

Private Employer Health Care Purchasing Alliance Program (PEHCPAP). Modify the definition of a "dependent" to include a domestic partner, as it relates to the requirement that an employer participating in the PEHCPAP provide health care coverage under one or more plans to at least 50% of its eligible employees who do not otherwise receive health care coverage as a dependent under any other plan that is not offered by the employer. Although the Department of Employee Trust Funds is authorized to administer PEHCPAP, the program is not in operation and all statutory provisions relating to the program will be repealed on January 1,

2010.

Rights of Residents in Care Facilities. Require adult family homes, residential care apartment complexes, community-based residential facilities (CBRF), nursing homes, hospitals, and hospices to extend the same visitation and accompaniment rights to domestic partners that are currently accorded to the spouse of a patient or resident of these facilities. Modify provisions relating to the rights of nursing home residents to include the right to privacy for visits by a domestic partner.

Consent to Admissions to Nursing Homes, CBRFs, and Hospices. Permit domestic partners of an incapacitated individual to consent to an individual's admission from a hospital to a nursing home or CBRF, or directly to a hospice, if the incapacitated individual does not have a valid power of attorney for health care and has not been adjudicated incompetent.

Mental Illness, Developmental Disability and Alcohol and Other Drug Abuse (AODA) Treatment Records. Include domestic partners as family members who may access treatment records in certain situations. Currently, a spouse, parent, adult child, or sibling who directly cares for or monitors the treatment of an individual for a mental illness or a developmental disability may access the individual's treatment records kept by the state, a county department, or a treatment facility. A parent, sibling, child, or spouse may also access information on whether an individual is a patient at an inpatient facility (and the individual's current location), unless the individual requested that the information be withheld.

Health Care Records. Include the domestic partner of a deceased patient in the definition of "person authorized by the patient" for the purposes of disclosure and release of health care records.

Power of Attorney for Property and Finances. In addition to spouse, include domestic partner under this provision. Under current law, an "agent" is a person assigned by an individual to act on their behalf in matters including finances and property. If a spouse is an agent and the marriage is terminated, the power of attorney document is terminated.

Power of Attorney for Health Care. Include domestic partner in the definition of "relative" for the purposes of designating a power of attorney for health care, and add domestic partner to the list of relatives prohibited from acting as a witness to the execution of power of attorney for health care. If an individual's domestic partner has power of attorney for health care, the power of attorney would be revoked upon termination of the domestic partnership. The bill would amend the written forms provided in statute to reflect these changes.

Consent to Autopsies. Allow a domestic partner who assumes custody of a deceased individual's remains to consent to the performance of an autopsy by a licensed physician.

Consent to Make an Anatomical Gift. Permit the domestic partner of an individual to donate the body or part of the body for transplantation, therapy, research, or education, if an individual who is near death or has died did not specify another agent. Current law specifies a priority order of individuals who can make an anatomical gift of the body or part of the

individual, with first priority for the individual's agent under a health care power of attorney, second priority for the individual's spouse, and lower priority for other family members specified in statute. This provision would classify the decedent's domestic partner in the same priority as a spouse for this purpose.

AIDS/HIV Health Insurance Premium Subsidy Program. Include domestic partner in the definition of "dependent" as it relates to the AIDS/HIV health insurance premium subsidy program. Under the program, the Department of Health Services (DHS) pays for all or part of group or individual health insurance premiums for people whose employment has been terminated or reduced due to conditions related to HIV infection, and who have household income of less than 300% of the federal poverty level (FPL). The subsidy is provided to individuals whose policy also covers the individual's dependents.

In addition, DHS pays for all or part of group health insurance premiums for individuals who are on unpaid medical leave from employment due to a condition related to HIV infection, and who have household income of less than 300% of the FPL. The bill would require the subsidy be paid for any plan that also covers an individual's domestic partner.

This provision may slightly increase the total amount of subsidies DHS would be authorized to pay under the program, since DHS would begin paying subsidies for insurance that covers the person's domestic partner.

Insurance Provided by Fraternal Organizations. Allow a fraternal organization to provide insurance benefits to domestic partners of its employees. Currently, a fraternal organization may provide health insurance benefits to a spouse or dependent child of an employee.

Notifications Made to Family Members Following the Release of Certain Persons. Include domestic partners under the definition of "family member" as it relates to the requirements that: (a) a district attorney notify members of the victim's family if a court conditionally releases an individual who was found not guilty by reason of mental disease or mental defect; (b) DHS notify members of the victim's family if a court orders the termination or discharge of an individual who was found not guilty by reason of mental disease or mental defect; and (c) DHS notify family members after a court discharges or places on supervised release an individual who was committed as a sexually violent person.

Real Estate Transfer Fee. Provide an exemption from the real estate transfer fee for conveyances of real property between domestic partners. The provision would be first apply to conveyances of property between domestic partners on the day after publication of the bill. It is estimated that the provision would reduce state real estate transfer fee revenues by a minimal amount.

Under current law, the real estate transfer fee is imposed on conveyances of real property at the rate of \$3 per \$1,000 of value. The county in which the property is located collects the fee when a conveyance of real estate is submitted for recording. The county retains 20% of the fee and remits the remaining 80% to the state. Current law exempts certain transfers between family members from the fee, such as conveyances between husband and wife, as well as

conveyances for little or no consideration between parent and child, stepparent and child, parent and son-in-law, or parent and daughter-in-law.

Family and Medical Leave. Modify current law family and medical leave provisions related to care of family members for serious health conditions to include domestic partners. [As noted above, for the purposes of the Wisconsin Retirement System and state employee benefits under Chapter 40 of the statutes and family or medical leave under s. 103.10 of the statutes, the bill provides a different definition of domestic partnership that would include both same-sex and opposite-sex domestic partners.]

For employers of 50 or more, current law requires that an employee be allowed up to two weeks of leave in a twelve-month period for the care of a child, spouse, or parent with a serious health condition.

Worker's Compensation Death Benefits. Modify current law related to worker's compensation death benefits to provide a domestic partner with the same treatment as a spouse. Under current law, if a work-related accident or occupational disease causes death, or if a worker dies while entitled to permanent total disability benefits, death benefits are paid to a spouse, parent, or relative. Extra benefits are paid to dependent children. Burial expenses are also provided.

Employee Cash Bonds Held in Trust. Modify current law to provide a domestic partner with the same treatment as a spouse in payouts of employee cash bonds, in cases where the employee dies. Current law authorizes an employer to require an employee to furnish a cash bond. If the employee dies, the bond is repaid to the decedent's family in a specified order of priority.

Wage Payments. Modify current law to require an employer to pay a domestic partner an employee's unpaid wages, in cases where the employee dies. Current law establishes when an employee must be paid wages earned. In cases where the employee dies, unpaid wages are required to be paid to the decedent's spouse, children, and dependents.

Insurance for Employees of Local Governmental Units. Expand current law provisions to domestic partners and dependent children and include the Milwaukee Public Schools in the definition of a "local governmental unit" for this purpose. Under current law, the state or a local governmental unit may provide for payment of premiums for health, accident and life insurance for municipal employees, their spouses, and dependent children.

Manufactured Home Title Transfer Fee. In addition to surviving spouse, add "or domestic partner" to the supplemental title fee exemption afforded when a mobile home title is transferred after death. The supplemental fee is currently \$7.50. In 2007-08 manufactured home supplemental title fee revenue totaled \$52,900, with 132 spousal exemptions (less than 2% exempt). Revenue is deposited in a Department of Commerce program revenue appropriation for operations of the Safety and Buildings Division.

Motor Vehicle Titles. Modify provisions that establish the procedures for the transfer of a

decedent's interest in a motor vehicle to a surviving spouse, to specify that these provisions also apply to a surviving domestic partner. Modify a provision that waives the supplemental motor vehicle title transfer fee in cases where the title to a vehicle is being transferred to a surviving spouse from a deceased spouse, to specify that the fee waiver also applies in situations where a vehicle title is being transferred to a surviving domestic partner.

Joint Finance/Legislature: Modify the Governor's recommendation as identified below. Include the domestic partnership documentation (a declaration of a domestic partnership and a certificate of termination of a domestic partnership) in the definition of "vital records" and "vital statistics" in Chapter 69 of the statutes. Provide that the duties of the State Registrar of Vital Statistics and county registers of deeds include the responsibilities that would be created for these officials under Chapter 770 of the statutes. Provide that the application and declaration of domestic partnership, the notice of termination of domestic partnership, and the certificate of termination of domestic partnership would contain such information as the State Registrar of Vital Statistics determines is necessary (rather than DHS). Provide that penalties for violations of Chapter 69 provisions as they relate to vital records [under s. 69.24 of the statutes] would apply to domestic partnership records. Provide that the provisions take effect 30 days following the effective date of the bill to provide state and local officials adequate time to properly implement the changes.

Include the following public policy statement in the domestic partnership chapter (Chapter 770): The Legislature finds that it is in the interests of the citizens of this state to establish and provide the parameters for a legal status of domestic partnership. The Legislature further finds that the legal status of domestic partnership, as established in this chapter, is not substantially similar to that of marriage. Nothing in this chapter shall be construed as inconsistent with, or a violation of, article XIII, section 13, of the Wisconsin Constitution.

[Act 28 Sections: 1391 thru 1394, 1396, 1399, 1402, 1411, 1412, 1416, 1418, 1422 thru 1424, 1429 thru 1431, 1464, 1465, 1501g thru 1501n, 1510g, 1510h, 1830, 2158, 2159 thru 2166, 2170, 2171, 2172, 2174 thru 2186, 2211 thru 2213, 2430, 2437 thru 2443, 2505, 2506, 2532, 2536, 2537, 2539, 2667, 2669, 2690, 2691, 2713, 2749, 2773, 2774, 2901, 2905, 3140, 3200, 3218, 3244 thru 3269, 3284, 3285, 3357, 3358, 3374, 3375, 3405, and 9343(16)]

4. CITY OF MILWAUKEE APPROPRIATION OBLIGATION BONDING AUTHORITY

Governor/Legislature: Authorize the common council of a first class city (City of Milwaukee) to issue appropriation obligations to pay all or part of the city's unfunded prior service liability with respect to an employee retirement system of the city, or to fund or refund outstanding any appropriation bonds issued. Provide that the city would not be generally liable for the appropriation bonds and that appropriation bonds would not be a debt of the city for any purpose. The annual principal and interest on the appropriation bonds would be repaid from annual amounts appropriated by the city's common council.

Authorize the common council to delegate its investment authority over the city's 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 city's employee retirement system. Specify that if the common council of the city finds that a person has expertise in the field of investments, it could delegate this authority to: (a) a public board that is organized for such a purpose under city ordinances; and (b) a trustee, investment advisor, or investment banking or consulting firm.

Pension Liability Strategic and Financial Plan. Require that before a city could issue any appropriation bonds, its common council 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 city's unfunded prior service liability with respect to an employee retirement system of the city. 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 common council make a determination that the ordinance establishing the plan meets these statutory requirements and, absent manifest error, the common council's determination would be conclusive; and (d) that the common council submit a copy of the strategic and financial plan to the Governor and to the Legislature.

Appropriation Bond Authority. Authorize a common council issue appropriation bonds and provide the common council 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 city would be allowed issue appropriation bonds to: (a) pay all or part of the city's unfunded prior service liability with respect to an employee retirement system of the city; (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 city 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 common council would consider 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 common council, 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 city:

a. every appropriation bond would be executed in the name of and for the city by the president of the common council and city clerk and would be sealed with the seal of the city, 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 in all respects;

c. every appropriation bond would have to indicate that bonds are not a debt of the city, the city is not generally liable for the bonds, and principal and interest of the bonds is payable only from those amounts appropriated by the common council; and

d. an appropriation bond would be in such form and contain such statements or terms, as determined by the common council and could not conflict with law or with the appropriate authorizing resolution.

Specify that a facsimile signature of either the city council president or city clerk could be imprinted on each appropriation bond issued by the city 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 city to evidence its obligation to repay a certain amount of borrowed money that would be 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 Procedures. Specify that appropriation bonds could not be issued except under a written authorizing resolution adopted by a majority of a quorum of the city's common council. Allow that the resolution could be in the form of a resolution or trust indenture and could, as the common council determines, establish funds and accounts, including a reserve fund. Require that the resolution include the aggregate principal amount of appropriation bonds authorized, the manner of sale of the bonds, and their form and terms.

Provide that appropriation bonds could be sold at either public or private sale and at any price or percentage of par value. Require all appropriation bonds sold at public sale to be noticed as provided in the authorizing resolution. Allow that any bid received at public sale could be rejected.

Authorize the common council to issue appropriation bonds having any provisions for prepayment they would consider 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 city through appropriation bonds would be lawful money of the United States,

and all appropriation bonds would be paid in such money.

Authorize a city at the time of, or in anticipation of, issuing appropriation bonds or general obligation notes to pay an unfunded prior service liability of an employee retirement system, 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, 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 have to be made as provided in the agreement or arrangement.

Specify that all appropriation bonds owned or held by any city fund would be outstanding in all respects, and that the common council or other 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 the appropriation bonds, the bonds would be considered paid.

City Moral Obligation Pledge. Provide that the common council, if it considers it 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 Cities. Add debt issued by a city to pay unfunded prior service liabilities with respect to an employee retirement system to the current law list of items for which cities are allowed to issue bonds or notes, and to the list of type of items that may funded through the issuance of bonds without a vote of the city's electors at referendum.

Specify that any levy limits for cities would not apply to: (a) debt service on appropriation bonds issued to fund a city's employee retirement system liability; (b) debt service on any 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.

In addition, the current law exemption that allows Milwaukee County to issue general obligation promissory notes with a 20-year maturity, rather than the usual 10-year maturity, for promissory notes used to pay the unfunded pension liability with respect to an employee retirement system, would be extended to a city of the first class.

Refunding Bond Authority. Authorize a common council 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 city 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 appropriation bonds or general obligation promissory notes being refinanced; (b) applicable redemption premiums; (c) unpaid interest on the appropriation bonds or general obligation promissory notes to the date of delivery or exchange of the refunding bonds; (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 the common council, whichever is earlier; and (e) the expenses incurred in the issuance of the refunding bonds and payment of the refunded bonds or notes. Specify that the common council may authorize the issuance of general obligation promissory notes to refund appropriation bonds.

Provide that if a common council would determine to exchange refunding appropriation bonds, these bonds could be exchanged privately for any of the outstanding appropriation bonds being refunded. Provide that refunding appropriation bonds could be exchanged for such principal amount as determined by the common council. 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 common council 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 must be applied to either 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 city clerk or treasurer, or such other officers or agents as determined by the common council. 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 city and noted on the bond. Specify that a city could treat the registered owner as the owner of the appropriation bond for all purposes.

Unless otherwise provided by the common council, 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 common council to make any other provision with respect to registration that it considers necessary or desirable.

Authorize the common council to appoint one or more trustees or fiscal agents for each issue of appropriation bonds. Provide that the city 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 would be an incorporated bank or trust company, authorized by the laws of the United States or of the state in which it is located to conduct 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 city and the trustee. Authorize the common council to make other arrangements with respect to trustees and fiscal agents. Authorize the common council 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 city to deliver a new appropriation bond if the following is provided to the common council: (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 city; and (e) payment of any expenses that the city would incur.

Specify that unless otherwise directed by the common council, every appropriation bond

that is paid or otherwise retired would be marked canceled and delivered to the city treasurer, or to such other fiscal agent as applicable with respect to the bond. Require the city treasurer or applicable fiscal agent to destroy the canceled obligation and provide the city 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 city:

- 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 common council, 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 city. Specify that a trust would mean a common law trust organized under the laws of this state, by the city as settlor, pursuant to a formal, written, declaration of trust. Define a pension funding plan to be a strategic and financial plan related to the payment of all or part of the city's unfunded prior service liability with respect to an employee retirement system.

Provide that any such entity created by a common council 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 city to appropriate funds to such entities and to such accounts consistent with the entity's purposes.

Provide that a common council could establish a stabilization fund and appropriate funds for deposit to the fund to facilitate a pension funding plan. Specify that a stabilization fund could be created as a trust or a special fund or account of the city 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 common council, 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; (c) to make payments under any agreement or ancillary arrangement entered into with respect to such bonds or notes; or (d) to pay annual pension costs other than normal costs. 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 city, any beneficiary of the city'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 common council or pursuant to delegation by the common council, as allowed under the bill.

Allowable City Investments. Subject to current law debt service fund provisions related to general obligation promissory notes, a city, or a person to whom the city 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 appropriation bonds or general obligation notes;
- c. moneys appropriated or held by the city to pay debt service on such bonds or notes;
- d. moneys constituting proceeds of appropriation bonds or general obligation notes that are available for investment until they are spent; and
- e. moneys held in an employee retirement system of the city.

Legislative Report. Require the city to annually submit a report to the Governor, the Department of Revenue (DOR), the Department of Administration, and the Legislature that includes all of the following:

- a. the city'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;
- d. the most current actuarial report related to the city's employee retirement system.
- e. the amount, if any, by which the city's contributions to the employee retirement system for the prior years is less than the normal cost contribution for that year as specified in the initial report for the city's employment retirement system for that year; and
- f. the amount that the actuary determines would be the city's required contribution to the employee retirement system for that year.

Penalty for Inadequate Retirement System Contribution. Provide that if the city's contributions to the employee retirement system for the prior year would be less than the lower of the required contribution for that year or the normal cost for that year, DOR would reduce and withhold an amount of the city's shared revenue payment in the following year. Specify that DOR would have to reduce the city's shared revenue payment by an amount equal to the difference between the required contribution to the retirement system for the prior year and the city's actual contribution in the prior year. Require DOR to deposit the amount of the reduced and withheld shared revenue payment into the city's employee retirement system.

Legislative Finding. Create a legislative finding recognizing that a city, by prepaying part or all of the city's unfunded prior service liability with respect to an employee retirement system of the city, may reduce its costs and better ensure the timely and full payment of retirement benefits to participants and their beneficiaries under the employee retirement system. Specify that the Legislature finds and determines that it is in the public interest for the city to issue appropriation bonds to obtain proceeds to pay its unfunded prior service liability.

Applicability. Specify that the provisions described above would not apply if a city does not issue appropriation bonds, with certain exceptions. The following provisions would apply regardless of whether a city issues appropriation bonds, including: (a) the provision authorizing the common council to delegate its investment authority; (b) the provision authorizing the city to issue 20-year general obligation promissory notes; (c) the provisions providing additional powers relating to the city's employee retirement system liability; and (d) the provisions governing allowable city investments.

[Act 28 Sections: 1460 thru 1462, 1471, 1475, 1476, 1497, 1498, and 1500]

5. RESTRICTIONS ON SMOKING [LFB Paper 392]

Governor: Prohibit smoking in enclosed, indoor locations, with certain limited exceptions, and specify places where smoking would be prohibited.

Joint Finance/Legislature: Delete provision due to enactment of 2009 Wisconsin Act 12.

6. REGULATION OF FIREWORKS

Joint Finance: Modify current law provisions regarding the regulation of fireworks. Specify that a novelty device that spins or moves on the ground is not included in the definition of fireworks. Include nonresidents in the exception to the current law provision that prohibits a person from selling or possessing (with the intent to sell) fireworks. Currently, the exception extends to persons with a fireworks permit, to a municipality, or for certain authorized purposes such as for use in a manufacturing process. Modify the current law provision that allows a municipal employee designated by the municipality's chief executive to issue fireworks user permits to instead allow the municipality's chief executive to designate an individual to issue fireworks user permits. Specify that a fireworks user permit may be pre-stamped or pre-signed. Modify the current law provision requiring a user permit to specify the kind and quantity of fireworks that may be purchased to instead specify the "general kind" and "approximate quantity." Exclude fireworks classified by the U.S. Department of Transportation as Division 1.4 explosives, as defined under federal law, from the current law provision requiring the distribution of copies of fireworks user permits to municipal fire and law enforcement officials. Modify the current law provision regarding fireworks shipping to specify that "vendors," as opposed to resident wholesalers or jobbers, may sell fireworks to nonresidents and permit holders. In addition, replace "resident wholesaler or jobber" with "vendor" in the current law provision requiring fireworks to be packaged and shipped in accordance with applicable state and federal law, but delete the

current law provision specifying that fireworks shipping must be by common motor carriers, contract motor carriers, or private motor carriers.

Assembly: Delete provision.

Senate/Legislature: Restore provision.

[Act 28 Sections: 2450b thru 2450m]

7. TENANT PROTECTIONS IN FORECLOSURE ACTIONS

Assembly/Legislature: Modify current law related to tenant protections in foreclosure actions as follows:

a. If the eviction seeks to remove a tenant whose tenancy was terminated as a result of foreclosure judgment and sale, the complaint must identify the actions as an eviction due to a foreclosure action.

b. Specify that tenants may not be named as parties in foreclosure actions unless the tenant has a lien or ownership interest in the property;

c. Specify that if a plaintiff names a tenant in a foreclosure action when the tenant does not have an interest other than as a tenant, the court must award the tenant who should not have been named as a defendant \$250 civil and damages, plus reasonable attorney fees.

d. Delete the provision requiring exclusion of tenant information related to foreclosure actions from the public access Circuit Court website. Instead, specify that in an action for foreclosure of a residential property, the complaint may not name a tenant as a defendant unless the tenant has a lien or ownership interest in the property.

Specify that the provisions would first apply to actions commenced on the effective date of the bill.

[Act 28 Sections: 3221d, 3221e, 3222g, 3243c thru 3243f, and 9309(4c)]

8. PAYMENT OF A POLICE OFFICER'S SALARY AFTER DISCHARGE IN A FIRST CLASS CITY

Senate/Legislature: Modify the current law provision regarding payment of salary and benefits in a first class city to a member of the police force after the member has been discharged by permitting the municipality to discharge a member without pay or benefits during the appeal process. Repeal the current law provision providing that a member of the police force is not entitled to any salary or wages pending an appeal to the board of fire and police commissioners of the member's discharge or suspension if felony criminal or Class A or B misdemeanor charges are also pending against the officer, and if the charges arose out of the same conduct or incident that serves as the basis for the discharge or suspension.

Under current law, a member of the police force may not be discharged or suspended without pay or benefits until the discharge or suspension is disposed of by the board of fire and police commissioners or the time for appealing the discharge or suspension has passed, unless felony criminal or Class A or B misdemeanor charges are also pending against the officer, and if the charges arose out of the same conduct or incident that serves as the basis for the discharge or suspension. Under the provision, a police officer could be discharged without pay or benefits during the appeal process and any officer who is suspended would be provided pay and benefits during an appeal process.

[Act 28 Sections: 1459m, 1459n, and 9333(1m)]

9. PUBLIC WORKS CONTRACTS AND BID -- RESPONSIBLE BIDDER

Senate: Modify the definition of "public contract" under municipal law governing public works projects to include contracts for demolition, grading, alteration, painting, or decorating, in addition to construction, execution, repair, remodeling, or improvement (included under current law). Add "expenditures related to" both the current law types of work and the new items to the definition of a public contract. Include such expenditures or contracts related to public land to the definition, in addition to those related to public works or buildings, or for the furnishing of supplies, material of any kind, or proposals which are required to be advertised, which are included under current law.

Define "service and maintenance work" to mean work performed directly by the municipality on facilities or equipment that is routinely performed on those facilities or equipment to prevent breakdown or deterioration, including minor pavement patching (not including overlays), pavement crack filling, pavement chip or slurry seal with a projected life span of not longer than five years, road shoulder maintenance, and cleaning of drainage and sewer ditches. Specify that a contract for an expenditure related to service and maintenance work would be excluded from the definition of a public contract.

Specify that all public contracts of a "municipality," except those let by the state, a school district, or board of school directors, would be required to be let on the basis of competitive bids, and be awarded to the lowest responsible bidder. For purposes of this provision, a "municipality" would include a town, city, village, county, sewer district, drainage district, technical college district, regional transit authority, the KRM authority, or other public or quasi-public corporation, officer, board or other public body charged with the duty of receiving bids for and awarding any public contracts. [Regional transit authorities and the KRM authority would also be included in the definition of a "municipality" for the general purposes of the public works, contracts, and bids provisions of current law, while counties would be included only for the competitive bid and lowest responsible bidder requirements.] Such contracts would be subject to the current state law provisions governing public works contracts, including such things as the form of the contract, payment of prime and subcontractors, and performance bond requirements. Specify that the lowest responsible bidder requirement would not apply to the following public contracts: (a) those estimated to cost less than \$25,000; (b) those in response to a public emergency; or (c) those for which all the materials are donated or

all the labor is provided by unpaid volunteers. Specify that a public emergency would be determined by the governing body of the "municipality" and that the emergency would no longer exist once so determined by a majority vote of the governing body.

Prohibit a "municipality" from subdividing a project into more than one public contract, allocating the work or workers in any manner, or transferring jurisdiction of a project to avoid the competitive bid and lowest responsible bidder provisions. Specify that if a "municipality" does not receive any responsible bids, it would be authorized to contract with another "municipality," other than a county, or perform the work directly without being subject to the competitive bid and lowest responsible bidder requirements.

Conference Committee/Legislature: Delete provision. Instead, prohibit counties from performing construction work, including road work, for a project that is directly or indirectly owned, funded, or reimbursed, in whole or in part, by a private person (under the statutes, a "person" includes all partnerships, associations and bodies politic or corporate).

Veto by Governor [C-11]: Delete provision.

[Act 28 Vetoed Section: 1444v]

10. RECORDING OF TIME-SHARE LICENSES

Senate: Specify that the current law requirement that a contract or instrument evidencing the purchase of a time-share is not valid unless it is recorded, does not apply to a contract or instrument evidencing the purchase of a time-share agreement (the right to occupy a time-share unit under a license or lease agreement).

Conference Committee/Legislature: Delete provision.

GOVERNMENT ACCOUNTABILITY BOARD

Budget Summary							
Fund	2008-09 Base Year Doubled	2009-11 Governor	2009-11 Jt. Finance	2009-11 Legislature	2009-11 Act 28	Act 28 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$5,254,400	\$5,126,200	\$4,820,400	\$4,820,400	\$4,820,400	-\$434,000	- 8.3%
FED	3,002,800	3,002,800	2,908,400	2,908,400	2,908,400	- 94,400	- 3.1
PR	1,144,200	1,102,400	1,048,400	1,048,400	1,048,400	- 95,800	- 8.4
SEG	<u>1,500,200</u>	<u>1,485,200</u>	<u>1,485,200</u>	<u>1,485,200</u>	<u>1,485,200</u>	<u>- 15,000</u>	- 1.0
TOTAL	\$10,901,600	\$10,716,600	\$10,262,400	\$10,262,400	\$10,262,400	-\$639,200	- 5.9%

FTE Position Summary						
Fund	2008-09 Base	2010-11 Governor	2010-11 Jt. Finance	2010-11 Legislature	2010-11 Act 28	Act 28 Change Over 2008-09 Base
PR	<u>3.45</u>	<u>3.45</u>	<u>3.45</u>	<u>3.45</u>	<u>3.45</u>	<u>0.00</u>
TOTAL	17.75	17.75	17.75	17.75	17.75	0.00

Budget Change Items

1. STANDARD BUDGET ADJUSTMENTS [LFB Paper 400]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$163,800	\$0	\$163,800
PR	<u>- 30,200</u>	<u>- 24,000</u>	<u>- 54,200</u>
Total	\$133,600	-\$24,000	-\$109,600

Governor: Provide standard adjustments totaling \$82,300 GPR and -\$15,100 PR in 2009-10 and \$81,500 GPR and -\$15,100 PR in 2010-11. Adjustments are for: (a) full funding of continuing salaries and fringe benefits (\$70,300 GPR and -\$15,100 PR annually); and (b) reclassifications (\$12,000 GPR in 2009-10 and \$11,200 GPR in 2010-11).

Joint Finance/Legislature: Delete an additional \$12,000 PR annually in fringe benefits funding from the Board's lobbying administration; program revenue appropriation related to

full funding of continuing salaries and fringe benefits.

2. ACROSS-THE-BOARD 1% REDUCTIONS [LFB Paper 401]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	-\$48,600	\$0	-\$48,600
PR	- 11,600	8,400	- 3,200
SEG	<u>- 15,000</u>	<u>0</u>	<u>- 15,000</u>
Total	-\$75,200	\$8,400	-\$66,800

Governor: Delete \$24,300 GPR, \$5,800 PR, and \$7,500 SEG annually, as part of an across-the-board 1% reduction in most non-federal appropriations. The reductions, by appropriation, are shown below:

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
GPR	General Program Operations	\$2,434,400	-\$24,300*
PR	Lobbying Administration	419,600	-4,200
PR	Materials and Services	115,000	-1,200
PR	Election Administration	37,500	-400
SEG	Wisconsin Election Campaign Fund	750,000	-7,500

*Due to other budget items, the final funding level for this appropriation may not represent a 1% reduction.

Joint Finance/Legislature: Restore the 1% reduction to the Board's lobbying administration; program revenue appropriation totaling \$4,200 PR annually. Under Act 28, no funding associated with across-the-board reductions may be lapsed to the general fund if the lapse would violate the federal or state constitution. Some state and federal district courts have ruled that it is unconstitutional under the First Amendment to the U.S. Constitution to impose a lobbying fee that amounts to a tax. Under these decisions, a lobbying fee may only be imposed to offset the costs of administering legitimate regulation of lobbying activity.

3. ADDITIONAL 5% REDUCTIONS [LFB Paper 175]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	-\$243,400	\$243,400	\$0

Governor: Delete \$121,700 annually from the Board's general program operations appropriation as an additional 5% reduction.

Joint Finance/Legislature: Delete provision.

4. ELIMINATE 2% GENERAL WAGE ADJUSTMENT

GPR	- \$41,000
FED	- 37,200
PR	- 9,000
Total	- \$87,200

Joint Finance/Legislature: Delete \$43,600 (all funds) annually relating to the roll-back of 2% general wage adjustments that were scheduled to take effect on June 7, 2009. The reductions include \$20,500 GPR, \$18,600 FED, and \$4,500 PR annually.

5. STATE EMPLOYEE FURLOUGH

GPR	- \$62,800
FED	- 57,200
PR	- 13,800
Total	- \$133,800

Joint Finance/Legislature: Delete \$66,900 (all funds) annually relating to the requirement that state employees take eight days of unpaid annual leave (furlough) in each year of the 2009-11 biennium. The reductions include \$31,400 GPR, \$28,600 FED, and \$6,900 PR annually.

6. AGENCY 5.135% BUDGET REDUCTIONS

GPR	- \$269,800
PR	- 15,600
Total	- \$285,400

Joint Finance/Legislature: Delete \$142,700 (all funds) annually relating to increased agency across-the-board reductions. The reductions are generally equivalent to 5.135% of base level funding. The reductions include \$134,900 GPR and \$7,800 PR annually. Annual reduction amounts would be as follows:

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
GPR	General program operations; general purpose revenue	\$2,434,400	-\$125,000
GPR	Election-related cost reimbursement	160,000	-8,200
GPR	Investigations	32,800	-1,700
PR	Materials and services	115,000	-5,900
PR	Elections administration; program revenue	37,500	-1,900

7. SUPPLEMENTAL GPR OPERATIONS FUNDING AND REIMBURSEMENT OF CERTAIN LOCAL ELECTION ADMINISTRATION COSTS [LFB Paper 402]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$0	- \$175,600	- \$175,600

Governor: Amend current law to provide that the Board may, but is not required to, reimburse qualifying municipalities for the additional costs (or any portion of these costs) incurred to adjust polling hours to begin at 7 a.m., at any election held after April 29, 2006. Amend the election-related cost reimbursement GPR sum sufficient appropriation, which is utilized to make these payments to municipalities, by: (a) providing that the appropriation's expenditure authority may also be utilized for general program operations of the Board; (b) retitling the appropriation the "election-related cost reimbursement; general program

operations" appropriation; and (c) converting the appropriation from a sum sufficient appropriation to a biennial appropriation. Specify that changes related to this municipal reimbursement program and the election-related cost reimbursement appropriation first apply with respect to municipal claims filed in connection with elections held on or after the effective date of the bill.

In the final 2007-09 appropriations schedule, the sum sufficient appropriation is estimated to require \$160,000 GPR annually during 2007-09. Under AB 75, the appropriation was provided \$160,000 GPR annually in expenditure authority during 2009-11. As a biennial appropriation, expenditure authority is provided on a biennial basis as opposed to an annual basis. Any unencumbered expenditure authority remaining after the first year may be utilized in the second year of the biennium.

The Board utilizes the election-related cost reimbursement appropriation 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. Any municipal claim must be accompanied by substantiation of all costs incurred. The Board must audit the claim and provide reimbursement if the Board finds that: (a) the costs have been incurred by the municipality; and (b) the costs would not have been incurred but for the requirement to open polling places at 7 a.m.

Joint Finance: Delete provision. Reduce the estimated expenditure authority to the GPR sum sufficient election-related cost reimbursement appropriation by \$115,600 in 2009-10, and by \$60,000 in 2010-11, to reflect reimbursement experience during the 2007-09 biennium. Delete the municipal reimbursement program with respect to municipal claims filed in connection with elections held on or after June 30, 2011. Delete the statutory language and GPR sum sufficient appropriation associated with the municipal reimbursement program effective January 1, 2012.

Senate/Legislature: Delete the sunset of the municipal reimbursement program. Convert the election-related cost reimbursement GPR sum sufficient appropriation to a biennial appropriation.

[Act 28 Section: 589b]

8. FEDERAL AID APPROPRIATION

Governor/Legislature: Create a federal aid appropriation under GAB to receive federal grant funds unrelated to the implementation of the federal Help America Vote Act (HAVA). Retitle the "federal aid" appropriation that has been utilized by the Board to receive and expend federal HAVA funds, the "federal aid; election administration fund" appropriation.

[Act 28 Sections: 591 and 592]

9. LOBBYING DATABASE AND WEBSITE UPGRADE

PR-REV	\$108,300
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Joint Finance/Legislature: Provide funding to upgrade the Board's lobbying database and website by increasing the following lobbying license fees beginning January 1, 2011, and ending December 31, 2014 (the 2011-12 and 2013-14 legislative sessions): (a) increase the license fee for a lobbyist representing a single principal from \$250 to \$350; and (b) increase the license fee for a lobbyist representing multiple principals from \$400 to \$650. It is estimated that increasing these lobbying license fees would generate additional revenue to the Board of \$108,300 PR in 2010-11 (the beginning of the 2011-12 legislative session). The increased license fees would generate an additional \$108,300 PR in 2012-13 (the beginning of the 2013-14 legislative session).

Provide that the Board may not enter into any contract to upgrade the Board's lobbying database and website unless the Board first submits the proposed contract to the Co-Chairpersons of the Joint Committee on Finance for Committee review. If the Co-Chairpersons do not notify the Board that the Committee has scheduled a meeting for the purpose of reviewing the proposed contract within 14 working days after the date of the Board's submittal, the Board may enter into the contract as proposed. If, within 14 working days after the date of the Board's submittal, the Co-Chairpersons of the Committee notify the Board that the Committee has scheduled a meeting for the purpose of reviewing the proposed contract, the Board may not enter into the contract unless the Committee approves the proposed contract, or modifies and approves the proposed contract. If the Committee modifies and approves the proposed contract, the Board may enter into the contract only as modified by the Committee. This review process applies through December 31, 2014.

[Act 28 Sections: 20e thru 20n, and 9419(1q)]

10. RESTRICTION ON BOARD LEGAL COUNSEL AND DIVISION ADMINISTRATORS

Joint Finance/Legislature: Specify that an individual who serves as either the Legal Counsel or as a division administrator to the Board may have been a candidate for a partisan state or local office.

Under prior law, no individual who served in either capacity could have served in, or have been a candidate for, a partisan state or local office.

[Act 28 Section: 1k]

11. ELECTION-RELATED INQUIRIES

Joint Finance/Legislature: Require the Board to allocate and assign sufficient members of its staff to: (a) coordinate their activities with local election officials; and (b) maintain their availability to respond to inquiries from local election officials for each statewide election and each recount in progress.

[Act 28 Section: 2q]

12. CONVERSION OF INVESTIGATIONS GPR SUM SUFFICIENT APPROPRIATION

Senate: Convert the investigations GPR sum sufficient appropriation to an annual appropriation. The appropriation authorizes GAB to expend GPR for the purpose of financing the costs of investigations authorized by the Board for alleged violations of state election laws, ethics laws, lobbying laws, and campaign finance laws. As a sum sufficient appropriation, the Board is not limited to expending the amounts identified in the Chapter 20 schedule for the appropriation (\$31,100 GPR annually under Act 28). Rather, the Board is authorized to expend the amounts necessary to accomplish these purposes. The amount in the Chapter 20 schedule represents an estimate of these costs that may be incurred by the Board. Converting the appropriation to an annual appropriation would limit the Board to expending no more than \$31,100 GPR annually for investigation costs.

Conference Committee/Legislature: Delete provision.

GOVERNOR

Budget Summary							
Fund	2008-09 Base Year Doubled	2009-11 Governor	2009-11 Jt. Finance	2009-11 Legislature	2009-11 Act 28	Act 28 Change Over Base Year Doubled Amount	Percent
GPR	\$8,244,600	\$8,054,000	\$8,466,400	\$8,466,400	\$8,466,400	\$221,800	2.7%

FTE Position Summary						
Fund	2008-09 Base	2010-11 Governor	2010-11 Jt. Finance	2010-11 Legislature	2010-11 Act 28	Act 28 Change Over 2008-09 Base
GPR	37.25	37.25	37.25	37.25	37.25	0.00

Budget Change Items

1. STANDARD BUDGET ADJUSTMENTS

GPR	\$304,400
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Governor/Legislature: Provide adjustments to the base budget for full funding of salaries and fringe benefit costs (\$152,200 annually).

2. ACROSS-THE-BOARD 1% REDUCTIONS

GPR	- \$82,600
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Governor/Legislature: Delete \$41,300, annually, as part of an across-the-board 1% reduction in most non-federal appropriations. The reductions, by appropriation, are shown below:

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
GPR	General Program Operations, Governor's Office	\$3,695,000	-\$37,000
GPR	Contingent Fund	21,700	-200
GPR	Membership in National Organizations	125,900	-1,300
GPR	Literacy Improvement Aids	25,200	-300
GPR	General Program Operations, Executive Residence	254,500	-2,500*

*Due to other budget items, the final funding level for this appropriation does not represent a 1% reduction.

3. ADDITIONAL 5% REDUCTIONS [LFB Paper 175]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	- \$412,400	\$412,400	\$0

Governor: Delete \$206,200, annually, as part of an additional 5% GPR reduction. The annual reductions, by appropriation, are: (a) general program operations, Governor's office (-\$184,800); (b) contingent fund (-\$1,100); (c) membership in national organizations (-\$6,300); (d) literacy improvement aids (-\$1,300); and (e) general program operations, executive residence (-\$12,700).

Joint Finance/Legislature: Delete provision.

4. ADDITIONAL AGENCY BUDGET REDUCTIONS

GPR-Lapse	\$662,800
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Joint Finance/Legislature: Specify that the Governor take actions during the 2009-11 biennium to ensure that \$662,800 is lapsed to the general fund from the Governor's appropriations. The lapse amounts would be attributable to forgoing the 2% pay increase (\$47,300 annually), the 16-day furlough (\$72,400 annually), and additional across-the-board reductions (\$211,700 annually).

[Act 28 Section: 9220(1c)]

HEALTH SERVICES

Budget Summary							
Fund	2008-09 Base Year Doubled	2009-11 Governor	2009-11 Jt. Finance	2009-11 Legislature	2009-11 Act 28	Act 28 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$4,578,716,000	\$4,071,031,700	\$3,916,751,000	\$3,908,878,200	\$3,906,134,600	-\$672,581,400	- 14.7%
FED	7,172,956,600	9,383,071,100	9,334,450,400	9,312,179,300	9,310,819,300	2,137,862,700	29.8
PR	926,130,800	1,033,728,100	1,024,886,000	1,023,803,100	1,023,803,100	97,672,300	10.5
SEG	<u>986,902,600</u>	<u>1,139,957,000</u>	<u>1,705,316,900</u>	<u>1,702,596,900</u>	<u>1,702,596,900</u>	<u>715,694,300</u>	<u>72.5</u>
TOTAL	\$13,664,706,000	\$15,627,787,900	\$15,981,404,300	\$15,947,457,500	\$15,943,353,900	\$2,278,647,900	16.7%

FTE Position Summary						
Fund	2008-09 Base	2010-11 Governor	2010-11 Jt. Finance	2010-11 Legislature	2010-11 Act 28	Act 28 Change Over 2008-09 Base
FED	945.42	943.10	943.10	943.10	943.10	- 2.32
PR	2,454.07	2,180.73	2,383.23	2,383.23	2,383.23	- 70.84
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>
TOTAL	5,510.88	5,336.21	5,561.71	5,561.71	5,561.71	50.83

Budget Change Items

Departmentwide

1. STANDARD BUDGET ADJUSTMENTS [LFB Papers 461 and 462]

	Governor (Chg. to Base)		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	\$17,079,000	0.00	-\$6,200	24.00	\$17,072,800	24.00
FED	2,243,000	-3.25	0	0.00	2,243,000	-3.25
PR	6,536,400	0.00	273,600	11.80	6,810,000	11.80
SEG	<u>23,000</u>	<u>0.00</u>	<u>0</u>	<u>0.00</u>	<u>23,000</u>	<u>0.00</u>
Total	\$25,881,400	-3.25	\$267,400	35.80	\$26,148,800	32.55

Governor: Provide \$13,356,100 (\$8,538,800 GPR, \$1,169,000 FED, \$3,636,800 PR and \$11,500 SEG) in 2009-10 and \$12,525,300 (\$8,540,200 GPR, \$1,074,000 FED, \$2,899,600 PR and \$11,500 SEG) in 2010-11 and a reduction of 3.25 FED positions beginning in 2009-10, to adjust the agency's base for: (a) turnover reduction (-\$563,300 GPR, -\$1,175,200 FED, and -\$326,200 PR annually); (b) removal of non-continuing items (-\$202,000 GPR and -\$30,100 FED in 2009-10, and -\$202,000 GPR and -\$125,100 FED in 2010-11, and -3.25 FED positions beginning in 2009-10); (c) full funding of salaries and fringe benefits (\$4,201,100 GPR, \$2,270,900 FED, -\$3,814,300 PR, and \$11,500 SEG annually); (d) overtime (\$3,288,700 GPR and \$5,312,700 PR in 2009-10 and \$3,290,100 GPR and \$4,575,500 PR in 2010-11); (e) night and weekend salary differentials (\$1,814,300 GPR, \$103,400 FED, and \$2,464,600 PR annually); and (f) minor transfers within appropriations.

The bill would exempt the Department of Health Services (DHS) appropriations that fund operations for DHS care facilities from the turnover reduction that would have otherwise been included in this item (-\$2,522,500 GPR and -\$3,104,800 PR annually, based on a 2% turnover rate) in order to provide DHS with additional flexibility in meeting workload needs. However the Governor's bill would reduce the amount of funding that might otherwise have been provided to reflect overtime costs, based on actual overtime hours worked by DHS staff in the past, by \$2,522,500 GPR and by \$3,610,100 PR in 2009-10 and by \$2,522,500 GPR and \$4,347,200 PR in 2010-11.

Joint Finance/Legislature: Increase funding by \$310,200 (\$165,000 GPR and \$145,200 PR in 2009-10 and by \$77,200 (-\$171,200 GPR and \$248,400 PR) in 2010-11 and provide 36.50 positions (24.00 GPR positions and 12.50 PR positions), beginning in 2009-10, to reduce premium overtime hours for resident care technicians, psychiatric care technicians, and nurse clinicians by an estimated 20% in 2009-10 and 37% in 2010-11.

In addition, delete \$30,000 PR in 2009-10 and \$90,000 PR in 2010-11 and delete 0.70 PR position, beginning in 2009-10, to remove a project position that is scheduled to terminate in March, 2010.

2. ELIMINATE 2% GENERAL WAGE ADJUSTMENT

Joint Finance/Legislature: Delete \$5,972,200 (all funds) annually relating to the roll-back of 2% general wage adjustments that were scheduled to take effect on June 7, 2009. The reductions include \$2,301,500 GPR, \$1,099,400 FED, \$2,566,800 PR, and \$4,500 SEG.

GPR	- \$4,603,000
FED	- 2,198,800
PR	- 5,133,600
SEG	- 9,000
Total	- \$11,944,400

3. STATE EMPLOYEE FURLOUGH

Joint Finance/Legislature: Delete \$4,994,200 (all funds) annually relating to the requirement that state employees take eight days of unpaid annual leave (furlough) in each year of the 2009-11 biennium. The reductions include \$1,724,700 GPR, \$1,685,600 FED, \$1,577,000 PR, and \$6,900 SEG.

GPR	- \$3,449,400
FED	- 3,371,200
PR	- 3,154,000
SEG	- 13,800
Total	- \$9,988,400

4. **ACROSS-THE-BOARD 1% REDUCTIONS** [LFB Papers 174, 413, and 444]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	-\$13,153,400	\$0	-\$13,153,400
PR	- 5,160,200	101,400	- 5,058,800
SEG	<u>- 6,000</u>	<u>0</u>	<u>- 6,000</u>
Total	-\$18,319,600	\$101,400	-\$18,218,200

Governor: Delete \$6,576,700 GPR, \$2,580,100 PR and \$3,000 SEG, annually, as part of an across-the-board 1% reduction in most non-federal appropriations. The reductions, by appropriation, are shown below:

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
Public Health			
GPR	General Program Operations	\$5,755,300	-\$57,500
GPR	HIV/AIDS Services	5,530,400	-55,300*
GPR	General Aids and Local Assistance	84,000	-800*
GPR	Well Woman Program	2,250,700	-22,500
GPR	Cancer Control and Prevention	394,600	-3,900
GPR	Emergency Medical Services -- Aids	2,200,000	-22,000
GPR	Dental Services	3,176,600	-31,800
GPR	Clinic Aids	75,000	-800
GPR	Rural Dental Clinics	1,005,100	-10,100
GPR	Poison Control	425,000	-4,300
GPR	Public Health Dispensaries and Drugs	450,300	-4,500*
GPR	Radon Aids	30,000	-300
GPR	Lead Poisoning	1,004,100	-10,000
GPR	Pregnancy Counseling	77,600	-800
GPR	Infant Mortality	250,000	-2,500
GPR	Pregnancy Outreach and Infant Health	211,200	-2,100
GPR	Family Planning	1,955,200	-19,600
GPR	Community Health Services	6,100,000	-61,000
PR	Licensing, Review, and Certification	9,669,300	-96,700*
PR	Health Care Information -- Operations	871,200	-8,700*
PR	Health Care Information -- Reports	50,000	-500
PR	Gifts and Grants	3,744,700	-37,400*
PR	Congenital Disorders -- Diagnosis and Treatment	2,294,300	-22,900*
PR	Congenital Disorders -- Operations	86,200	-900*
PR	Minority Health	150,000	-1,500
PR	American Indian Health Projects	120,000	-1,200
PR	Interagency and Intra-agency Programs	2,594,400	-25,900*
PR	Interagency and Intra-agency Aids	252,700	-2,500*
SEG	Groundwater and Air Quality	313,100	-3,000*
Institutions			
GPR	Mental Health Institutes (MHIs)	64,507,200	-645,100*
GPR	Maintenance	659,300	-6,600*
GPR	Conditional and Supervised Release Services	9,313,300	-93,100
GPR	Facilities for Sexually Violent Persons	82,403,600	-824,000*
GPR	Energy Costs	3,655,200	-36,600*
PR	Alternative Services Provided by MHIs	12,112,200	-121,100*
PR	Gifts and Grants	388,600	-3,900
PR	Interagency and Intra-agency Programs	7,445,300	-74,500

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
	Health Care Access and Accountability		
GPR	General Program Operations	\$9,813,600	-\$98,100*
GPR	MA and Food Stamp Administration -- Contracts	35,467,100	-354,700
GPR	Income Maintenance Contracts	37,356,300	-373,600
GPR	SeniorCare Benefits	61,826,600	-618,300
GPR	Chronic Disease Program	5,080,000	-50,800*
PR	Childless Adults -- Intergovernmental Transfer	6,799,400	-68,000
PR	Gifts and Grants	115,800	-1,200*
PR	MA Payment Recovery	17,341,000	-173,400*
PR	COP/Family Care Cost Recovery -- Administration	104,600	-1,000*
PR	SeniorCare --Manufacturer Rebates	81,413,200	-814,100
PR	SeniorCare --Enrollment Fees	3,479,300	-34,800
PR	Chronic Disease Program -- Manufacturer Rebates	252,200	-2,500
PR	BadgerCare Plus Administration	2,186,200	-21,900*
PR	MA -- Employer Penalties and Cost Sharing	27,785,500	-277,900
PR	Tribal Relief Block Grants	800,000	-8,000
PR	MA Tribal Outreach and Reimbursement	1,070,000	-10,700
PR	Department of Children & Families SSI Payments	995,600	-10,000*
PR	Interagency and Intra-agency Local Assistance	386,100	-3,900*
PR	Fraud and Error Reduction	803,300	-8,000*
	Mental Health and Substance Abuse Services		
GPR	Grants for Community Programs	6,100,900	-61,000
GPR	Mental Health Treatment	10,583,800	-105,800
GPR	Community Support Programs	1,186,900	-11,900*
GPR	Integrated Service Programs	133,300	-1,300
PR	Alcohol and Other Drug Abuse	849,800	-8,500
PR	Remittances to Local Government	5,000	-100
PR	Services for Drivers -- Local Assistance	1,000,000	-10,000
PR	Gifts and Grants	202,600	-2,000*
PR	Severely Emotionally Disturbed Children	731,800	-7,300
PR	Compulsive Gambling	400,000	-4,000
PR	Indian Aids	271,600	-2,700
PR	Indian Drug Abuse Prevention	500,000	-5,000
PR	Interagency/Intra-agency Programs	97,600	-1,000*
	Quality Assurance		
GPR	General Program Operations	6,468,900	-64,700
PR	Nursing Home Resident Protection	151,000	-1,500
PR	Administrative Fees	196,200	-2,000*
PR	Licensing Activities	4,569,400	-45,700*
PR	Interagency and Intra-agency Aids	417,900	-4,200
	Long-Term Care Services		
GPR	Community Aids	163,621,400	-1,636,200*
GPR	Community Program Grants	377,000	-3,800*
GPR	Long-term Care Programs	94,321,200	-943,200
GPR	Alzheimer's Training Grants	132,700	-1,300
GPR	Purchased Services	94,800	-900
GPR	Birth-to-Three	6,878,700	-68,800
GPR	Independent Living Centers	983,500	-9,800
GPR	Services for Hearing Impaired	180,000	-1,800
GPR	Senior Citizen Programs	11,909,800	-119,100*

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
PR	County Contributions -- Long-term Care	\$29,480,100	-\$294,800*
PR	Health Facilities Review Fees	21,600	-200
PR	Interpreter Services for Hearing Impaired	40,100	-400*
PR	Gifts and Grants	15,100	-200
PR	COP/Family Care Cost Recovery	375,000	-3,800*
PR	Independent Living Center Grants	600,000	-6,000
PR	Delivered Meals	500,000	-5,000
PR	Interagency and Intra-agency Programs	1,503,600	-15,400*
PR	Interagency and Intra-agency Local Assistance	100,000	-1,000
	General Administration		
GPR	General Administration	13,643,700	-136,400
PR	Administrative Support	<u>32,619,100</u>	<u>-326,200*</u>
Total		\$915,945,600	-\$9,159,800

*Due to other budget items, the final funding level for this appropriation does not represent a 1% reduction.

Joint Finance/Legislature: Increase funding by \$44,700 PR annually to delete the across-the-board reductions to the Department's gifts and grants appropriations for the Division of Public Health (\$37,400 PR), DHS facilities (\$3,900 PR), the Division of Health Care Access and Accountability (\$1,200 PR), the Division of Mental Health and Substance Abuse Services (\$2,000 PR), and the Division of Long-Term Care Services (\$200 PR). In addition, delete the annual across-the-board reduction to the appropriation funded by moneys transferred from DWD to DHS to support independent living centers (\$6,000 PR).

5. DEPARTMENTWIDE REDUCTIONS [LFB Paper 454]

Governor/Legislature: Delete \$12,722,900 GPR, \$2,440,700 PR and \$7,021,400 SEG annually to reflect reductions to appropriations that were reduced by a percentage other than 1% under the previous item. These reductions, by appropriation, are shown below:

GPR	- \$25,445,800
PR	- 4,881,400
SEG	<u>- 14,042,800</u>
Total	- \$44,370,000

<u>Fund</u>	<u>Appropriation</u>	<u>Base</u>	<u>Annual Reduction</u>
Public Health			
GPR	Tobacco Control	\$15,250,000	-\$150,000
Institutions			
PR	DD Center and Mental Health Institutes Operations	171,522,000	-2,413,700
Health Care Access and Accountability			
GPR	Medical Assistance (MA) Benefits	1,455,731,900	-12,467,300
PR	Interagency and Intra-agency Programs	2,630,300	-27,000
SEG	MA Benefits from the MA Trust Fund	493,138,200	-7,021,400
Mental Health and Substance Abuse Services			
GPR	General Program Operations	1,377,900	-12,200
Long-Term Care Services			
GPR	Program Operations-Long-term Care	<u>9,652,700</u>	<u>-93,400</u>
Total		\$2,149,303,000	-\$22,185,000

6. DEPARTMENTWIDE FUNDING MODIFICATIONS [LFB Papers 413, 414, 444, 454, and 457]

	<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	-\$22,000,900	-20.80	\$507,600	0.00	-\$21,493,300	-20.80
FED	-3,498,000	4.13	0	0.00	-3,498,000	4.13
PR	-708,200	7.05	0	0.00	-708,200	7.05
SEG	<u>40,000</u>	<u>0.00</u>	<u>0</u>	<u>0.00</u>	<u>40,000</u>	<u>0.00</u>
Total	-\$26,167,100	-9.62	\$507,600	0.00	-\$25,659,500	-9.62

Governor: Reduce funding by \$12,472,600 (-\$10,452,000 GPR, -\$1,686,500 FED, -\$354,100 PR, and \$20,000 SEG) in 2009-10 and by \$13,694,500 (-\$11,548,900 GPR, -\$1,811,500 FED, -\$354,100 PR, and \$20,000 SEG) in 2010-11 and delete 9.62 positions (-20.80 GPR positions, 4.13 FED positions, and 7.05 PR positions), beginning in 2009-10, to reflect the consolidation of certain administrative and operational functions, payment schedule shifts, and funding reductions. The affected appropriations are listed below.

<u>Fund</u>	<u>Purpose</u>	<u>Funding and Position Change</u>		
		<u>2009-10</u>	<u>2010-11</u>	<u>Positions</u>
Public Health				
GPR	General Program Operations	-\$1,348,200	-\$1,348,200	-15.05
GPR	Cancer Control and Prevention	-19,700	-19,700	0.00
GPR	Poison Control	-200,000	-200,000	0.00
GPR	Community Health Services	-500,000	-500,000	0.00
GPR	Dental Services	-140,000	-140,000	0.00
GPR	Health Services for the Homeless	-125,000	-125,000	0.00
GPR	Tobacco Control	-750,000	-750,000	0.00
FED	WIC Operations	17,700	17,700	0.25
FED	Federal Projects Operations	162,000	162,000	2.25
FED	Federal Block Grant Operations	17,700	17,700	0.25
FED	Federal Block Grant Operations	17,700	17,700	0.25

Fund	Purpose	Funding and Position Change		
		2009-10	2010-11	Positions
PR	Licensing and Certification	\$17,700	\$17,700	0.25
PR	Vital Records	518,000	518,000	8.30
PR	Radiation Protection	65,300	65,300	0.00
PR	Interagency and Intra-agency Programs	50,900	50,900	0.50
Institutions				
GPR	General Program Operations	-39,000	-62,100	-0.50
GPR	Sand Ridge Secure Treatment Center	-127,100	-127,100	-1.00
PR	DD Center Operations	-806,000	-806,000	1.00
Health Care Access and Accountability				
GPR	General Program Operations	-311,800	-311,800	0.00
GPR	MA Program Benefits	-322,400	-322,400	0.00
GPR	Relief Block Grants to Counties	-145,000	-272,000	0.00
GPR	MA and FoodShare Contracts	-1,550,000	-1,675,000	0.00
GPR	Income Maintenance Payments	-846,300	-846,300	0.00
FED	Income Maintenance	-346,300	-346,300	0.00
FED	MA Benefits	-483,600	-483,600	0.00
FED	MA and FoodShare Contracts	-1,550,000	-1,675,000	0.00
SEG	MA Trust Fund	20,000	20,000	0.00
Mental Health and Substance Abuse Services				
GPR	General Program Operations	-153,100	-153,100	-1.11
FED	MA State Administration	23,600	23,600	0.11
FED	Substance Abuse Block Grant	77,300	77,300	1.00
Quality Assurance				
GPR	General Program Operations	-694,200	-694,200	-1.72
FED	Medicare -- State Administration	43,400	43,400	0.60
FED	MA Survey and Certification	359,000	359,000	0.00
PR	Health Facilities License Fees	-200,000	-200,000	-3.00
Long-Term Care Services				
GPR	General Program Operations	-315,600	-315,600	-1.42
GPR	Alzheimer's Family and Caregiver Support Program	-246,700	-668,500	0.00
GPR	Independent Living Centers	-543,100	-543,100	0.00
GPR	Family Care -- Resource Centers	-400,000	-800,000	0.00
GPR	Guardianship Grant Program	-100,000	-100,000	0.00
GPR	Grants for Community Programs	-75,000	-75,000	0.00
FED	MA State Administration	-64,800	-64,800	-1.00
FED	Federal Project Operations	39,800	39,800	0.42
General Administration				
GPR	General Program Operations	<u>-1,499,800</u>	<u>-1,499,800</u>	<u>0.00</u>
Total		-\$12,472,600	-\$13,694,500	-9.62

Joint Finance/Legislature: Increase funding by \$100,000 GPR in 2009-10 and by \$407,600 GPR in 2010-11 to reflect: (a) an increase in funding for the Alzheimer's family caregiver support program (\$307,600 GPR in 2010-11); and (b) restoration of funding for the guardianship grant program (\$100,000 GPR annually).

In addition, direct the Department of Administration, in developing the 2011-13 budget, to establish the GPR adjusted base funding level for the independent living centers program equal to the 2008-09 base funding level for the program (\$983,500).

Finally, increase position authority in the PR-funded radiation protection program by 1.0 FTE, and decrease position authority in the PR-funded developmental disability centers operations appropriation by 1.0 FTE, to properly implement a position transfer in the Governor's budget.

[Act 28 Section: 9122(5w)]

7. FUNDING CHANGES TO PROGRAM REVENUE APPROPRIATIONS [LFB Paper 455]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
PR	\$79,249,700	- \$400,000	\$78,849,700

Governor: Provide \$37,309,100 in 2009-10 and \$41,940,600 in 2010-11 to reflect the net fiscal effect of funding changes for certain appropriations supported with program revenues. The following table identifies the program revenue appropriations that would be affected by this item (by DHS division), the base funding amounts for these appropriations, the funding changes that would be made to these appropriations under this item and other items in the bill, and the total funding that would be budgeted for these purposes.

Purpose	2008-09 Base	2009-10			2010-11		
		Funding Adjustment	Other Funding Changes	Total	Funding Adjustment	Other Funding Changes	Total
Health							
Administrative Services	\$0	\$125,000	\$0	\$125,000	\$125,000	\$0	\$125,000
Congenital Disorders	2,294,300	120,000	-22,900	2,391,400	210,800	-22,900	2,482,200
Gift and Grants	3,744,700	1,250,000	-40,300	4,954,400	1,250,000	-40,300	4,954,400
Health Care Information	871,200	631,800	-203,200	1,299,800	483,500	-203,100	151,600
Inter-agency Aids	252,700	664,500	-2,500	914,700	664,500	-2,500	914,700
Licensing, Review & Certification	9,669,300	3,857,200	1,089,300	14,615,800	5,539,700	1,090,200	16,299,200
WIC Administration	0	-77,900	129,600	51,700	-69,600	129,600	60,000
Mental Health and DD Facilities							
Institutional Operations	171,522,000	-108,900	-3,980,800	167,432,300	-108,900	-11,923,600	159,489,500
Inter-agency and Intra-agency Programs	7,445,300	900	-155,500	7,290,700	900	-131,700	7,314,500
Health Care Access and Accountability							
Gifts and Grants	115,800	25,000,000	-1,200	25,114,600	27,000,000	-1,200	27,114,600
MA Recovery Collections	17,341,000	5,655,000	311,900	23,307,900	6,655,000	797,200	24,793,200
SeniorCare Enrollment Fees	3,479,300	-700,000	40,800	2,820,100	-700,000	41,100	2,820,400
Mental Health and Substance Abuse							
AODA Initiatives	849,800	-84,700	-3,600	761,500	-86,500	-3,600	759,700
Administrative Services	0	4,400	100	4,500	4,400	100	4,500
Long-Term Care							
Administrative Services	0	4,800	200	5,000	4,800	200	5,000
Inter-agency and Intra-agency Programs	1,503,600	1,156,400	230,900	2,890,900	1,156,400	231,500	2,891,500
General Administration							
Administration and Support	32,619,100	-198,700	1,901,000	34,321,400	-198,700	1,901,400	34,321,800
Gifts and Grants	500	9,300	200	10,000	9,300	200	10,000
Grand Total		\$37,309,100			\$41,940,600		

Joint Finance/Legislature: Reduce funding by \$50,000 in 2009-10 and by \$350,000 in 2010-11 to delete the additional funding authority that would be provided based on anticipated emergency medical services licensing fee revenue in the 2009-11 biennium.

8. FUNDING CHANGES TO FEDERAL APPROPRIATIONS [LFB Paper 414]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
FED	\$57,582,100	-\$3,174,500	\$54,407,600

Governor: Provide \$28,544,400 in 2009-10 and \$29,037,700 in 2010-11 to reflect the net fiscal effect of funding changes for certain appropriations supported with federal revenues. The following table identifies the federal appropriations that would be affected by this item, by DHS division, the base funding amounts for these appropriations, the funding changes that would be made to these appropriations under this item and other items in the bill, and the total funding

that would be budgeted for these purposes.

Purpose	2008-09 Base	2009-10			2010-11		
		Funding Adjustment	Other Items In the Bill	Total	Funding Adjustment	Other Items In the Bill	Total
Health							
Program Aids	\$64,152,300	\$20,847,700	\$0	\$85,000,000	\$20,847,700	\$0	\$85,000,000
WIC Operations	5,490,900	6,300	161,100	5,658,300	6,000	161,100	5,658,300
Project Aids	44,994,500	10,005,500	0	55,000,000	10,005,500	0	55,000,000
MCH Block Grant -- Aids and Local Assistance	7,001,800	-248,200	0	6,753,600	-248,200	0	6,753,600
Health Care Access and Accountability							
FoodShare Administration	7,470,600	-4,500,000	37,800	3,008,400	-4,500,000	38,900	3,009,500
Project Aids	800,000	-400,000	0	400,000	-400,000	0	400,000
Disability Determination Aids	8,430,400	1,300,000	0	9,730,400	1,800,000	0	10,230,400
Mental Health and Substance Abuse							
Community Mental Health Block							
Grant Operations	550,700	66,100	40,700	657,300	65,800	40,900	657,400
Substance Abuse Block Grant -- Local Community Mental Health Block	9,735,700	1,057,700	4,239,800	15,033,200	1,057,700	0	10,793,400
Grant -- Aids	2,114,900	298,600	0	2,413,500	298,600	0	2,413,500
Substance Abuse Block Grant -- Aids	5,619,700	110,600	0	5,730,300	110,600	0	5,730,300
Quality Assurance							
MA -- State Administration	507,100	7,100	-505,300	8,900	7,100	-505,300	8,900
Long-Term Care Services							
Social Services Block Grant Aids -- Family Care	892,500	-5,300	0	887,200	-10,900	0	881,600
Social Services Block Grant -- Displaced Homemakers	82,100	<u>-1,700</u>	0	80,400	<u>-2,200</u>	0	79,900
Grand Total		\$28,544,400			\$29,037,700		

Joint Finance/Legislature: Reduce funding by \$1,516,900 FED in 2009-10 and by \$1,657,600 FED in 2010-11 to reflect: (a) a reduction in funding from the social services block grant to support community aids (-\$459,900 FED in 2009-10 and -\$600,600 FED in 2010-11); and (b) a reduction in funding from the substance abuse prevention treatment block grant to support community aids (-\$1,057,000 FED annually).

9. DEBT SERVICE

GPR	\$8,694,500
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Governor/Legislature: Provide \$4,443,400 in 2009-10 and \$4,251,100 in 2010-11 to fund projected increases in the cost of debt service payments for DHS care facilities. Base funding for debt service payments for these facilities is \$11,763,600.

10. RENT

Governor/Legislature: Provide \$1,407,400 (\$557,600 GPR, \$85,400 FED, \$762,500 PR, and \$1,900 SEG) in 2009-10 and \$1,445,900

GPR	\$1,123,000
FED	198,200
PR	1,528,200
SEG	<u>3,900</u>
Total	\$2,853,300

(\$565,400 GPR, \$112,800 FED, \$765,700 PR and \$2,000 SEG) in 2010-11 to fully fund projected increases in rental costs for state-owned and leased space.

11. PROGRAM AND APPROPRIATION RENUMBERING AND RETITLING; FUNDING AND POSITION TRANSFERS [LFB Paper 462]

	Funding	Positions
GPR	\$0	1.00
FED	- 1,930,600	- 11.20
PR	<u>1,930,600</u>	<u>10.20</u>
Total	\$0	0.00

Governor: Renumber and retitle certain programs and appropriations, so that the DHS budget structure in Chapter 20 of the statutes more closely reflects the current department organizational structure. Base funding and positions would be transferred from current programs and appropriations to the new programs and appropriations. The effect of these funding and position transfers would be the following: (a) authorize 1.0 GPR position, beginning in 2009-10; (b) delete \$965,300 FED annually and delete 11.20 FED positions, beginning in 2009-10; and (c) increase funding by \$965,300 PR annually and authorize 10.20 PR positions, beginning in 2009-10.

Effective July 1, 2008, 2007 Wisconsin Act 20 created the Department of Children and Families by transferring funding and positions from the Department of Health and Family services (DHFS) and the Department of Workforce Development (DWD) to the new agency. Act 20 also renamed DHFS the Department of Health Services. In addition, during the 2007-09 biennium, DHS created new divisions and bureaus, and transferred program responsibilities between its bureaus and divisions. This item reflects the following changes in the organization of DHS:

- Elimination of the Division of Care and Treatment Facilities and the Division of Disability and Elder Services, and the creation the Division of Mental Health and Substance Abuse Services, the Division of Long-Term Care, and the Division of Quality Assurance.
- Consolidation of all funding and positions for the Division of Public Health into a single program, rather than two programs;
- Renaming and reorganization of the Division of Health Care Financing as the Division of Health Care Access and Accountability; and
- Renaming and reorganization of the Division of Management and Technology as the Division of Enterprise Services.

In addition, the bill would delete obsolete appropriations and references to previous fiscal years, create new appropriations, and standardize terminology with respect to DHS appropriations. Finally, the bill provides for the unencumbered balances of the current appropriations to be transferred to the new appropriations that would be created in the bill.

Joint Finance/Legislature: Reduce funding for the Division of Quality Assurance from the federal block grant operation appropriation by \$600 FED annually and increase funding budgeted for the Division of Mental Health and Substance Abuse Services, supported by the

social services block grant, by \$600 FED annually.

[Act 28 Sections: 21d, 238, 256, 297, 299, 305, 325, 326, 329 thru 343, 345, 346, 351, 364 thru 393, 395 thru 415, 417 thru 429, 431 thru 437, 439 thru 470, 486, 539, 580, 581, 584 thru 586, 608, 640, 672, 673, 681, 830, 831, 833, 855, 856, 885, 888, 892, 897, 898, 901, 903 thru 906, 909, 1304, 1357, 1359, 1438 thru 1440, 2426, 2428, 2429, 2507 thru 2520, 2524 thru 2530, 2533 thru 2535, 2538, 2540 thru 2542, 2546, 2551, 2552, 2561 thru 2564, 2567, 2568, 2570, 2571, 2572, 2813, 2814, 3364, 3410, and 9222(3)]

12. STATE CONTROLLER'S OFFICE CHARGES -- STATE ACCOUNTING SYSTEM

FED	\$302,200
PR	<u>218,400</u>
Total	\$520,600

Governor/Legislature: Provide \$260,300 (\$151,100 FED and \$109,200 PR) annually to fund projected increases in costs of maintaining the state accounting system operated by the State Controller in the Department of Administration.

13. CHIEF LEGAL ADVISOR [LFB Paper 115]

	Governor (Chg. to Base)		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	\$340,800	1.00	-\$340,800	- 1.00	\$0	0.00

Governor: Provide \$170,400 and 1.0 attorney position annually in DHS. Specify that the Secretary may appoint a chief legal advisor from the unclassified service.

Joint Finance/Legislature: Delete provision.

14. INFORMATION TECHNOLOGY POSITION TRANSFER

	Positions
PR	13.00

Governor/Legislature: Authorize 13.0 information technology (IT) positions for the Bureau of Information and Technology Services (BITS) to reflect the transfer of these positions from the Department of Administration (DOA) to DHS.

2005 Wisconsin Act 25 transferred 20.30 positions from BITS to DOA as part of a statewide initiative to consolidate state agency technical IT services in DOA's Division of Enterprise Technology. Act 25 transferred \$2,155,100 from the agency's supplies and services, fringe benefits, and position salary budget to unallotted reserve to support IT services provided by DOA. However, through several interagency personnel agreements, 13.0 DOA positions are currently located in DHS and are performing desktop and help desk functions. This item would transfer these positions back to DHS to reflect their current responsibilities. The bill contains a corresponding reduction in PR positions in DOA and reduces program revenue service funding in DOA that currently supports these positions.

15. ALLOCATION OF FEDERAL STIMULUS FUNDING [LFB
Paper 610]

FED	\$5,287,200
PR	<u>667,200</u>
Total	\$5,954,400

Joint Finance/Legislature: Provide \$5,954,400 (\$5,287,200 FED and \$667,200 PR) in 2009-10 to reflect the receipt of additional one-time federal stimulus in the American Recovery and Reinvestment Act (ARRA), which would be eliminated from the program supplements appropriation created for stimulus funds and would, instead, be budgeted directly in DHS. These stimulus funds would be appropriated to the following programs: (a) \$2,022,400 FED for the emergency food assistance program; (b) \$874,400 FED for a healthy homes demonstration grant program; (c) \$1,782,400 FED for elderly nutrition programs; (d) \$608,000 FED for community services employment for low-income individuals over age 55; and (e) \$667,200 PR for rehabilitation and independent living services for older individuals who have become blind.

16. ELIMINATE CERTAIN REQUIRED REPORTS

Governor: Repeal requirements that the Department prepare the following reports.

a. *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.

b. *Long-Term Care Facilities.* A quarterly report to the Board on Aging and Long-Term Care regarding DHS enforcement actions, consultation, staff training programs, new procedures and policies, complaint investigation, 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.

c. *Nursing Home Violations.* An annual report to the Legislature that: (a) specifies for the previous year the number of class "A" violations; (b) the amount of the forfeiture assessment for each of those violations; (c) the amount of the forfeiture actually paid and collected with respect to those violations, if known; and (d) an explanation for any assessment that was less than \$2,500 for the violations specified in the report.

d. *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 DHS 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.

e. *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.

f. *Alcoholism.* An annual report to the Governor or state health planning and development agency (as defined in federal law) covering DHS activities relating to treatment of alcoholism.

g. *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 DHS considers appropriate

h. *Immunization.* An annual report to the Legislature, submitted by July 1, on the success of the statewide immunization program.

i. *Newborn Hearing Screening Programs.* An annual report that identifies the percentage of deliveries in the state that are performed in hospitals that have newborn hearing screening programs, submitted by July 31 to the appropriate standing committees of the Legislature.

j. *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.

k. *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; (b) the purpose for which each grant was made; and (c) donations and grants DHS 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 advise the DHS 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.

Medical Assistance -- Overview and Base Funding Adjustments

1. OVERVIEW OF MA AND MA-RELATED PROGRAMS

The following table summarizes the funding provided in 2009 Wisconsin Act 28 to support benefits under the medical assistance (MA) and MA-related programs (including BadgerCare Plus, but excluding SeniorCare) for the 2009-11 biennium, by fiscal year and fund source.

Summary of Medicaid and BadgerCare Plus Benefits Funding Act 28

	2009-10					% Change to Base
	<u>GPR</u>	<u>FED</u>	<u>PR</u>	<u>SEG</u>	<u>Total</u>	
Base Funding	\$1,484,573,300	\$3,058,051,200	\$39,845,100	\$493,138,200	\$5,075,607,800	
Cost to Continue						
Base Reestimate	\$111,480,900	\$306,692,500	\$23,664,900	\$22,278,700	\$464,117,000	
Current Hospital Assessment	-140,419,100	385,945,300	-1,500,000	377,708,400	621,734,600	
Family Care Reestimate	-5,568,300	0	0	0	-5,568,300	
Replace One-Time SEG from the Injured Patients & Families Compensation Fund	128,500,000	0	0	-128,500,000	0	
Replace One-Time SEG from Permanent Endowment Fund	<u>209,000,000</u>	<u>0</u>	<u>0</u>	<u>-209,000,000</u>	<u>0</u>	
Subtotal	\$302,993,500	\$692,637,800	\$22,164,900	\$62,487,100	\$1,080,283,300	21.3%
Temporary Increase in FMAP	-\$599,543,500	\$553,343,500	\$0	\$46,200,000	\$0	
Unspecified Reductions						
MA Efficiencies and Reductions	-\$60,550,000	-\$139,541,800	\$0	\$0	-\$200,091,800	
Agency Reductions and Efficiencies	-322,400	-483,600	0	20,000	-786,000	
1% Across-the-Board Funding Decrease	<u>-14,103,500</u>	<u>- 51,278,100</u>	<u>-383,500</u>	<u>-7,021,400</u>	<u>-72,786,500</u>	
Subtotal	-\$74,975,900	-\$191,303,500	-\$383,500	-\$7,001,400	-\$273,664,300	-5.4%
Program Expansions						
Family Care Expansion	-\$4,541,600	-\$12,303,900	\$9,061,700	\$4,754,700	-\$3,029,100	
Children's Long-Term Support Waiver Program	225,000	2,187,400	0	0	2,412,400	
Birth-to-Three Waiver Program	0	1,547,000	0	0	1,547,000	
Family Planning Services for Males	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	
Subtotal	-\$4,316,600	-\$8,569,500	\$9,061,700	\$4,754,700	\$930,300	<0.1%
Provider Payments and Services						
Ambulatory Surgical Centers Assessment	-\$10,500,000	\$27,267,400	\$0	\$21,937,200	\$38,704,600	
Nursing Home Rate Increase and Treatment of Bed Assessment	-12,069,500	29,590,900	0	31,784,800	49,306,200	
ICF-MR Rate Increase and Calculation of Bed Assessment	<u>0</u>	<u>756,600</u>	<u>0</u>	<u>504,300</u>	<u>1,260,900</u>	
Subtotal	-\$22,569,500	\$57,614,900	\$0	\$54,226,300	\$89,271,700	1.8%
Other Changes						
Community Mental Health	\$0	\$7,000,000	\$0	\$0	\$7,000,000	
Accelerate Placements from SW Center	119,200	957,500	0	-35,200	1,041,500	
Milwaukee Child Welfare Improvements	0	264,200	0	0	264,200	
MA Incentive Payment	0	0	0	0	0	
Substance Abuse, Screening, Intervention, and Referral	0	0	0	0	0	
Mental Health Services	0	0	0	0	0	
Smoking Restrictions -- Estimated MA Savings	-150,900	-266,400	0	0	-417,300	
Contract with Transportation Manager	-3,209,400	909,900	0	0	-2,299,500	
County Nursing Home Supplemental Payments	1,000,000	704,500	0	-1,409,000	295,500	
Increase County Funding of Mental Health Institutes	<u>-3,684,700</u>	<u>2,219,900</u>	<u>0</u>	<u>0</u>	<u>-1,464,800</u>	
Subtotal	-\$5,925,800	\$11,789,600	\$0	-\$1,444,200	\$4,419,600	<0.1%
Total MA Benefits Funding	\$1,080,235,500	\$4,173,564,000	\$70,688,200	\$652,360,700	\$5,976,848,400	
Total Change to Base	-\$404,337,800	\$1,115,512,800	\$30,843,100	\$159,222,500	\$901,240,600	
Percent Change to Base	-27.2%	36.5%	77.4%	32.3%	17.8%	

	2010-11					% Change to Base
	GPR	FED	PR	SEG	Total	
Base Funding	\$1,484,573,300	\$3,058,051,200	\$39,845,100	\$493,138,200	\$5,075,607,800	
Cost to Continue						
Base Reestimate	\$189,470,200	\$446,752,700	\$18,658,200	\$18,789,300	\$673,670,400	
Current Hospital Assessment	-150,276,400	413,894,200	-1,500,000	413,641,700	675,759,500	
Family Care Reestimate	-5,568,300	0	0	0	-5,568,300	
Replace One-Time SEG from the Injured Patients & Families Compensation Fund	128,500,000	0	0	-128,500,000	0	
Replace One-Time SEG from Permanent Endowment Fund	209,000,000	0	0	-209,000,000	0	
Subtotal	\$371,125,500	\$860,646,900	\$17,158,200	\$94,931,000	\$1,343,861,600	
Temporary Increase in FMAP	-\$313,309,700	\$289,609,700	\$0	\$23,700,000	\$0	
Unspecified Reductions						
MA Efficiencies and Reductions	-\$94,050,000	-\$183,801,200	\$0	\$0	-\$277,851,200	
Agency Reductions and Efficiencies	-322,400	-483,600	0	20,000	-786,000	
1% Across-the-Board Funding Decrease	-14,103,500	-40,925,300	-383,500	-7,021,400	-62,433,700	
Subtotal	-\$108,475,900	-\$225,210,100	-\$383,500	-\$7,001,400	-\$341,070,900	-6.7%
Program Expansions						
Family Care Expansion	\$17,661,500	-\$8,143,300	\$32,647,000	\$2,042,100	\$44,207,300	
Children's Long-Term Support Waiver Program	225,000	5,685,800	0	0	5,910,800	
Birth-to-Three Waiver Program	0	2,048,800	0	0	2,048,800	
Family Planning Services for Males	-762,800	-787,500	0	0	-1,550,300	
Subtotal	\$17,123,700	-\$1,196,200	\$32,647,000	\$2,042,100	\$50,616,000	1.0%
Provider Payments and Services						
Ambulatory Surgical Centers Assessment	-\$10,500,000	\$21,762,200	\$0	\$21,937,200	\$33,199,400	
Nursing Home Rate Increase and Treatment of Bed Assessment	-10,984,300	40,852,000	0	39,556,600	69,424,300	
ICF-MR Rate Increase and Calculation of Bed Assessment	0	947,100	0	620,100	1,567,200	
Subtotal	-\$21,484,300	\$63,561,300	\$0	\$62,113,900	\$104,190,900	2.1%
Other Changes						
Community Mental Health	\$0	\$7,620,000	\$0	\$0	\$7,620,000	
Accelerate Placements from SW Center	385,000	2,150,800	0	-163,000	2,372,800	
Milwaukee Child Welfare Improvements	0	245,800	0	0	245,800	
MA Incentive Payment	-1,210,800	-1,849,200	0	0	-3,060,000	
Substance Abuse, Screening, Intervention, and Referral	151,000	230,100	0	0	381,100	
Mental Health Services	324,000	486,000	0	0	810,000	
Smoking Restrictions -- Estimated MA Savings	-298,600	-455,900	0	0	-754,500	
Contract with Transportation Manager	-6,106,000	1,507,000	0	0	-4,599,000	
County Nursing Home Supplemental Payments	1,000,000	655,500	0	-1,311,000	344,500	
Increase County Funding of Mental Health Institutes	-8,588,400	3,220,800	0	0	-5,367,600	
Subtotal	-\$14,343,800	\$13,810,900	\$0	-\$1,474,000	-\$2,006,900	<-0.1%
Total MA Benefits Funding	\$1,415,208,800	\$4,059,273,700	\$89,266,800	\$667,449,800	\$6,231,199,100	
Total Change to Base	-\$69,364,500	\$1,001,222,500	\$49,421,700	\$174,311,600	\$1,155,591,300	
Percent Change to Base	-4.7%	32.7%	124.0%	35.4%	22.8%	

The following table identifies projected revenues to and expenditures from the MA trust fund (MATF), as reflected in Act 28.

**MA Trust Fund
Estimated Revenues, Expenditures and Balances
Act 28**

	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>
Beginning Balance	\$273,600	\$0	\$6,540,800
Revenue			
Nursing Home Certified Expenditure Program			
Nursing Home Certified Public Expenditure Program (Base)	\$43,228,400	\$46,632,400	\$51,044,800
Additional CPE Revenue from Enhanced FMAP	3,965,100	8,429,000	4,566,300
Additional CPE Revenue from NH Beds Occupied by Family Care Enrollees	<u>0</u>	<u>4,454,500</u>	<u>1,950,900</u>
Subtotal -- Nursing Home CPE Program	\$47,193,500	\$59,515,900	\$57,562,000
Nursing Home Bed Assessment (Base)	\$33,844,300	\$33,411,400	\$33,045,100
Additional Revenue from Nursing Home Bed Assessment Increase	0	32,541,800	40,313,500
HealthCheck Services provided by RCACs	10,000,000	8,000,000	8,000,000
ICF-MR Bed Assessment (Base)	8,468,400	8,022,200	7,603,500
Additional Revenue from ICF-MR Bed Assessment Increase	0	504,300	620,100
Hospital CPE	10,700,000	5,685,100	0
UW Hospital Intergovernmental Transfer Program	15,000,000	23,800,000	25,000,000
Additional Federal Matching Funds on County Contributions			
Due to Enhanced FMAP	0	37,775,400	19,068,600
Interest on MATF Cash Balance	1,000,000	0	0
Assets Transferred from Other Funds			
Injured Patients and Families Compensation Fund	\$128,500,000	\$0	\$0
Permanent Endowment Fund	309,000,000	50,000,000	50,000,000
Hospital Assessment Revenue	106,989,700	144,197,900	154,189,800
Hospital Assessment Revenue -- Ambulatory Surgical Centers	0	21,937,200	21,937,200
Additional Hospital Assessment Revenue from Enhanced FMAP	<u>46,881,500</u>	<u>53,069,500</u>	<u>28,800,900</u>
Total Funds Available	\$717,851,000	\$478,460,700	\$452,681,500
Expenditures			
MA Benefits	\$717,851,000	\$471,919,900	\$436,850,900
Closing Balance	\$0	\$6,540,800	\$15,830,600

2. MA/BADGERCARE PLUS -- BASE REESTIMATE [LFB Paper 415]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR-REV	\$6,183,200	\$0	\$6,183,200
SEG-REV	0	- 12,017,700	- 12,017,700
GPR	\$176,245,000	\$66,122,100	\$242,367,100
FED	1,312,926,500	79,871,600	1,392,798,100
PR	42,323,100	409,300	42,732,400
SEG	<u>456,848,900</u>	<u>294,646,000</u>	<u>751,494,900</u>
Total	\$1,988,343,500	\$441,049,000	\$2,429,392,500

Governor: Provide \$915,933,100 (\$77,019,600 GPR, \$597,226,800 FED, \$23,664,900 PR, and \$218,021,800 SEG) in 2009-10 and \$1,072,410,400 (\$99,225,400 GPR, \$715,699,700 FED, \$18,658,200 PR, and \$238,827,100 SEG) in 2010-11 to reflect the administration's estimates of the funding needed to support benefits for most MA-related programs in the 2009-11 biennium, based on current law.

Replace SEG Funding from the Injured Patients and Families Compensation Fund (IPFCF). This item includes an increase of \$128,500,000 GPR annually and a corresponding annual decrease from the MA trust fund (MATF) to support MA and BadgerCare Plus benefits. 2007 Wisconsin Act 20 authorized the following: (a) the one-time transfer of \$71,500,000 in 2007-08 and \$128,500,000 in 2008-09 from the IPFCF to the MATF; (b) an increase in funding from the MATF to support MA benefits by \$71,500,000 in 2007-08 and \$128,500,000 in 2008-09; and (c) a reduction in GPR funding for MA benefits by corresponding amounts. This item replaces base SEG funding from the MATF with GPR, beginning in 2009-10.

Federal Medical Assistance Percentage. The administration estimates that had the American Recovery and Reinvestment Act of 2009 (ARRA) not been enacted, the state's FMAP would have increased from 58.94% in 2008-09 to 60.00% in 2009-10 and 60.35% in 2010-11. Applied to the adjusted base level funding for MA benefits, these increases, reflected in the reestimate, would decrease the non-federal share of MA benefit costs by approximately \$125 million in the 2009-11 biennium and increase federal matching funds by a corresponding amount. [The increased FMAP rates in this item do not include any temporary FMAP increases provided under ARRA. The impact of those temporary FMAP increases is summarized under another item in this section.]

Hospital Assessment. 2009 Wisconsin Act 2 created an assessment on eligible hospitals, based on a uniform percentage of gross patient revenues. Revenues from the hospital assessment are used to fund several types of payments to hospitals, increased payments to health maintenance organizations (which are required to pass this funding on to hospitals in their networks) and to increase revenue to the MATF as a means of supporting MA benefits costs. The administration's stated intent, included in this item, is to collect total assessments of \$310,021,000 in 2009-10, and to use those revenues, and associated federal MA matching funds, as follows: (a) to increase payments to hospitals by \$502,628,100 (\$201,051,200 SEG and \$301,576,900 FED); (b) to transfer to the MATF (\$108,424,900 SEG); and (c) for administrative

costs (\$544,900). For 2010-11, the administration's intention is to collect total hospital assessments of \$339,695,800, and to use those revenues, and federal matching funds, as follows: (d) to increase payments to hospitals by \$550,736,000 (\$217,924,400 SEG and \$332,811,600 FED); (e) to transfer to the MATF (\$121,162,600 SEG); and (f) for administrative costs (\$608,800). A correction to the bill is required to carry out this intention.

MA Coverage for Childless Adults. The bill would provide \$95,671,700 (\$31,466,900 GPR, \$6,799,400 PR and \$57,405,400 FED) in 2009-10 and \$132,698,500 (\$45,702,800 GPR, \$6,799,400 PR and \$80,196,300 FED) in 2010-11 to fund costs of providing MA-funded coverage to childless adults (ages 19 through 64) with income less than 200% of the federal poverty level (in 2009, \$21,660 annually for an individual and \$29,500 annually for a couple). These amounts, in part, would replace current base funding (\$6,900,000 GPR, \$6,799,400 PR and \$19,664,900 FED) DHS uses to support Milwaukee County's general assistance medical program (GAMP).

In January 2009, DHS enrolled an estimated 13,000 individuals in the childless adults program, most of whom previously received health services under GAMP. Benefits under the childless adults program are more limited than those available to most other MA and BadgerCare Plus recipients. The bill assumes that statewide enrollment in the program will begin in July 2009, and that average monthly enrollment will increase to 24,900 individuals in 2009-10 and to 39,500 in 2010-11.

Reestimate Revenue from School-Based Services. Increase estimates of revenue that will be deposited to the general fund under the MA school medical services program by \$3,091,500 annually. Schools provide the non-federal share of the costs of these services, and receive 60% of the associated federal MA matching funds. The remaining 40% of those federal matching funds are deposited to the state's general fund. In total, the administration estimates that \$16,491,500 will be generated annually for deposit to the general fund during the 2009-11 biennium.

Establish Base Funding for the 2011-13 Biennium. Direct the Secretary of the Department of Administration, when formulating the 2011-13 biennial budget bill, to assume that the base level of funding for the GPR MA benefits appropriation beginning in state fiscal years 2011-12 and 2012-13 is \$1,564,356,500.

Joint Finance/Legislature: Increase funding in the bill by \$187,221,800 (\$20,176,100 GPR, \$15,808,000 FED, \$265,300 PR, and \$150,972,400 SEG) in 2009-10 and by \$253,827,200 (\$45,946,000 GPR, \$64,063,600 FED, \$144,000 PR, and \$143,673,600 SEG) in 2010-11 to reflect a reestimate of the cost of funding MA benefits in the 2009-11 biennium, consistent with the following items.

Increase MA Benefit Expenditures. Increase funding in the bill by \$78,413,300 (\$27,109,200 GPR and \$51,304,100 FED) in 2009-10 and \$105,914,800 (\$41,995,200 GPR and \$63,919,600 FED) in 2010-11 to reflect a reestimate of the cost of funding MA benefits in the 2009-11 biennium.

MA Funding Shift. Reduce funding for MA benefits by \$50,761,400 (-\$15,000,000 GPR and -\$35,761,400 FED) in 2009-10, to reflect a transfer of funding from fiscal year 2009-10 to 2008-09. In addition, require DHS to encumber any GPR surplus in the MA benefits appropriation at the

end of 2008-09, to the extent that surplus exceeds \$306,000,000.

Hospital Assessment. Increase funding budgeted for the hospital assessment appropriation by \$105,969,800 SEG in 2009-10 and by \$118,823,500 SEG in 2010-11. Under current law, DHS is directed to collect total hospital assessments in a state fiscal year in an amount equal to the Chapter 20 schedule amount for the hospital assessment appropriation. The increases reflected in this item represent the portion of the hospital assessment revenues that would be transferred to the MA trust fund and used to support general MA benefits. The Governor's bill omitted these amounts.

Increase the MA trust fund appropriation by \$53,069,500 SEG in 2009-10 and by \$28,800,900 SEG in 2010-11 to reflect additional transfers to the MA trust fund from the hospital assessment fund related to the temporarily increased FMAPs under ARRA. In addition, increase PR and FED appropriations for administrative costs associated with the hospital assessment by \$265,300 in 2009-10 and by \$144,000 in 2010-11.

Revise Estimate of CPE Revenues. Reduce funding by \$8,066,900 SEG in 2009-10 and by \$3,950,800 SEG in 2010-11 to reflect revised estimates of the CPE revenues that would be deposited to the MA trust fund, and increase funding in the GPR MA benefits appropriation by corresponding amounts.

Establish Base Funding for the 2011-13 Biennium. Delete the provision that would have directed the DOA Secretary, when formulating the 2011-13 biennial budget, to assume that the base level of funding for the GPR MA benefits appropriation beginning in state fiscal years 2011-12 and 2012-13 is \$1,564,356,500.

Average Monthly Enrollment. The projected expenditures for MA benefits in the 2009-11 biennium reflected in the reestimate are based partly on the administration's MA enrollment projections. Specifically, the administration projects that average monthly enrollment in MA will increase from 803,000 in 2007-08 to 888,800 (10.7%) in 2008-09, to 929,100 (4.5%) in 2009-10, and to 953,500 (2.6%) in 2010-11, as reflected in the following table:

**Actual and Projected Average Monthly Enrollment, by Major Eligibility Groups
Fiscal Years 2007-08 through 2010-11**

<u>Eligibility Group</u>	<u>Actual 2007-08</u>	<u>Projected 2008-09</u>	<u>Projected 2009-10</u>	<u>Projected 2010-11</u>
Elderly	38,100	38,100	37,600	36,800
Blind and Disabled	144,900	151,200	150,900	150,400
BadgerCare Plus Children, Foster Children and Subsidized Adoptions	367,000	401,800	417,600	425,000
BadgerCare Plus Adults and Well Women	190,800	223,300	237,600	240,900
Childless Adults	0	13,000	24,900	39,500
Limited Benefit Enrollees*	<u>62,200</u>	<u>61,400</u>	<u>60,500</u>	<u>60,900</u>
Total	803,000	888,800	929,100	953,500

* Includes women who receive family planning services under the family planning waiver program, and low-income individuals who are eligible for Medicare for whom the MA program pays some or all of their Medicare premiums, deductibles and copayments.

3. MA AND BADGERCARE PLUS REESTIMATE -- RESTORE GPR FUNDING REDUCED UNDER TOBACCO SECURITIZATION PROVISIONS OF ACT 226

GPR	\$418,000,000
SEG	<u>- 418,000,000</u>
Total	\$0

Governor/Legislature: Provide \$209,000,000 GPR, and a corresponding reduction of \$209,000,000 SEG from the MATF, in each year to reflect that the MA and BadgerCare Plus funding changes enacted as part of the tobacco securitization provisions of 2007 Wisconsin Act 226 were effective for 2008-09 only.

2007 Wisconsin Act 226 authorized a one-time transfer of \$209,000,000 SEG from the permanent endowment fund to the MATF to support MA benefits in 2008-09, and reduced GPR budgeted for MA benefits by the same amount. The increase in revenue to the permanent endowment fund (and ultimately to the MATF) was associated with a second tobacco securitization transaction that DOA carried out in 2008-09. Since this funding was anticipated to be available on a one-time basis, this item reduces base SEG funding by \$209,000,000 annually and increases GPR funding by that same amount in each year.

4. REPLACE STATE FUNDS WITH FEDERAL FUNDS TO REFLECT PROJECTED FMAP CHANGES

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
SEG-REV	\$47,680,000	\$22,220,000	\$69,900,000
GPR	-\$863,510,000	-\$59,173,200	-\$922,683,200
FED	815,830,000	36,953,200	852,783,200
SEG	<u>47,680,000</u>	<u>22,220,000</u>	<u>69,900,000</u>
Total	\$0	\$0	\$0

Governor: Reduce GPR funding for MA and SeniorCare benefits by \$567,630,000 in 2009-10 and by \$295,880,000 in 2010-11, and increase FED and SEG funding by \$567,630,000 (\$536,140,000 FED and \$31,490,000 SEG) in 2009-10 and \$295,880,000 (\$279,690,000 FED and \$16,190,000 SEG) in 2010-11 to reflect the temporary increase in the federal medical assistance percentage (FMAP) enacted as part of ARRA. Increase revenue to the MA trust fund by \$31,490,000 in 2009-10 and by \$16,190,000 in 2010-11 to reflect the effect of the temporary FMAP increases.

This item would not change the total amount of funding for MA or SeniorCare benefits during the 2009-11 biennium, but instead would replace GPR funding with FED and with SEG funding from the MA trust fund to reflect the higher FMAP.

Under ARRA, all states' FMAPs are increased by 6.2 percentage points for the period October 1, 2008 through December 31, 2010. That increased FMAP applies to most state MA benefit expenditures. In addition, ARRA provides that a state can qualify for an additional "unemployment-related FMAP increase" if, during the October 1, 2008 through December 31, 2010 period, the increase in the state's unemployment rate exceeds thresholds established in ARRA.

Maintain Pre-ARRA FMAP Rates for Certain Services. Require DHS, if permitted by federal law, to use the FMAP for federal fiscal year (FFY) 2008-09 for certain services provided during FFY 2008-09 that were published in the Federal Register on November 28, 2007, and to use the FMAP for FFY 2009-10 for those same services provided during FFY 2009-10 that were published in the Federal Register on November 26, 2008, regardless of whether the federal government subsequently increases the percentages.

These FMAPs would apply to the following MA services for which DHS disburses to the provider all or a portion of the federal MA matching funds: (1) case management services; (2) services provided by community support programs; (3) community-based psychosocial service programs; (4) school medical services; (5) mental health crisis intervention services; and (6) in-home and community mental health and alcohol and other drug abuse services.

These provisions, which would take effect on the day after publication of the bill, would maintain the reimbursement levels for the services listed above at the levels that would be established for these services if ARRA had not been enacted.

Joint Finance/Legislature: Increase estimates of federal MA matching funds and SEG revenues available to support MA benefits in the 2009-11 biennium by \$38,283,500 (\$23,573,500 FED and \$14,710,000 SEG) in 2009-10 and by \$20,889,700 (\$13,379,700 FED and \$7,510,000 SEG) in 2010-11 and reduce GPR funding for MA benefits by \$38,283,500 in 2009-10 and by \$20,889,700 in 2010-11 to reflect the availability of these revenues. These funding changes reflect higher FMAP projections than the assumptions used by the administration. The difference is attributable to increases (actual and forecasted) in Wisconsin's unemployment rate during the recession adjustment period.

The total funding shifts associated with the additional federal matching funds are

summarized in the following table. These estimates are based on estimated FMAPs of 70.45% and 65.55% in 2009-10 and 2010-11, respectively.

	<u>2009-10</u>	<u>2010-11</u>	<u>Total</u>
MA Benefits			
GPR	-\$599,543,500	-\$313,309,700	-\$912,853,200
FED	553,343,500	289,609,700	842,953,200
SEG	<u>46,200,000</u>	<u>23,700,000</u>	<u>69,900,000</u>
Total	\$0	\$0	\$0
SeniorCare Benefits			
GPR	-\$6,370,000	-\$3,460,000	-\$9,830,000
FED	<u>6,370,000</u>	<u>3,460,000</u>	<u>9,830,000</u>
Total	\$0	\$0	\$0

Modify the provision in the bill that would allow the state to retain the additional federal MA matching funds under ARRA generated by certain MA services for which counties provide the non-federal share of the costs to include the rate charged to counties for services under the intensive treatment program at the state centers for the developmentally disabled. This requires the non-federal share of these costs to remain at the same level that was in effect prior to the impact of the enhanced FMAPs.

[Act 28 Sections: 9122(4)(a)&(b) and 9422(9)]

5. SENIORCARE BASE REESTIMATE [LFB Paper 416]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	-\$34,329,500	-\$7,227,500	-\$41,557,000
FED	-21,081,400	-9,317,400	-30,398,800
PR	<u>-54,746,900</u>	<u>-10,114,100</u>	<u>-64,861,000</u>
Total	-\$110,157,800	-\$26,659,000	-\$136,816,800

Governor: Reduce funding for SeniorCare benefits by \$61,444,100 (-\$19,186,600 GPR, -\$12,491,100 FED, and -\$29,766,400 PR) in 2009-10 and by \$48,713,700 (-\$15,142,900 GPR, -\$8,590,300 FED, and -\$24,980,500 PR) in 2010-11 to reflect reestimates of the amount of funding needed to support SeniorCare benefits in the 2009-11 biennium, with no changes to the program. This funding level is based on the assumption that the federal waiver for SeniorCare, currently scheduled to expire on December 31, 2009, will be renewed at least through state fiscal year 2010-11.

Enrollment. The following table shows the actual average weekly enrollment figures for SeniorCare for 2006-07 and 2007-08, and the administration's projections for average weekly enrollment for 2008-09, 2009-10, and 2010-11. The enrollment figures are organized by the four SeniorCare participation levels, which are based on the participant's income as a percentage of the federal poverty level (FPL).

**Actual and Projected Average Weekly Enrollment, by Eligibility Group
Fiscal Years 2006-07 through 2010-11**

SeniorCare Participation Level	2006-07	2007-08	2008-09	2009-10	2010-11	Percent Change From Prior Year			
	Actual	Actual	Projected	Projected	Projected	2007-08	2008-09	2009-10	2010-11
0 to 160% FPL	49,109	43,250	40,681	40,220	40,431	-11.9%	-5.9%	-1.1%	0.5%
> 160% to 200% FPL	24,450	22,021	20,659	20,431	20,532	-9.9	-6.2	-1.1	0.5
> 200% to 240% FPL	14,921	13,173	12,278	12,140	12,202	-11.7	-6.8	-1.1	0.5
> 240% FPL	<u>16,045</u>	<u>14,778</u>	<u>14,271</u>	<u>14,139</u>	<u>14,203</u>	-7.9	-3.4	-0.9	0.5
Total	104,525	93,222	87,889	86,930	87,368	-10.8%	-5.7%	-1.1%	0.5%

Benefits Costs. SeniorCare benefits expenditures totaled \$127.1 million (\$38.8 million GPR, \$33.5 million FED and \$54.8 million PR) in 2007-08. The program revenues are rebates the state receives from manufacturers that produce prescription drugs that are dispensed to the program's enrollees. In 2007-08, total SeniorCare benefits costs were approximately 9.7% less than in 2006-07. DHS has identified three reasons for that decrease. First, program enrollment has declined in recent years. DHS believes this decrease reflects a shift of SeniorCare participants to the Medicare Part D prescription drug program, especially among individuals who qualify for Medicare Part D's low-income subsidy program. Second, there has been an increase in program revenue from rebates paid by drug manufacturers. In 2007-08, those rebates accounted for 43% of total program prescription drug costs, compared to 29.1% in 2006-07. During the 2009-11 biennium, DHS projects those rebates will fund approximately 38% of benefits costs. Third, there has been a decrease in drug inflation and utilization. In 2007-08, drug inflation and utilization, combined, increased by approximately 7%, compared to 13% annual increases in the past. DHS projects that during the 2009-11 biennium, drug inflation/utilization will increase by 7% annually. In addition, the administration's estimate incorporates the pharmacy reimbursement rate reductions DHS implemented in November, 2008, for drugs provided to SeniorCare enrollees.

Joint Finance/Legislature: Reduce funding by \$10,420,400 (-\$2,572,900 GPR, -\$3,866,600 FED, and -\$3,980,900 PR) in 2009-10 and by \$16,238,600 (-\$4,654,600 GPR, -\$5,450,800 FED, and -\$6,133,200 PR) in 2010-11 to reflect a reestimate of the costs to fully fund SeniorCare benefits, based on current law.

The following table provides an overview of the total funding that would be provided to support SeniorCare benefits in Act 28.

**Summary of SeniorCare Benefits Funding
Act 28**

	2009-10				2010-11			
	GPR	FED	PR	Total	GPR	FED	PR	Total
Base	\$61,826,600	\$53,732,100	\$81,413,200	\$196,971,900	\$61,826,600	\$53,732,100	\$81,413,200	\$196,971,900
Cost to Continue Items								
Base Reestimate	-\$21,759,500	-\$16,357,700	-\$33,747,300	-\$71,864,500	-\$19,797,500	-\$14,041,100	-\$31,113,700	-\$64,952,300
Enhanced FMAP	<u>-6,370,000</u>	<u>6,370,000</u>	<u>0</u>	<u>0</u>	<u>-3,460,000</u>	<u>3,460,000</u>	<u>0</u>	<u>0</u>
Subtotal	-\$28,129,500	-\$9,987,700	-\$33,747,300	-\$71,864,500	-\$23,257,500	-\$10,581,100	-\$31,113,700	-\$64,952,300
Other Changes to Base								
Unspecified Reductions	-\$2,900,000	-\$4,803,300		-\$7,703,300	-\$2,900,000	-\$4,029,800	\$0	-\$6,929,800
1% Across-the-Board Reductions	-618,300		-814,100	-1,432,400	-618,300		-814,100	-1,432,400
Eliminate 5% Rate Enhancement	<u>-1,751,800</u>	<u>-2,370,200</u>	<u>0</u>	<u>-4,122,000</u>	<u>-1,925,000</u>	<u>-2,197,000</u>	<u>0</u>	<u>-4,122,000</u>
Subtotal	-\$5,270,100	-\$7,173,500	-\$814,100	-\$13,257,700	-\$5,443,300	-\$6,226,800	-\$814,100	-\$12,484,200
Total	\$28,427,000	\$36,570,900	\$46,851,800	\$111,849,700	\$33,125,800	\$36,924,200	\$49,485,400	\$119,535,400

6. MA AND MA-RELATED PROGRAMS -- FUNDING REDUCTIONS [LFB Paper 417]

	Governor (Chg. to Base)	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR	-\$100,734,000	-\$50,000,000	-\$14,000,000	-\$164,734,000
FED	<u>0</u>	<u>-394,371,500</u>	<u>-30,008,000</u>	<u>-424,379,500</u>
Total	-\$100,734,000	-\$444,371,500	-\$44,008,000	-\$589,113,500

Governor: Reduce funding for MA and MA-related programs by \$34,117,000 in 2009-10 and \$66,617,000 in 2010-11 to reflect savings the administration expects DHS to achieve in the 2009-11 biennium. This item includes the following: (a) reduced funding for MA benefits (-\$28,550,000 in 2009-10 and -\$62,050,000 in 2010-11); (b) reduced funding for contracted administrative services (-\$2,667,000 in 2009-10 and -\$1,667,000 in 2010-11); and (c) reduced funding for SeniorCare benefits (-\$2,900,000 annually). The bill does not reflect the decrease in federal MA matching funds that would be associated with these reductions in state-funded MA expenditures.

Joint Finance: Reduce funding for MA benefits by an additional \$84,602,400 (-\$25,000,000 GPR and -\$59,602,400 FED) in 2009-10 and by \$72,568,900 (-\$25,000,000 GPR and -\$47,568,900 FED) in 2010-11 to increase the savings DHS would be required to realize in the 2009-11 biennium. In addition, reduce funding for MA and SeniorCare benefits by \$119,332,100 FED in 2009-10 and by \$167,868,100 FED in 2010-11 to reflect the estimated effect of the Governor's proposed GPR- and SEG-funded reductions to MA and SeniorCare benefits on federal matching funds. These estimates are based on estimated FMAPs of 70.45% and 65.55%, respectively.

Conference Committee/Legislature: Reduce funding for MA benefits by an additional

\$23,688,700 (-\$7,000,000 GPR and -\$16,688,700 FED) in 2009-10 and \$20,319,300 (-\$7,000,000 GPR and -\$13,319,300 FED) in 2010-11 to increase the savings DHS would be required to realize in the 2009-11 biennium.

7. UW REQUIRED TRANSFER TO THE MA TRUST FUND

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
SEG-REV	\$25,000,000	-\$6,200,000	\$18,800,000
GPR	\$0	\$6,200,000	\$6,200,000
SEG	<u>0</u>	<u>-6,200,000</u>	<u>-6,200,000</u>
Total	\$0	\$0	\$0

Governor: Modify the amount the University of Wisconsin System is required to transfer to the MA trust fund from its general program operations appropriation by increasing, from \$15,000,000 to \$27,500,000, the amount of the required transfer for fiscal years 2009-10 and 2010-11, and by requiring the UW System to transfer \$27,500,000 to the MA trust fund in fiscal years 2011-12 and 2012-13.

Currently, the UW System is required to transfer \$15,000,000 in fiscal years 2007-08 through 2010-11 to the MA trust fund.

The administration has assumed the availability of this revenue to support MA benefits as part of the MA base reestimate item.

Joint Finance/Legislature: Reduce the 2009-10 and 2010-11 required transfers from the UW System to the MA trust fund by \$3,700,000 and \$2,500,000, respectively, so that the UW System would be required to transfer \$23,800,000 in 2009-10, \$25,000,000 in 2010-11, and \$27,500,000 in both 2011-12 and 2012-13 to the MA trust fund. Reduce funding for MA benefits by \$3,700,000 SEG in 2009-10 and by \$2,500,000 SEG in 2010-11 to reflect this decrease in revenue available from the MA trust fund to support MA benefits, and increase GPR funding for MA benefits by corresponding amounts.

[Act 28 Sections: 257, 258, and 9454(1)]

8. CURRENT HOSPITAL ASSESSMENT -- INCREASE REVENUE AND PAYMENTS

Joint Finance/Legislature: Increase funding by \$149,678,600 (-\$34,994,200 GPR, \$80,047,300 FED, \$178,900 PR, and \$104,446,600 SEG) in 2009-10 and by \$157,134,400 (-\$32,062,100 GPR, \$81,192,700 FED, \$165,100 PR, and \$107,838,700 SEG) in 2010-11 to reflect increases in the amount hospitals would be assessed, increased MA reimbursement to hospitals, and the replacement of base GPR MA funding with hospital assessment revenue under the hospital assessment created in 2009 Wisconsin Act 2. Increase the amount of the hospital assessment by \$68,673,500 in 2009-10 and

SEG-REV	\$143,485,000
GPR	-\$67,056,300
FED	161,240,000
PR	344,000
SEG	<u>212,285,300</u>
Total	\$306,813,000

\$74,811,500 in 2010-11. Increase funding for MA benefits by \$79,868,400 FED in 2009-10 and by \$81,027,600 FED in 2010-11 to reflect the estimated increase in federal MA matching funds generated by the increased payments to hospitals and HMOs under the increased hospital assessment and the federal share of the increased payments to independent rural hospitals, as described below. Increase funding from the MA trust fund to support general MA benefits by \$35,773,100 in 2009-10 and \$33,027,200 in 2010-11, to reflect the transfer of SEG funds from the hospital assessment fund to the MA trust fund. Increase the DHS appropriations for administrative costs associated with the hospital assessment by \$178,900 PR and \$178,900 FED in 2009-10 and by \$165,100 PR and \$165,100 FED in 2010-11. Decrease the appropriation for the GPR share of MA benefits by \$34,994,200 in 2009-10 and by \$32,062,100 in 2010-11 to reflect the substitution of GPR by SEG as provided by the transfer of SEG from the hospital assessment fund to the MA trust fund, net of administrative costs and net of the additional payments to independent rural hospitals.

Require DHS to pay the following amounts from the GPR MA benefits appropriation and, if the federal government authorizes federal financial participation under the federal MA program, from the FED MA benefits appropriation, to each independent rural hospital that is located in a county that borders another state and that is not a critical access hospital: (a) in the first year of the fiscal biennium in which this provision takes effect, \$300,000; and (b) in the second year of the fiscal biennium in which this provision takes effect, \$400,000. Specify that the changes described in this paragraph would take effect on July 1, 2009, and that the other changes to the current hospital assessment would take effect on the day after publication.

The following table summarizes the estimated revenues and payments that would result from the increased hospital assessment in the 2009-11 biennium. These estimates reflect the temporarily increased FMAPs under ARRA. The effect of the hospital assessment on 2008-09 revenues and expenditures is summarized under "Provisions of Act 28 Affecting 2008-09."

	<u>2009-10</u>	<u>2010-11</u>	<u>Totals</u>
Hospital Assessment Revenue	\$68,673,500	\$74,811,500	\$143,485,000
Use of Assessment Revenue			
Additional Payments to Hospitals/HMOs	\$32,900,400	\$41,784,300	\$74,684,700
Administrative Costs	178,900	165,100	344,000
Payments to Independent Rural Hospitals	600,000	800,000	1,400,000
Net GPR Replacement	<u>34,994,200</u>	<u>32,062,100</u>	<u>67,056,300</u>
Total	\$68,673,500	\$74,811,500	\$143,485,000
Federal Matching Revenue			
Additional Payments to Hospitals/HMOs	\$78,437,900	\$79,505,400	\$157,943,300
Administrative Costs	178,900	165,100	344,000
Payments to Independent Rural Hospitals	<u>1,430,500</u>	<u>1,522,200</u>	<u>2,952,700</u>
Total	\$80,047,300	\$81,192,700	\$161,240,000
Total Payments to Hospitals/HMOs	\$113,368,800	\$123,611,900	\$236,980,700

[Act 28 Section: 9122(6i)]

9. ASSESSMENT ON AMBULATORY SURGICAL CENTERS

SEG-REV	\$44,094,800
GPR	- \$21,000,000
FED	49,029,600
SEG	<u>43,874,400</u>
Total	\$71,904,000

Joint Finance/Legislature: Increase funding by \$38,704,600 (-\$10,500,000 GPR, \$27,267,400 FED and \$21,937,200 SEG) in 2009-10 and by \$33,199,400 (-\$10,500,000 GPR, \$21,762,200 FED and \$21,937,200 SEG) in 2010-11 to reflect the net fiscal effect of authorizing the Department of Revenue (DOR) to impose an assessment on the gross patient revenues of ambulatory surgical centers (as defined for purposes of participation under the federal Medicare program) located in Wisconsin, up to the maximum limit allowed under federal law for MA provider contributions.

Authorize DOR to perform the following activities with respect to collection of the assessment: (a) determine the amount of the assessment; (b) collect the assessment; (c) require ambulatory surgical centers to provide to DOR data necessary to determine the amount of the assessment; (d) set time limits for ambulatory surgical centers to pay the assessment and to provide the data; and (e) levy penalties on ambulatory surgical centers that fail to comply with these requirements. Authorize DOR to promulgate rules relating to the collection of the assessment, including rules pertaining to forms, processes, requirements, penalties, audits, and reviews. Authorize DOR to promulgate such rules as emergency rules without a finding of emergency.

Authorize DOR to retain 0.5% of the assessment revenues collected to support DOR administrative costs related to the assessment. Direct DOR to transfer the balance of the assessment revenues to the MA trust fund.

The following table summarizes the estimated revenues and payments that would result from the assessment on ambulatory surgical centers. These estimates reflect the temporarily increased FMAPs under ARRA.

	<u>2009-10</u>	<u>2010-11</u>	<u>Biennial Total</u>
ASC Assessment Revenue	\$22,047,400	\$22,047,400	\$44,094,800
Use of Assessment Revenue			
Additional Payments to ASCs	\$11,437,200	\$11,437,200	\$22,874,400
Administrative Costs (DOR)	110,200	110,200	221,400
GPR Replacement	<u>10,500,000</u>	<u>10,500,000</u>	<u>21,000,000</u>
Total	\$22,047,400	\$22,047,400	\$44,094,800
Federal Matching Revenues			
Additional Payments to ASCs	\$27,267,400	\$21,762,200	\$49,029,600
Total Additional Payments to ASCs	\$38,704,600	\$33,199,400	\$71,904,000

[Act 28 Sections: 601s, 681g, 2433x, and 9143(4u)]

10. SINGLE CERTIFICATE OF APPROVAL FOR A FREE-STANDING PEDIATRIC TEACHING HOSPITAL

Joint Finance/Legislature: Require DHS to issue a single certificate of approval for a free-standing pediatric teaching hospital to all of its inpatient and outpatient hospital facilities that meet the requirements established by DHS and for which the free-standing pediatric teaching hospital requests approval. Specify that for services provided on or after July 1, 2009, all facilities listed in a certificate of approval issued to a free-standing pediatric teaching hospital are a hospital for purposes of reimbursement under the MA program, subject to the limitation that any services currently being billed at the physician clinic rate, as determined by DHS, shall continue to be billed at the physician clinic rate rather than the outpatient rate.

Under current law, to operate as a hospital in Wisconsin and to receive reimbursement through the state's MA program, a hospital must obtain a certificate of approval issued by DHS. In addition, current DHS policy treats hospital-affiliated outpatient facilities located outside a certain vicinity from the hospital as a clinic subject to MA reimbursement at physician clinic rates rather than outpatient rates. This provision creates an exception to that policy, subject to the identified limitations, for a free-standing pediatric teaching hospital.

[Act 28 Sections: 1289m and 1417r]

Medical Assistance -- General

1. MA TRANSPORTATION MANAGER [LFB Paper 420]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	- \$6,975,400	- \$2,272,600	- \$9,248,000
FED	<u>- 10,670,200</u>	<u>13,154,500</u>	<u>2,484,300</u>
Total	- \$17,645,600	\$10,881,900	- \$6,763,700

Governor: Reduce funding by \$5,863,800 (-\$2,316,100 GPR and -\$3,547,700 FED) in 2009-10 and by \$11,781,800 (-\$4,659,300 GPR and -\$7,122,500 FED) in 2010-11 to reflect the net savings the administration estimates would result by contracting with a transportation manager to coordinate specialized medical vehicle and common carrier transportation for MA and BadgerCare Plus recipients. The administration estimates these savings would result from efficiencies realized by the transportation manager and from additional federal MA matching funds the state would receive by claiming common carrier costs as MA service costs, rather than as administrative costs.

The funding changes reflect the following: (a) a reduction in MA benefits funding of \$5,926,800 (-\$2,347,600 GPR and -\$3,579,200 FED) in 2009-10 and \$11,853,600 (-\$4,695,200 GPR

and -\$7,158,400 FED) in 2010-11 to reflect the administration's estimates of savings in MA benefits costs; and (b) \$63,000 (\$31,500 GPR and \$31,500 FED) in 2009-10 and \$71,800 (\$35,900 GPR and \$35,900 FED) in 2010-11 that would be provided for DHS to contract for a project staff person to act as program manager.

Repeal the requirement that county departments of social services authorize transportation of MA recipients by common carrier or private motor vehicle to obtain medical care. Under current law, most counties, through contracts with common carriers and private motor vehicles, provide non-emergency transportation to certain MA recipients, and the state's MA program reimburses counties for those transportation services if they have been authorized by the county.

Joint Finance/Legislature: Modify the Governor's recommendation by increasing funding in the bill by \$3,627,300 (-\$861,800 GPR and \$4,489,100 FED) in 2009-10 and by \$7,254,600 (-\$1,410,800 GPR and \$8,665,400 FED) in 2010-11, to reflect reestimates of the net fiscal effect of the Governor's proposal.

Require DHS, prior to contracting with an entity to manage these services, to provide a report to the Joint Committee on Finance that describes the steps taken by the Department to guarantee that any entity engaged to provide those management services will be contractually obligated to coordinate its management activities, on an ongoing basis, with existing local transit systems, and guarantee adequate access (as defined by DHS) to these services throughout the state, including in rural counties.

Further, require DHS to provide the Joint Committee on Finance a report, no later than January 31, 2011, that analyzes the following aspects of the transportation manager program: (1) whether, through December 31, 2010, the manager had achieved savings or other efficiencies in the delivery of transportation services to MA recipients; (2) whether the manager helped enable the state to claim additional federal matching dollars for common carrier services; and (3) how the statewide MA transportation manager program affected access to services for MA recipients statewide.

Veto by Governor [D-7]: Delete the requirement that DHS submit a report to the Joint Committee on Finance prior to contracting with an entity for MA transportation management services.

[Act 28 Sections: 1321 and 9122(4f)(b)]

[Act 28 Vetoed Section: 9122(4f)(a)]

2. **ELIMINATE SENIORCARE REIMBURSEMENT PREMIUM** [LFB Paper 421]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	-\$4,113,800	\$437,000	-\$3,676,800
FED	<u>-3,797,400</u>	<u>-769,800</u>	<u>-4,567,200</u>
Total	-\$7,911,200	-\$332,800	-\$8,244,000

Governor: Reduce benefits funding for SeniorCare by \$3,955,600 (-\$2,056,900 GPR and -\$1,898,700 FED) annually, to reflect the administration's estimate of the savings that would result from eliminating the 5% premium pharmacists currently receive (relative to the reimbursement rate they receive under the MA program) for prescription drugs dispensed under the SeniorCare program. Under current law, pharmacists participating in the SeniorCare program receive a "program payment rate" that is equal to the rate of payment paid for the identical drug under the state's MA program, plus 5%, minus 50 cents, plus a dispensing fee. The bill would eliminate that 5% premium.

SeniorCare is a prescription drug program for Wisconsin residents age 65 or older. Individuals participating in the program who have income less than 160% of the federal poverty level (FPL) do not have a deductible, but must make copayments of \$5 for generic drugs and \$15 for brand name drugs. Participants with higher income have deductibles ranging from \$500 to \$850, in addition to the \$5/\$15 copayment requirement. Individuals with income above 240% of the FPL must first "spend down" to 240% FPL before they are eligible for program benefits.

Joint Finance/Legislature: Modify the Governor's proposal by eliminating the 50 cent discount that currently applies to prescription drug reimbursement rates under SeniorCare. Decrease funding in the bill by \$166,400 (\$305,100 GPR and -\$471,500 FED) in 2009-10 and \$166,400 (\$131,900 GPR and -\$298,300 FED) in 2010-11 to reflect this modification and reestimates of cost savings of the Governor's proposal.

[Act 28 Sections: 1364, 1366, and 1367]

3. **CHARGE COUNTIES FOR COSTS OF CARE FOR CHILDREN AND ELDERLY PATIENTS AT THE MENTAL HEALTH INSTITUTES** [LFB Paper 422]

	Governor (Chg. to Base)	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR	-\$9,694,300	-\$1,176,400	\$2,597,600	-\$8,273,100
FED	<u>0</u>	<u>5,440,700</u>	<u>0</u>	<u>5,440,700</u>
Total	-\$9,694,300	\$4,264,300	\$2,597,600	-\$2,832,400

Governor: Reduce funding by \$3,704,500 GPR in 2009-10 and \$5,989,800 GPR in 2010-11 to reflect the net savings from the Governor's proposal to begin charging counties for the state's share of the costs of caring for children and elderly patients at the mental health institutes (MHIs) under the state's MA program. Currently, the state's share of these MA costs is paid

from the GPR MA benefits appropriation. The bill would: (a) increase funding for county community support programs (\$1,000,000 GPR in 2009-10 and \$3,000,000 GPR in 2010-11); and (b) reduce MA benefits funding that currently supports the care of these patients (-\$4,704,500 GPR in 2009-10 and -\$8,989,800 GPR in 2010-11). The MA funding reduction related to this item does not reflect the temporary increase in the federal medical assistance percentage (FMAP) authorized under the American Recovery and Reinvestment Act of 2009 (ARRA).

Require counties to provide the nonfederal portion of payment for the costs of services provided to individuals under age 21 (or 22 years of age if they were receiving services immediately prior to reaching age 21) and individuals who are 65 years of age or older.

Modify provisions relating to the emergency detention of these individuals by permitting a law enforcement officer or other person authorized to take an individual into custody to transport the individual to a state treatment facility only if the county department of community programs in the individual's county of residence approves the individual's detention in the state facility.

Joint Finance: Modify the Governor's recommendation by reducing funding in the bill by \$281,500 GPR and increasing funding by \$2,219,900 FED in 2009-10 and reducing funding by \$894,900 GPR and increasing funding by \$3,220,800 FED in 2010-11 to reflect reestimates of the savings that would result under the administration's proposal. In addition, specify that these provisions would take effect on January 1, 2010, to reflect the Governor's intent.

Senate/Legislature: Provide \$1,301,300 GPR in 2009-10 and \$1,296,300 GPR in 2010-11 to reflect the enhanced FMAPs that apply under ARRA as it relates to DHS charges for the care of children and elderly patients at the MHIs. Require DHS to calculate the counties' share of these costs by using the FMAP that is applicable when the service is provided.

In addition, modify the provisions relating to the emergency detention of individuals by permitting a law enforcement officer, or other person authorized to take a child or youth into custody, to transport him or her to a treatment facility only if the local county department of community programs in the county in which the individual was taken into custody approves the need for the individual's detention in the state facility. (The county in which an individual is taken into custody is responsible for paying the cost of care provided during the first 72 hours following an emergency detention.) This provision would apply to all emergency detentions at any treatment facility.

[Act 28 Sections: 1309, 1322, 1424y, 1426, 1427, 1432 thru 1437, 9122(4)(cq), 9322(5f), and 9422(8f)]

4. COMMUNITY RECOVERY SERVICES

Governor: Provide \$7,600,000 (\$7,000,000 FED and \$600,000 PR) in 2009-10 and \$8,001,000 (\$7,620,000 FED and \$381,000 PR) in 2010-11 to establish a new MA benefit, community recovery services, that would provide home- and

FED	\$14,620,000
PR	981,000
Total	\$15,601,000

community-based services to certain MA recipients with mental illnesses. County participation in the program would be optional. Counties that elect to participate would be required to provide the non-federal share of allowable benefit costs, and would be entitled to a portion of the federal MA reimbursement.

Create Benefit. Establish "community recovery services" as a covered MA benefit, provided that all the following conditions are met: (a) an approved amendment to the state MA plan permits reimbursement for the services; (b) the county in which the MA recipient resides elects to provide the services through the MA program; and (c) the MA recipient, the community recovery services, and the community recovery services provider meet any condition set forth in the approved amendment to the state MA plan.

Require DHS, in the event community recovery services are reimbursable under the MA program, to reimburse each participating county for the portion of the federal share of allowable charges for those services provided by the county that exceeds that county's proportionate share of \$600,000 in 2010-11, and for 95 percent of the federal share of allowable costs in each subsequent fiscal year. Direct that the portion of the federal share of allowable costs not reimbursed to participating counties be transferred to a new DHS PR appropriation and used for administration costs incurred for reimbursing and monitoring these services. Authorize DHS to expend all moneys it receives for these purposes.

Require participating counties to satisfy a maintenance-of-effort requirement such that any funds used to reimburse counties under the MA program for community recovery services are not used to supplant funding from any other source, and that no participating county may report less funding for other community mental health services under mental health for children and adults on the human service revenue reporting form than the county reported in the year prior to electing to provide community recovery services under the MA program. Authorize DHS to enforce this maintenance-of-effort requirement using appropriate contract remedies, or by adjusting the county's community aids payments.

Joint Finance/Legislature: Delete the maintenance-of-effort requirement the bill would have imposed on counties that choose to provide community recovery services under the MA program.

[Act 28 Sections: 394, 1306, 1310, and 1323]

5. MA SUPPORT FOR BIRTH-TO-THREE PROGRAM

Governor/Legislature: Provide \$1,066,100 (-\$519,100 GPR, \$1,566,100 FED, and \$19,100 PR) in 2009-10 and \$1,069,700 (-\$1,020,900 GPR, \$2,069,700 FED, and \$20,900 PR) in 2010-11 to reflect the net effect of two changes to the birth-to-three program.

GPR	- \$1,540,000
FED	3,635,800
PR	40,000
Total	\$2,135,800

MA Waiver. Require DHS to request a waiver of federal MA law from the U.S. Department of Health and Human Services that would authorize the provision of home or

community-based services under MA to children who are eligible for MA and receive services under the birth-to-three program. Provide that if a waiver is granted, all counties would be required to provide the non-federal share of costs for MA services provided under the waiver. Permit counties to use GPR funding budgeted for the program to provide the non-federal share of MA costs. Require DHS to distribute to counties that provide these MA-eligible services the amount of federal moneys received by the state as the federal share of MA for these services, less an amount that would be transferred to a current DHS PR appropriation in the Division of Long-Term Care, to support the Department's costs of administering this provision (\$19,100 in 2009-10 and \$20,900 in 2010-11).

Services Provided by Special Educators. Permit birth-to-three services provided by special educators to be reimbursed by the MA program, if the county pays the entire non-federal share of the services. Require DHS to promulgate rules for the certification of special educators who provide services to birth-to-three participants. Require DHS to reimburse the county the federal share of the allowable MA charges, and the county would pay for the non-federal share of the services. Require counties to expend any moneys they receive for birth-to-three services or services they provided under the disabled children's long-term care support program.

The birth-to-three program provides early intervention services to children less than 36 months of age with developmental delays and disabilities. Eligibility for the program is based on a diagnosed disability or significant delay in one or more areas of development. Services provided under the program include the following: (a) developmental education services; (b) occupational therapy; (c) physical therapy; (d) family education; (e) related health services; and (f) targeted case management.

[Act 28 Sections: 363, 438, 912, 1316, 1317, 1324, and 1325]

6. MA SAVINGS DUE TO PROPOSED SMOKING RESTRICTIONS

GPR	- \$449,500
FED	- 722,300
Total	- \$1,171,800

Governor/Legislature: Reduce funding for MA benefits by \$417,300 (-\$150,900 GPR and -\$266,400 FED) in 2009-10 and by \$754,500 (-\$298,600 GPR and -\$455,900 FED) in 2010-11 to reflect savings the administration estimates would result by enacting a ban on smoking in most enclosed, indoor areas in the state, and by explicitly prohibiting smoking in areas as specified in 2009 Wisconsin Act 12.

7. FAMILY PLANNING WAIVER SERVICES FOR MEN [LFB Paper 423]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	- \$280,300	- \$482,500	- \$762,800
FED	- 305,000	- 482,500	- 787,500
Total	- \$585,300	- \$965,000	- \$1,550,300

Governor: Provide \$355,000 (\$177,500 GPR and \$177,500 FED) in 2009-10 and reduce funding by \$940,300 (-\$457,800 GPR and -\$482,500 FED) in 2010-11, to reflect the net fiscal effect of expanding eligibility for services provided under the family planning waiver (FPW) to males ages 15 through 44 in families with income not greater than 200% of the federal poverty level (FPL). Authorize DHS to request approval from the Secretary of the Department of Health and Human Services (DHHS) for this purpose, and authorize DHS to implement the amended waiver in the event such federal approval is granted. Delete an obsolete provision that directs DHS to request permission from DHHS to implement the current waiver.

This item includes the following: (a) \$100,000 (\$50,000 GPR and \$50,000 FED) in 2009-10 in one-time funding to modify DHS information systems to reflect this change in eligibility for the program; (b) \$255,000 (\$127,500 GPR and \$127,500 FED) in 2009-10 and \$610,000 (\$305,000 GPR and \$305,000 FED) in 2010-11 to increase funding for income maintenance activities related to an estimated 2,870 enrollees; (c) \$502,300 (\$50,200 GPR and \$452,100 FED) in 2010-11 to provide family planning services for an estimated 2,870 men; and (d) a reduction in MA benefits funding of \$2,052,600 (-\$813,000 GPR and -\$1,239,600 FED) in 2010-11 to reflect the administration's estimates of projected savings from an estimated 373 averted births.

The FPW provides enrollees with information and services to assist them in preventing pregnancy and to prevent sexually transmitted diseases. Currently, enrollment in the FPW is limited to women ages 15 through 44 in families with income not greater than 200% of the FPL. (For women under the age of 19 who are not married or have no children, only the woman's income is counted in determining eligibility for the program).

Joint Finance/Legislature: Decrease funding by \$177,500 GPR and \$177,500 FED in 2009-10 and by \$305,000 GPR and \$305,000 FED in 2010-11 to delete funding the Governor recommended for DHS information systems changes and income maintenance costs.

[Act 28 Sections: 1302 and 1303]

8. SUBSTANCE ABUSE SCREENING, BRIEF INTERVENTION AND REFERRAL TO TREATMENT

GPR	\$151,000
FED	<u>230,100</u>
Total	\$381,100

Governor/Legislature: Provide \$381,100 (\$151,000 GPR and \$230,100 FED) in 2010-11 to increase funding for MA benefits to reflect the administration's estimate of the cost to cover substance abuse screening, brief intervention and referral to treatment (SBIRT) services under the MA program. SBIRT services include an initial brief screening designed to identify patients at risk for alcohol and substance abuse. Progressively more involved screening, intervention, and treatment activities are available as determined appropriate. The administration's cost estimate assumes SBIRT services will be provided to certain MA recipients in primary care clinics and hospital emergency room settings beginning in January, 2011.

9. ELIMINATE RELIEF BLOCK GRANT PROGRAM TO REFLECT IMPLEMENTATION OF BADGERCARE PLUS CHILDLESS ADULTS DEMONSTRATION PROJECT

Governor: Modify provisions relating to the relief block grant programs to counties and tribes to reflect the implementation of the BadgerCare Plus childless adults demonstration project.

Relief Block Grants to Counties. Modify provisions relating to the relief block grant program to counties as follows: (a) specify that the amounts appropriated in 2009-10 and 2010-11 (\$255,000 GPR and \$128,000 GPR, respectively) would be available to fund relief or health care services provided before July 1, 2009; and (b) repeal the appropriation effective July 1, 2011. In 2008-09, this appropriation is budgeted \$400,000 GPR. (The funding reduction related to this appropriation (-\$145,000 GPR in 2009-10 and -\$272,000 GPR in 2010-11 is summarized under "Health Services -- Departmentwide.)

With implementation of the BadgerCare Plus childless adults demonstration project in January 2009, the relief block grant to counties program would be phased out, to reflect that many individuals served by the current county programs would instead be enrolled in the demonstration project. For the 2009-11 biennium, GPR funding would be provided on a transitional basis to pay for services that were provided prior to July 1, 2009. The bill would repeal this appropriation entirely effective July 1, 2011.

Milwaukee GAMP Program. Modify the appropriation relating to the Milwaukee County general and medical assistance program (GAMP) as follows: (a) specify that for the 2009-11 biennium, the appropriation would authorize the expenditure of all moneys received from any county for supplemental payments to health care providers that contract with counties for health care services provided before July 1, 2009 that are funded by a relief block grant, or to provide benefits under the childless adults demonstration project; and (b) effective July 1, 2011, modify the appropriation to refer solely to the payment of benefits under the childless adults demonstration project. In 2008-09, the appropriation is budgeted \$6,799,400 PR, which represents money Milwaukee County transfers to DHS, which the state then uses to support supplemental payments to hospitals in Milwaukee County.

Beginning in January, 2009, participants in the Milwaukee County GAMP, and other participating counties' general assistance medical programs, were enrolled in the childless adults demonstration project. For the 2009-11 biennium, the bill provides that amounts received from counties would be used for services provided under those counties' respective general assistance medical programs prior to July 1, 2009, as well as for benefits under the childless adults program. Effective July 1, 2011, funds in the appropriation would be used solely for benefits under the childless adults demonstration project.

Tribal Relief Block Grants. Modify the relief block grant to tribal governing bodies program as follows: (a) specify that the amounts appropriated for the 2009-11 biennium (\$792,000 PR annually) are for relief or health care services provided before July 1, 2009; and (b) repeal the appropriation effective July 1, 2011. This appropriation is funded by a portion of the state's

Indian gaming receipts. The treatment of the relief block grant to tribal governing bodies program reflects the implementation of the childless adults demonstration project, as described above.

Modify, delete, or where appropriate, repeal statutory references to the current county and tribal relief block grant programs, as provided in the bill, effective July 1, 2011.

Conference Committee/Legislature: Delete the provision that would repeal the tribal relief block grant program. Delete the provision that would prohibit DHS from using funds for this purpose after July 1, 2009. Permit DHS to continue to fund eligible medical services to tribal members after July 1, 2009 with PR budgeted in 2009-10 and 2010-11 (\$792,000 annually).

[Act 28 Sections: 348, 349, 353, 354, 836 thru 838, 840, 841, 846, 847, 854, 899, 1129, 1131 thru 1134t, 1135, 1136, 1138, 1141, 1291, 1294, 1294m, 1365, 3173, 3231, 9322(9), 9422(6), and 9422(7)]

10. HIRSP AND AIDS/HIV DRUG ASSISTANCE PROGRAM ELIGIBILITY FOR CHILDLESS ADULTS AND BADGERCARE PLUS BENCHMARK PLAN ENROLLEES

Governor/Legislature: Modify eligibility criteria for the AIDS/HIV drug assistance program (ADAP) by exempting individuals who are eligible for MA under the childless adults demonstration project, and individuals who qualify for the MA benchmark plan, from the requirement that individuals apply for, and be denied eligibility for, MA benefits within 12 months before applying for benefits under ADAP.

In addition, specify that individuals who are otherwise eligible for HIRSP are not ineligible by virtue of also being eligible for benefits under the BadgerCare Plus benchmark plan.

ADAP reimburses or supplements the reimbursement of the cost of approved antiretroviral drugs for individuals who meet all the following criteria: (a) reside in Wisconsin; (b) have an HIV infection, as certified by a physician; (c) have a prescription issued by a physician for a drug approved for reimbursement; (d) have applied for and have been denied eligibility for MA within 12 months prior to application for ADAP; (e) have no insurance coverage for any drug approved for reimbursement or, if he or she has insurance coverage, the coverage is inadequate to pay the full cost of the individual's prescribed dosage; and (f) has annual gross household income at or below 200% of the federal poverty line, or have annual gross household income above 200% and at or below 300% of the poverty line if funding is available. Under the bill, the ADAP requirement to apply for and fail to receive MA eligibility would not apply to participants in the childless adults demonstration project, or the BadgerCare Plus benchmark plan.

Wisconsin's health insurance risk-sharing plan (HIRSP) offers health insurance coverage to residents who are unable to obtain adequate coverage in the private market due to a medical condition, or who have lost their group health insurance coverage. HIRSP is financed through

the premiums paid by these policyholders and by assessments collected from health insurance companies that conduct business in Wisconsin. Health care providers also contribute to HIRSP by accepting reduced reimbursement rates for the covered medical services provided to policyholders.

[Act 28 Sections: 1358 and 2434]

11. BADGERCARE PLUS TECHNICAL CHANGES

Governor/Legislature: Modify provisions relating to the MA and BadgerCare Plus programs as follows.

Provide that the MA cost-sharing exemption that currently exists for individuals less than 18 years old would no longer apply to such individuals if their family income is greater than 100% of the federal poverty level (FPL) and they are eligible for benefits under the BadgerCare Plus standard plan or benchmark plan.

Provide that if a state plan amendment pertaining to BadgerCare Plus is approved, but that the terms of such an approval do not allow for federal funding of the costs of benefits for certain BadgerCare Plus eligibility groups, DHS may, at its discretion, pay for the cost of benefits for all or part of any such eligibility group for which federal funding was denied exclusively with funds from the Department's GPR MA benefits appropriation.

Reduce the period of MA benefits eligibility from 18 months to 12 months for certain individuals who were receiving MA benefits at the time BadgerCare Plus was implemented but lost their eligibility because of their income.

Clarify that a parent or a caretaker relative of a child may be eligible for BadgerCare Plus if the child has been removed from the home, provided the parent or caretaker relative is working toward unifying the family by complying with a permanency plan under the children's code or the juvenile justice code. Currently, the statute refers only to permanency plans under the children's code.

Provide that individuals receiving benefits under the BadgerCare Plus standard plan shall continue to be eligible for those benefits (and to be exempt from the program's "other insurance" rules and from the program's premium requirements) for periods currently specified in law if their income increases above 100% of the FPL for any of several reasons, including the receipt of additional employment income or child support. Under current law, the threshold for triggering these "income extension" eligibility rules is an AFDC-related income level that is lower than 100% of the FPL.

Delete the term "unborn child" from a section in the BadgerCare Plus statute that currently allows a pregnant woman and an unborn child with family income greater than 300% of the FPL to qualify for coverage under BadgerCare Plus by spending down to the program's income eligibility levels.

Provide that with respect to a pregnant woman who is presumptively eligible for benefits (meaning a qualified provider has determined, based on preliminary information, that her family income is less than 300% of the FPL), she is eligible only for ambulatory prenatal care services under the BadgerCare Plus standard plan if her family income does not exceed 200% of the FPL, and is eligible only for ambulatory prenatal care under the BadgerCare Plus benchmark plan if her family income is greater than 200% of the FPL but not greater than 300% of the FPL. Under current law, all presumptively eligible pregnant women are eligible for ambulatory prenatal care services only under the benchmark plan.

Provide that any pregnant woman, including those determined to be presumptively eligible for benefits, is eligible for benefits during any of the three months before she applied for benefits if she met the program's eligibility criteria in that month. Under current law, this provision applies only to pregnant women with income less than 150% of the FPL.

Direct DHS to deduct from an individual's family income, when calculating income for purposes of determining BadgerCare Plus eligibility, any amount the individual is obligated to pay for court-ordered child or family support or maintenance, up to the amount of the individual's income. Under current law, only payments actually made by the individual for those purposes are deducted when determining program eligibility.

Amend the "other insurance" provisions in the BadgerCare Plus statute. Under current law, an individual is not ineligible for BadgerCare Plus if one or more of their family members were eligible for coverage under other insurance, MA, or BadgerCare Plus at the time the individual or their family member failed to enroll in the employer-sponsored health plan to which they had access and no family member was eligible for BadgerCare Plus. The bill amends this language by providing that even if one or more members of the individual's family were eligible for BadgerCare Plus during that time, the individual can still qualify for BadgerCare Plus if family income did not exceed 150% of the FPL at that time or the individual qualified for BadgerCare Plus under the "income extension" rules described above.

Provide that if a person does not pay a BadgerCare Plus premium when due, or requests that his or her coverage be terminated, their coverage terminates and they are not eligible for BadgerCare Plus for six consecutive calendar months following termination, except for any month during that six-month period when their family income does not exceed 150% of the FPL. This amends current law in several respects, primarily by including the reference to circumstances where the recipient requests termination of their coverage and by inserting the reference to months when family income does not exceed 150% of the FPL.

Repeal the current requirement that DHS submit an annual report to the Legislature summarizing the costs of the BadgerCare program. That requirement applies to the BadgerCare program, which has been replaced by BadgerCare Plus.

Exclude coverage under the BadgerCare Plus benchmark plan from the definition of "medical assistance" for purposes of determining financial eligibility for the Family Care program.

Provide that the statutory changes described above take effect retroactively on February 1, 2008, to coincide with implementation of BadgerCare Plus.

[Act 28 Sections: 872k thru 877, 1297 thru 1299, 1328 thru 1333, 1335 thru 1337, 1338 thru 1353, 1354, 1356, and 9422(1)]

12. MA PHYSICIAN PILOT PROJECT

Joint Finance/Legislature: Require DHS to develop a proposal to increase MA reimbursement to providers to which at least one of the following applies:

a. The provider is recognized by the National Committee on Quality Assurance as a Patient-Centered Medical Home.

b. The DHS Secretary determined the provider performs well with respect to all of the following aspects of care:

- (1) Adoption of written standards for patient access and patient communication;
- (2) Use of data to show that standards for patient access and patient communication are satisfied;
- (3) Use of paper or electronic charting tools to organize clinical information;
- (4) Use of data to identify diagnoses and conditions among the provider's patients that have a lasting detrimental effect on health;
- (5) Adoption and implementation of guidelines that are based on evidence for treatment and management of at least three chronic conditions;
- (6) Active support of patient self-management;
- (7) Systematic tracking of patient test results and systematic identification of abnormal patient test results;
- (8) Systematic tracking of referrals using a paper or electronic system;
- (9) Measuring the quality of the performance of the physician practice and of individual physicians within the practice, including with respect to provision of clinical services, patient outcomes, and patient safety.
- (10) Reporting to members of the physician practice and to other persons on the quality of the performance of the physician practice and of individual physicians.

Require DHS to specify in its proposal the increases in reimbursement rates for providers that satisfy the conditions cited above, and to provide for payment of a monthly per-patient care coordination fee to those providers. Require DHS to establish the reimbursement increases and the monthly per-patient care coordination fee so that together they provide sufficient incentive

for providers to satisfy a condition cited in (a) or (b), above. Prohibit DHS from paying any increased reimbursement rates or monthly per-patient coordination fees to any provider under the proposal prior to July 1, 2011.

Require DHS, within 60 days after the effective date of the bill, to submit its proposal to the Joint Committee on Finance (Committee). Provide that if the Committee Co-Chairs do not notify DHS within 14 working days thereafter that the Committee has scheduled a hearing to review the proposal, DHS shall implement the proposal beginning January 1, 2010, subject to approval by the U.S. Department of Health and Human Services (HHS) of any required waiver of federal law pertaining to MA and any required amendment to the state MA plan. Provide further that if, within the 14 working day period described above, the Committee Co-Chairs notify DHS that the Committee has scheduled a hearing to review the proposal, DHS may implement the proposal only upon the Committee's approval. If the Committee reviews and approves the proposal, require DHS to implement the proposal beginning January 1, 2010, subject to approval by HHS of any required waiver of federal law pertaining to MA and any required amendment to the state MA plan.

Provide that by the first day of the 39th month beginning after the effective date of the bill, DHS shall, if it was required to increase reimbursement rates to providers under the proposal, submit a report to the Committee on whether the increased reimbursement results in net cost reductions for the MA program, and a recommendation as to whether to continue the increased reimbursement. If the Committee Co-Chairs do not notify DHS within 14 working days thereafter that the Committee has scheduled a hearing for the purpose of reviewing the DHS report and recommendation, DHS implement its recommendation. Provide further that if, within the 14 working day period described above, the Committee Co-Chairs notify DHS that the Committee has scheduled a meeting for the purpose of reviewing the report and recommendation, DHS may discontinue the increased reimbursement only upon the Committee's approval.

Veto by Governor [D-13]: Retain the requirement that DHS submit its proposal regarding the MA physician pilot project to the Joint Committee on Finance, but delete the requirement that DHS submit that proposal within 60 days after the effective date of the bill.

[Act 28 Section: 1301e]

[Act 28 Vetoed Section: 1301e]

13. PARENTAL, POST PARTUM AND YOUNG CHILD CARE COORDINATION IN THE CITY OF RACINE

Joint Finance/Legislature: Permit health care providers in the City of Racine who are certified to provide MA care coordination services and who are participating in the Racine infant mortality and morbidity program to be certified to provide to MA recipients prenatal and postpartum care coordination services and care coordination services for children who have not attained the age of two.

Currently, providers in Milwaukee County who are certified to provide these MA care coordination services may be certified to provide to MA recipients prenatal and postpartum care coordination services and care coordination services for children who have not attained the age of seven.

[Act 28 Sections: 1313k, 2550d thru 2550h, and 3410]

14. STUDY OF FAMILY CHILD CARE PROVIDER HEALTH INSURANCE COVERAGE

Joint Finance/Legislature: Require DHS to conduct a study of the health insurance coverage of certified and licensed child care providers who provide care and supervision for not more than eight children who are not related to those child care providers, to determine the efficacy of the Legislature authorizing DHS to request from the Secretary of the U.S. Department of Health and Human Services a medical assistance waiver to expand eligibility for benefits under BadgerCare Plus to those child care providers.

[Act 28 Section: 9122(5f)]

15. HOME VISITS AND CONSULTATION SERVICES BY NURSING STAFF [LFB Paper 211]

FED	\$510,000
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Joint Finance/Legislature: Increase MA benefits funding by \$264,200 in 2009-10 and \$245,800 in 2010-11 to reflect estimates of additional federal MA matching funds that would be available to partially support home visits by nurses and consultation services under a program administered by the Department of Children and Families. Additional information about this item is included in "Children and Families."

16. COVERAGE OF SERVICES PROVIDED BY LICENSED MENTAL HEALTH PROVIDERS

GPR	\$324,000
FED	486,000
Total	\$810,000

Joint Finance/Legislature: Provide \$810,000 (\$324,000 GPR and \$486,000 FED) in 2010-11 to fund estimated increases in MA benefit costs associated with the following changes relating to MA services provided by licensed mental health professionals.

Define a "licensed mental health professional" as any of the following individuals licensed under Chapter 457 of the statutes: (a) a clinical social worker; (b) a marriage and family therapist; or (c) a professional counselor. Require DHS to include licensed mental health professionals and licensed psychologists as providers of psychotherapy and of alcohol and other drug abuse services for purposes of the state's MA program. Specify that, except for community-based psychosocial services (as currently defined in statute), DHS may not require any of the following as a condition for reimbursement under the MA program: (1) that licensed mental health professionals or licensed psychologists be supervised; (2) that clinical psychotherapy or alcohol and other drug abuse services be provided under a certified program;

or (3) that a physician or other health care provider first prescribe psychotherapy or alcohol and other drug abuse services before a licensed mental professional or licensed psychologist may provide the services to the MA recipient. Provide further that these provisions do not limit DHS authority under Chapters 50 and 51 of the statutes to establish requirements for facilities that are licensed, certified, or operated by DHS.

Eliminate the current requirement that the following services be prescribed by a physician in order to be eligible for MA reimbursement: (a) medical day treatment services, mental health services and alcohol and other drug abuse services, including services provided by a psychiatrist; (b) mental health services and alcohol and other drug abuse services, including services provided by a psychiatrist, to an individual who is 21 years of age or older in the individual's home or in the community; and (c) alcohol and other drug abuse day treatment services.

Specify that these MA-related provisions shall become effective on January 1, 2011.

Other provisions related to insurance coverage of services provided by licensed mental health professionals are summarized in "Insurance."

[Act 28 Sections: 1305r, 1321r, 1323c, 1443m, 2995sm, 3137r, and 9422(12r)]

17. REPORT ON IMPROVING QUALITY OF CARE FOR MA RECIPIENTS AND REDUCING MA PROGRAM COSTS

Joint Finance: Require DHS to submit a report to the Legislature, by January 1, 2010, that discusses each of the proposals listed below. Specify that the report include a discussion of: (a) the potential effect of each proposal in improving the quality of care for MA recipients; (b) the estimated savings that may result by implementing each proposal; and (c) the feasibility of implementing each proposal.

a. Requiring all managed care organizations that serve MA recipients to provide or contract with a prenatal care coordination program, and requiring that all pregnant MA recipients be enrolled in such a program.

b. Requiring all managed care organizations that serve MA recipients to assign a primary care provider for each enrollee, who would receive a monthly per patient payment for care coordination services.

c. Requiring all managed care organizations that serve MA recipients to have a chronic disease management and case coordination program in place for every patient diagnosed with diabetes, asthma, congestive heart failure, coronary artery disease, and a primary or secondary behavioral health diagnosis, including substance abuse and depression.

d. Expanding the use of special needs programs to provide case management services for children with medically complex conditions.

- e. Creating a surveillance system for adverse events that result in poor patient outcomes, including reporting of health care associated infections.
- f. Requiring all MA providers to participate in care coordination incentive programs;
- g. Modify how health maintenance organizations deliver services, such as requiring HMOs to make available toll-free, nurse staffed, 24-hour a day, seven days a week triage hotline and help desk, the provision of prenatal case coordination, instituting a chronic disease management program, including substance abuse screening and intervention and other life style screening and interventions, reporting health care associated infections, and instituting care coordination incentives.
- h. Reducing funding to support the administrative component of the capitation payments DHS makes to health maintenance organizations.
- i. Reducing fee-for-service payments to health care providers in cases where a patient is re-admitted to a hospital within 30 days of release from a hospital following treatment for the same condition, or following a preventable, adverse event.
- j. Prohibiting DHS from including in its contracts with managed care organizations for the provision of services to MA recipients, a provision that permits any managed care organization to withhold, as confidential, proprietary, or a trade secret, information on provider payment rates, applying the same prohibition to contracts between any managed care organization and any agency with which the managed care organization contracts to provide services to MA recipients, and modifying s. 19.35(5) in the open records law to specify that in that subsection, information on provider payment rates is not a "trade secrets."

Senate/Legislature: Require all managed care organizations that serve MA recipients to do all of the following, beginning January 1, 2010: (a) provide or contract with a prenatal care coordination program, and require all pregnant MA recipients to be enrolled in such a program; (2) assign a primary care provider for each MA enrollee, and provide that primary care provider a monthly per patient payment for care coordination services; and (3) have a chronic disease management and case coordination program in place for every patient diagnosed with diabetes, asthma, congestive heart failure, coronary artery disease, and a primary or secondary behavioral health diagnosis, including substance abuse and depression. In addition, require DHS to expand the use of special needs programs to provide case management services for children with medically complex conditions. Delete provisions in the Joint Finance substitute amendment that would require DHS to submit a study of these proposals. Other study requirements in the substitute amendment added by the Joint Committee on Finance would be retained.

Veto by Governor [D-9]: Delete provision.

[Act 28 Vetoed Sections: 1301c, 1313h, 1313p, 1315n, 9122(10q), 9322(3f), and 9422(14g)]

18. REQUIRE DHS TO SUBMIT PLAN TO IMPLEMENT UNSPECIFIED MA EFFICIENCIES AND REDUCTIONS

Assembly/Legislature: Require DHS to submit to the Joint Committee on Finance, by August 1, 2009, its plan to administer the MA and SeniorCare programs within the funding appropriated for those programs during the 2009-11 biennium. Further, require DHS to include in its plan a description of the manner in which efficiencies and reductions shall be realized, including an estimate of the state and federal cost savings, by state fiscal year, which would result from each component of the plan and from the plan as a whole. Provide that if the Committee does not schedule a meeting and approve an alternative plan by September 1, 2009, the original plan submitted by DHS shall be deemed approved.

Veto by Governor [D-6]: Delete provision.

[Act 28 Vetoed Section: 9122(11q)]

19. DELIVERY OF MA DENTAL SERVICES IN SOUTHEAST WISCONSIN

Assembly/Legislature: Require DHS to use a fee-for-service model for the delivery of MA dental services in Kenosha, Milwaukee, Racine, and Waukesha Counties, beginning January 1, 2010.

The state's MA program covers a range of dental services, subject to the limitations established in administrative rule and DHS policy. MA dental services are generally provided on a fee-for-service basis, except in Kenosha, Milwaukee, Racine, and Waukesha Counties, where they are delivered primarily by health maintenance organizations (HMOs) pursuant to contracts with DHS.

In a Letter Report dated April 2008, the Legislative Audit Bureau recommended that DHS develop alternatives to the HMO delivery model in order to improve access to care and utilization of dental services by MA recipients in those four counties when the current HMO contracts expire at the end of calendar year 2009. That recommendation was based in part on the Audit Bureau's finding that the managed care system had neither documented that it was providing services more cost-effectively than the fee-for-service system, nor that it was improving its rate of service delivery to MA recipients. The Assembly would require DHS to use a fee-for-service delivery system for MA dental services in those four counties beginning January 1, 2010.

Veto by Governor [D-8]: Delete provision.

[Act 28 Vetoed Section: 1317n]

20. COVERAGE OF PODIATRY SERVICES FOR CHILDLESS ADULTS ENROLLED IN BADGERCARE PLUS

Assembly: Require DHS to prepare a report and submit it to the Joint Committee on Finance by August 15, 2009, that details the fiscal impact of covering podiatric medicine and surgery services of podiatrists under BadgerCare Plus for individuals enrolled in the medical assistance (MA) childless adults demonstration project.

Currently, individuals who participate in the childless adults project are covered under the BadgerCare Plus Core plan, which provides coverage for a more limited set of services than are provided to most BadgerCare Plus enrollees under the standard plan and benchmark plan. Podiatry services are currently covered under the standard plan and the benchmark plan, but not under the BadgerCare Plus Core plan.

Senate: Require DHS to provide coverage of podiatry services for individuals enrolled in the childless adults demonstration project.

Conference Committee/Legislature: Require DHS to cover services provided by podiatrists, within the scope of a podiatrist's professional license, to individuals who are eligible for the childless adults demonstration project if the services are covered when provided by a physician to these individuals.

Veto by Governor [D-15]: Delete provision.

[Act 28 Vetoed Section: 1353n]

21. CREATE NEW ELIGIBILITY CATEGORY FOR COVERAGE UNDER THE BADGERCARE PLUS BENCHMARK PLAN

Senate/Legislature: Provide that an individual is eligible to purchase coverage under the BadgerCare Plus benchmark plan for himself or herself and for his or her spouse and dependent children, at the full per member per month cost of coverage, if all of the following apply: (a) the individual lost his or her employer-sponsored health care coverage as a result of his or her employer's or former employer's bankruptcy; (b) after losing his or her employer-sponsored health care coverage, the individual received health care coverage through a voluntary employment benefit association that was established before August 2006; (c) the individual is not otherwise eligible for coverage under BadgerCare Plus; and (d) the individual is under 65 years of age.

BadgerCare Plus provides health care coverage to its members under two different plans: (a) the standard plan, which provides essentially the same level of coverage as the state's previous medical assistance program; and (b) the benchmark plan, which provides more limited benefits and includes higher cost-sharing features.

Under current law, children under age 19, parents and caretaker relatives of children, and

pregnant women, among others, are eligible for health care coverage under BadgerCare Plus if they satisfy non-financial and financial eligibility factors. This provision would establish a new eligibility category for coverage under BadgerCare Plus, as set forth above. Individuals who satisfy the new eligibility criteria would not be subject to the program's other eligibility criteria, but would be required to pay their full per member per month cost for coverage under the benchmark plan.

[Act 28 Section: 1337n]

Medical Assistance -- Long-Term Care

1. NURSING HOME RATES AND BED ASSESSMENT INCREASE [LFB Paper 430]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
SEG-REV	\$74,727,700	-\$3,386,300	\$71,341,400
GPR	-\$26,382,500	\$3,328,700	-\$23,053,800
FED	71,293,000	- 850,100	70,442,900
SEG	<u>74,727,700</u>	<u>- 3,386,300</u>	<u>71,341,400</u>
Total	\$119,638,200	-\$907,700	\$118,730,500

Governor: Provide \$49,237,500 (-\$13,630,200 GPR, \$29,542,500 FED and \$33,325,200 SEG) in 2009-10 and \$70,400,700 (-\$12,752,300 GPR, \$41,750,500 FED and \$41,402,500 SEG) in 2010-11 to reflect the net effect of increasing the monthly nursing home bed assessment by \$75, from \$75 to \$150 per licensed bed in 2009-10 and by an additional \$20 to \$170 per licensed bed in 2010-11, and budgeting these additional revenues, together with federal MA matching funds, to: (a) increase MA rates paid to nursing homes; (b) reimburse facilities, through higher MA payments, for their costs in paying the increased assessments; and (c) replacing base GPR funding for MA benefits with SEG funds from the MA trust fund.

Revenue Effect. Increase estimates of revenue that would be deposited to the MA trust fund by \$33,325,200 in 2009-10 and \$41,402,500 in 2010-11.

Nursing Home Rate Increase. Provide \$15,912,400 (\$505,000 GPR, \$9,547,400 FED, and \$5,860,000 SEG) in 2009-10 and \$30,153,700 (\$1,411,500 GPR, \$17,882,400 FED, and \$10,859,800 SEG) in 2010-11 to increase nursing home rates by approximately 2% in 2009-10 and by an additional 2% in 2010-11.

Pay Back Facilities for Assessment Increase. Provide \$33,325,100 (\$1,057,400 GPR, \$19,995,100 FED, and \$12,272,600 SEG) in 2009-10 and \$40,247,000 (\$1,884,000 GPR, \$23,868,100 FED, and \$14,494,900 SEG) in 2010-11 to increase reimbursement to facilities to offset the additional costs they would incur to pay the assessment.

Replace GPR Base Funding for MA Benefits. Provide \$15,192,600 SEG in 2009-10 and \$16,047,800 SEG in 2010-11 from the MA trust fund and reduce GPR base funding for MA benefits by corresponding amounts to reflect the availability of additional revenue in the MA trust fund under this item.

Joint Finance/Legislature: Increase funding by \$68,700 (\$46,800 GPR, \$48,400 FED, and -\$26,500 SEG) in 2009-10 and reduce funding by \$976,400 (\$52,300 GPR, -\$898,500 FED, and -\$130,200 SEG) in 2010-11 to reflect reestimates of the fiscal effect of the Governor's proposal. Reduce estimates of revenue that would be collected under the assessment by \$26,500 in 2009-10 and by \$130,200 in 2010-11.

In addition, exempt all nursing home beds at the Veterans Home at King and the Veterans Home at Union Grove from the nursing home bed assessment in the 2009-11 biennium. Reduce estimated revenue to the MA trust fund by \$1,513,900 in 2009-10 and by \$1,715,700 in 2010-11, and adjust funding allocated to DHS by \$0 (\$1,513,900 GPR and -\$1,513,900 SEG) in 2009-10 and by \$0 (\$1,715,700 GPR and -\$1,715,700 SEG) in 2010-11 to reflect this change.

The following table summarizes the estimated revenues and payments that would result from the increased nursing home bed assessment, under Act 28. These estimates reflect the temporarily increased FMAPs under ARRA.

	<u>2009-10</u>	<u>2010-11</u>	<u>Totals</u>
Nursing Home Assessment Revenue	\$32,541,800	\$40,313,500	\$72,855,300
Use of Assessment Revenue			
MA Reimbursement Increase	\$4,730,200	\$10,653,200	\$15,383,400
Payback of Assessment	9,616,100	13,888,000	23,504,100
Net GPR Replacement	<u>18,195,400</u>	<u>15,772,300</u>	<u>33,967,700</u>
Total	\$32,541,700	\$40,313,500	\$72,855,200
Federal Matching Revenue			
MA Reimbursement Rate Increase	\$11,277,400	\$20,270,600	\$31,548,000
Payback of Assessment	<u>22,925,700</u>	<u>26,425,500</u>	<u>49,351,200</u>
Total	\$34,203,100	\$46,696,100	\$80,899,200
Total Increase Payments to Nursing Homes	\$48,549,400	\$71,237,300	\$119,786,700

[Act 28 Sections: 1417 and 9122(5d)]

2. NURSING HOME APPEALS BOARD

Governor/Legislature: Repeal provisions relating to the Nursing Home Appeals Board in DHS and the GPR appropriation the Board uses,

GPR	- \$1,093,600
FED	- 1,627,400
Total	- \$2,721,000

under specified circumstances, to fund the state's share of payment modifications authorized by the Board (-\$546,800 GPR annually). Reduce estimated federal MA matching funds relating to these payment modifications by \$813,700 annually.

Under current law, DHS is required to establish an appeals mechanism within DHS to review petitions from facilities that provide skilled, intermediate, limited, personal, or residential care and facilities that provide care for individuals with mental retardation for MA payment modifications. DHS may, upon the presentation of facts, modify a payment if demonstrated substantial inequities exist for the period appealed. DHS is required to develop specific criteria and standards for granting payment modifications, and must take into consideration several statutorily specified circumstances, such as the efficiency and effectiveness of the facility compared with facilities providing similar services, the need to correct licensure and certification deficiencies, and exceptional patient needs, among others. The bill would repeal these statutory provisions.

Federal law requires state MA agencies to provide a mechanism for nursing home providers to appeal MA payments and receive administrative review. However, states are not required to maintain an Appeals Board.

[Act 28 Sections: 350 and 1292]

3. FAMILY CARE -- COSTS OTHER THAN CAPITATION PAYMENTS IN CURRENT COUNTIES

GPR	\$2,369,500
FED	<u>160,400</u>
Total	\$2,529,900

Governor/Legislature: Provide \$1,190,400 (\$1,147,500 GPR and \$42,900 FED) in 2009-10 and \$1,339,500 (\$1,222,000 GPR and \$117,500 FED) in 2010-11 to fund projected increases in Family Care costs, other than capitation payments, for current Family Care counties.

Aging and Disability Resource Centers (ADRCs). Reduce funding by \$967,200 (-\$696,800 GPR and -\$270,400 FED) in 2009-10 and by \$967,200 (-\$696,800 GPR and -\$270,400 FED) in 2010-11 to support the 54 ADRCs that will have begun operation by the end of 2008-09.

Family Care Adult Protective Services (APS). Provide \$1,530,900 GPR annually to fund APS allocations to counties where the Family Care program has been implemented prior to the 2009-11 biennium. DHS has committed to provide an annual APS allocation equal to 2% of the community aids basic county allocation to all Family Care expansion counties to help fund adult protective services. These services include responding to, and reporting alleged abuse, neglect or exploitation, short-term protective interventions, and reviews of court-ordered placements.

Disability Ombudsman. Provide \$626,700 (\$313,400 GPR and \$313,300 FED) in 2009-10 and \$775,800 (\$387,900 GPR and \$387,900 FED) in 2010-11 to fund the costs of funding disability ombudsman services. Under current statute, DHS is required to provide advocacy services on behalf of individuals under the age of 60 who receive benefits through the state's Family Care

program. DHS currently contracts with Disability Rights Wisconsin for the statewide provision of these services.

4. FAMILY CARE -- EXPANSION TO ADDITIONAL COUNTIES IN THE 2009-11 BIENNIUM [LFB Paper 431]

	Governor (Chg. to Base)	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR	- \$6,918,700	\$1,329,200	- \$96,800	- \$5,686,300
FED	- 17,678,800	5,896,000	319,600	- 11,463,200
PR	41,485,700	0	323,000	41,808,700
SEG	<u>5,126,000</u>	<u>1,670,800</u>	<u>0</u>	<u>6,796,800</u>
Total	\$22,014,200	\$8,896,000	\$545,800	\$31,456,000

Governor: Reduce funding by \$3,466,900 (-\$6,197,700 GPR, -\$8,977,100 FED, \$9,111,700 PR and \$2,596,200 SEG) in 2009-10 and provide \$25,481,100 (-\$721,000 GPR, -\$8,701,700 FED, \$32,374,000 PR and \$2,529,800 SEG) in 2010-11 to reflect the net cost of expanding the Family Care program to additional counties in the 2009-11 biennium.

Family Care Capitation Payments. Reduce funding by \$13,004,600 (-\$11,428,800 GPR, -\$13,233,700 FED, \$9,061,700 PR and \$2,596,200 SEG) in 2009-10 and provide \$9,761,300 (-\$11,698,000 GPR, -\$13,394,500 FED, \$32,324,000 PR and \$2,529,800 SEG) in 2010-11 to reflect the net cost of funding capitation payments to managed care organizations (MCOs) in counties that will begin offering Family Care benefits in the 2009-11 biennium. The administration plans to begin offering Family Care benefits in 22 additional counties by June 30, 2011. Funding for the expansion of the Family Care program is supported with: (a) additional state and federal MA funding; (b) reallocations of base funds that support MA fee-for-service payments and MA waiver services; and (c) county funds, including community aids and revenue from the county tax levy. The net decrease in funding included in this item reflects a gradual phase-in of the program and the conversion of individuals from one of the state's long-term care MA waiver program into the Family Care program.

The SEG portion of the funding for this item would be supported with additional federal MA funds the state would receive under the certified public expenditure (CPE) program for services provided to managed care recipients. Currently, DHS claims federal MA funds based on losses incurred by county nursing homes for serving fee-for-service MA recipients. The administration estimates that an additional \$2,601,700 annually would be deposited to the MA trust fund to be used to fund capitation payments to MCOs.

Aging and Disability Resource Centers (ADRCs). Provide \$4,404,000 (\$3,170,800 GPR and \$1,233,200 FED) in 2009-10 and \$9,378,000 (\$6,752,100 GPR and \$2,625,900 FED) in 2010-11 to fund the costs of operating ADRCs in seven counties, including Dane, Langlade, Lincoln, Rock, Walworth, Winnebago, and Milwaukee Counties, that DHS expects to begin implementing the Family Care program during the 2009-11 biennium. Services provided by ADRCs include: (a) providing information and assistance to individuals in need of long-term care services; (b) benefits counseling; (c) short-term service coordination; (d) functional screens; and (e)

enrollment counseling and processing. The administration estimates the cost of operating an ADRC at approximately \$487,300 per 1% of the state's adult population residing in the county where an ADRC is located.

Family Care Adult Protective Services (APS). Provide \$935,900 GPR in 2009-10 and \$1,853,900 GPR in 2010-11 to fund APS allocations to counties where the Family Care program is implemented in the 2009-11 biennium. Counties would be eligible for an APS allocation starting three months after implementation of the Family Care program.

Quality Assurance. Provide \$4,197,800 (\$1,124,400 GPR, \$3,023,400 FED and \$50,000 PR) in 2009-10 and \$4,487,900 (\$2,371,000 GPR, \$2,066,900 FED and \$50,000 PR) in 2010-11 to fund program infrastructure and administrative costs associated with expansion of the Family Care program statewide. Infrastructure and administrative costs include external quality review, quality management, actuarial services, disability ombudsmen advocacy services, and information technology.

Joint Finance: Modify the bill to reflect reestimates of funding needed to support capitation payments by: (a) reducing funding by \$2,158,500 GPR in 2009-10 and increasing funding by \$487,700 GPR in 2010-11; and (b) increasing estimates of SEG revenue to the MA trust fund by \$2,158,500 in 2010-11 and reducing estimates by \$487,700 in 2010-11 and making corresponding funding changes from the MA trust fund for MA benefits costs (\$2,158,500 SEG in 2009-10 and -\$487,700 SEG in 2010-11).

Provide \$1,319,800 (\$390,000 GPR and \$929,800 FED) in 2009-10 and \$7,576,200 (\$2,610,000 GPR and \$4,966,200 FED) in 2010-11 to support the cost of capitation payments for Family Care benefits provided to individuals currently on the waiting list for long-term care services in Milwaukee County.

Assembly/Legislature: Provide \$37,900 (\$27,300 GPR and \$10,600 FED) in 2009-10 and \$507,900 (-\$124,100 GPR, \$309,000 FED and \$323,000 PR) in 2010-11 to reflect the net cost of expanding the Family Care program to Langlade County six months earlier than the proposed implementation date assumed by the Governor. Require DHS to begin offering services provided by an ADRC in May, 2010, and Family Care benefits provided by a MCO starting in July, 2010.

Veto by Governor [D-3]: Delete the provision that would have required DHS to begin offering Family Care services in Langlade County, beginning in May, 2010, for ADRC services and July, 2010, for Family Care benefit services. However, in his veto message, the Governor indicates that he intends for DHS to begin offering these services in Langlade County on these designated dates, provided that all certification standards are adequately met.

[Act 28 Vetoed Section: 9122(4q)]

5. FAMILY CARE -- ADVOCACY SERVICES, ELIGIBILITY, ENTITLEMENT, AND PAYMENTS TO DD CENTERS [LFB Paper 431]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	-\$139,300	\$139,300	\$0
FED	<u>- 139,200</u>	<u>139,200</u>	<u>0</u>
Total	-\$278,500	\$278,500	\$0

Governor: Modify funding and statutory provisions relating to Family Care as follows.

Advocacy Services. Reduce funding by \$175,300 (-\$87,700 GPR and -\$87,600 FED) in 2009-10 and by \$103,200 (-\$51,600 GPR and -\$51,600 FED) in 2010-11 to support the costs of a contract DHS has with Disability Rights Wisconsin to provide advocacy services for individuals under the age of 60 who receive the Family Care benefit. Modify statutory provisions relating to advocacy services by: (a) repealing a requirement that DHS allot \$525,000 annually to support a contract with a provider of advocacy services; and (b) specifying that the provider of advocacy services under the contract have a goal to provide one advocate for every 3,500 individuals under age 60 who receive the Family Care benefit, rather than one advocate for every 2,500 individuals under age 60 who receive the Family Care benefit, as provided under current law.

Eligibility and Entitlement. Repeal provisions that provide an exception for individuals that do not meet functional eligibility criteria to qualify for benefits provided under the Family Care program. Currently, a person can receive Family Care benefits even if he or she does not meet functional eligibility for the program if: the individual: (a) has a condition that is expected to last at least 90 days or result in death within 12 months; (b) applies within 36 months after the date on which the Family Care benefit is available in the individual's county of residence; and (c) on the date the Family Care benefit became available in the individual's county of residence, the individual was a resident of a nursing home or had been receiving long-term care services under specified programs for at least 60 days.

By eliminating this provision, all individuals would be required to meet the current functional eligibility requirements for Family Care. A person meets functional eligibility criteria if one of the following applies: (a) the person's functional capacity is at the nursing home level, which is defined as a long-term or irreversible condition, expected to last at least 90 days or result in death within one year of the date of application, and requires ongoing care, assistance or supervision; or (b) the person's functional capacity is at the non-nursing home level, which is defined as having a condition that is expected to last at least 90 days or result in death within one year of the date of application, and is at risk of losing his or her independence or functional capacity unless he or she receives assistance from others. The administration indicates that there are no current enrollees that would be affected by this change.

MCOs' Responsibility to Make Benefits Available. Currently, DHS must ensure that a managed care organization (MCO) makes Family Care benefits available to all eligible individuals residing in a county for which Family Care benefits are offered within 24 months after the effective date for which these benefits first become available. The bill would lengthen

this transition period to 36 months for all managed care organizations that implement the Family Care benefit on or after January 1, 2008.

Definition of Terms by Rule. Repeal a requirement that DHS define the following terms as part of the rule-making process: (a) primary disabling condition; (b) mental illness; and (c) substance abuse.

Payments to the State Centers for People with Developmental Disabilities. Clarify payment responsibility for individuals enrolled in the Family Care program that receive services from one of the state Centers for People with Developmental Disabilities by requiring MCOs to pay the portion of the payment that is for services covered under the Family Care benefit and DHS to pay the remainder of the payment not covered by the federal government.

Joint Finance/Legislature: Delete the provision that would require DHS to ensure that there is at least one advocate for every 3,500 individuals under age 60 who receive the Family Care benefit. Restore funding that would be deleted to reflect this change (\$87,700 GPR and \$87,600 FED in 2009-10 and \$51,600 GPR and \$51,600 FED in 2010-11).

[Act 28 Sections: 858, 864 thru 872, 878 thru 883, 1307, 1308, 1441, and 9322(1)]

6. CHILDREN'S LONG-TERM SUPPORT SERVICE FUNDING [LFB Paper 432]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
PR-REV	\$0	\$355,700	\$355,700
GPR	\$100,000	\$450,000	\$550,000
FED	2,273,900	5,699,300	7,973,200
PR	800,000	355,700	1,155,700
Total	\$3,173,900	\$6,505,000	\$9,678,900

Governor: Provide \$1,633,300 (\$50,000 GPR, \$783,300 FED and \$800,000 PR) in 2009-11 and \$1,540,600 (\$50,000 GPR and \$1,490,600 FED) in 2010-11 to reflect: (a) the phase-in of additional waiver slots under the children's long-term Support (CLTS) MA waiver program; (b) one-time costs to develop waiver oversight procedures and actuarial reimbursement rates; and (c) savings resulting from the repeal of the respite care grant program.

Additional Waiver Slots. Provide \$1,758,300 (\$225,000 GPR, \$733,300 FED, and \$800,000 PR) in 2009-10 and \$1,665,600 (\$225,000 GPR and \$1,440,600 FED) in 2010-11 to fund additional slots under the state's CLTS MA waiver program. The CLTS program seeks to improve access to services, choice, coordination of care, quality, and financing of long-term care services for children with physical, sensory, and developmental disabilities, and severe emotional disturbance. Funding for the CLTS waiver program is based on the allocation of a certain number of waiver slots, which are allocated to counties throughout the state. Similar to other home and community-based waiver programs, the funding available to counties to support CLTS waiver services is limited to the amount budgeted for the program. The funding

provided in this item, would be used to fund the creation of additional slots to serve non-autistic children currently on a waiting list for services offered under the CLTS program. Base funding for the program [approximately \$7.6 million (all funds)] supports approximately 429 slots annually, at an average cost of \$48.42 per day.

The program revenue funding included as part of this item would come from the one-time use of parental fee income collected from the parents of a child receiving services under the CLTS waiver program. While the income of parents is not considered when determining eligibility for MA, families may be required to contribute to the cost of services based on annual income and family size. Fees are assessed for families with income equal or greater than 330% of the federal poverty level (\$5,035 per month for a family of three in 2009), beginning at one percent of the service plan costs and increasing up to a maximum of 41% of service costs for families with incomes over 1580% of the federal poverty limit.

Support Services. Provide \$100,000 (\$50,000 GPR and \$50,000 FED) annually to support one-time costs to create waiver oversight procedures and develop actuarial reimbursement rates for county contracts. Currently, DHS contracts with counties for administration of the services provided under the CLTS waiver program.

Respite Care Program. Repeal the respite care program, including base funding for the program (-\$225,000 GPR annually) and all statutory provisions relating to the program. Currently, DHS is required to fund grants that support the administration of life-span respite care projects.

Joint Finance/Legislature: Increase funding by \$1,546,600 (\$1,454,100 FED and \$92,500 PR) in 2009-10 and by \$4,508,400 (\$4,245,200 FED and \$263,200 PR) in 2010-11 to reflect reestimates of federal MA matching funds and parental fee revenue that would be available to support the program.

Provide \$225,000 GPR annually to restore base funding for the respite care grant program. Delete the provision that would repeal the program.

7. ICF-MR BED ASSESSMENT [LFB Paper 433]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
SEG-REV	\$1,124,400	\$0	\$1,124,400
FED	\$1,703,700	\$0	\$1,703,700
PR	0	639,900	639,900
SEG	<u>1,124,400</u>	<u>0</u>	<u>1,124,400</u>
Total	\$3,173,900	\$639,900	\$9,228,900

Governor: Provide \$1,260,900 (\$504,300 SEG and \$756,600 FED) in 2009-10 and \$1,567,200 (\$620,100 SEG and \$947,100 FED) in 2010-11 to reflect a reestimate of the revenues collected from the bed assessment on licensed beds of intermediate care facilities for the mentally

retarded (ICFs-MR), and budgeting these additional revenues, together with federal MA matching funds, to: (a) increase MA rates paid to ICFs-MR; (b) increase MA rates paid under the ICF-MR restructuring initiative waiver program; and (c) reimburse facilities, through higher MA payments, for their costs in paying the increased assessment.

Under current law, DHS establishes a monthly assessment rate each year based on the projected annual gross revenue of all ICFs-MR in the state in accordance with a formula specified in statute. The aggregate amount collected from the monthly assessment may not exceed 5.5% of the aggregate gross revenues of these facilities for the fiscal year. The administration estimates that, under the current formula, the monthly assessment rate would increase by \$40 from \$638 to \$678 in 2009-10 and by an additional \$13, from \$678 to \$691, in 2010-11.

Revenue Effect. Reestimate revenue that will be deposited to the MA trust fund by \$504,300 in 2009-10 and \$620,100 in 2010-11.

ICF-MR Rate Increase. Provide \$472,500 (\$189,000 SEG and \$283,500 FED) in 2009-10 and \$666,000 (\$263,500 SEG and \$402,500 FED) in 2010-11 to increase ICF-MR MA reimbursement rates by approximately 2% in 2009-10 and an additional 2% in 2010-11.

ICF-MR Restructuring Initiative Rate Increase. Provide \$267,600 (\$107,000 SEG and \$160,600 FED) in 2009-10 and \$296,800 (\$117,400 SEG and \$179,400 FED) in 2010-11 to increase MA reimbursement rates under the ICF-MR restructuring initiative waiver program by approximately 0.93% in 2009-10 and an additional 0.93% in 2010-11.

Pay Back Facilities for Assessment Increase. Provide \$504,300 (\$201,700 and \$302,600 FED) in 2009-10 and \$620,100 (\$245,300 SEG and \$374,800 FED) in 2010-11 to increase reimbursement to facilities to offset the additional costs they would incur to pay the increase in assessments.

Joint Finance/Legislature: Increase funding for the State Centers by \$281,800 PR in 2009-10 and by \$358,100 PR in 2010-11 to fund additional costs the Centers will incur to pay the higher monthly bed assessment in the 2009-11 biennium.

Require DHS to implement a taskforce to study and report on the need for, and the preservation of, the remaining intermediate care facilities for the mentally retarded (ICFs-MR) to maintain an effective and planned quality developmental disability service system. Require that the taskforce include at least one member of the Wisconsin Senate, one member of the Wisconsin Assembly, representatives of the ICF-MR operators and administrators, and representatives of consumer advocates. Require DHS to submit the taskforce report and recommendations to the Joint Committee on Finance by December 1, 2009.

Veto by Governor [D-4]: Modify the provision that would require DHS to implement a taskforce to study and report on the need for, and the preservation of, intermediate care facilities for the mentally retarded by expanding the scope of the study, eliminating the taskforce committee, and deleting the December 1, 2009, reporting date. However, this veto violates Article V, Section 10 of the State's Constitution since the veto was accomplished by

creating a new sentence by combining parts of two or more sentences of an enrolled bill. The Governor subsequently indicated that DHS will implement the provisions that were included in the enrolled bill. In addition, following the partial veto, the Joint Committee on Legislative Organization directed the Legislative Reference Bureau to publish a supplement to Act 28 which displays the provision as shown in the enrolled bill, rather than as vetoed.

[Act 28 Section: 9122(7i)]

[Act 28 Vetoed Section: 9122(7i)]

8. COUNTY NURSING HOMES -- SUPPLEMENTAL PAYMENTS FROM THE CERTIFIED PUBLIC EXPENDITURE PROGRAM [LFB Paper 434]

Governor: Modify provisions relating to supplemental funding DHS provides to municipally-owned nursing homes.

Currently, DHS is required to disburse any federal MA funds the state receives for operating deficits incurred by municipally-owned nursing homes that exceed the amounts anticipated as revenue in the biennial budget act for the fiscal year in which the funds are received. The bill would modify this provision to include, in addition to the biennial budget act, any act that increases or decreases the amount appropriated for such operating deficits and that is effective after the biennial budget. This change would take effect on the day after the bill's publication.

The intent of the Governor's recommended statutory change is to allow DHS to revise the 2007 Wisconsin Act 20 CPE revenue projections for fiscal year 2008-09, which would enable the state to retain additional federal matching funds DHS expects to receive for operating deficits incurred by municipally-owned nursing homes, rather than distributing these unanticipated CPE revenues to municipally-owned nursing homes as additional supplemental payments. Under Act 20, the estimate of CPE revenues the state would collect in 2008-09 was \$37,000,000. It is currently estimated that DHS will collect \$47,193,500 in CPE revenues in 2008-09, an increase of \$10,193,500 from the Act 20 estimate.

Joint Finance/Legislature: Delete provision, except maintain the Governor's provision to replace current references to "matching funds" to "federal financial participation." In addition, provide \$10,193,500 in 2008-09 to reflect that DHS would increase supplemental payments to counties by \$10,193,500 in 2008-09, rather than use these revenues to support MA benefits costs in that year. This funding increase is summarized under "Provisions of Act 28 Affecting 2008-09."

[Act 28 Section: 1293]

9. COUNTY NURSING HOMES -- SUPPLEMENTAL PAYMENTS

	Legislature (Chg. to Base)	Veto (Chg. to Leg)	Net Change
SEG-REV	-\$2,720,000	\$1,360,000	-\$1,360,000
GPR	\$4,000,000	-\$2,000,000	\$2,000,000
FED	2,720,000	- 1,360,000	1,360,000
SEG	<u>-2,720,000</u>	<u>0</u>	<u>-2,720,000</u>
Total	\$4,000,000	-\$3,360,000	\$640,000

Senate: Increase, from \$37,100,000 to \$40,100,000, the annual amount of funding budgeted for DHS to provide as supplemental MA payments to municipally-owned nursing homes. Provide \$3,000,000 (\$3,000,000 GPR, \$2,113,500 FED and -\$2,113,500 SEG) in 2009-10 and \$3,000,000 (\$3,000,000 GPR, \$1,966,500 FED and -\$1,966,500 SEG) in 2010-11 to reflect the net cost of this item. Reduce estimates of SEG revenue to the MA trust fund by \$2,113,500 in 2009-10 and by \$1,966,500 in 2010-11 to reflect estimated reductions in revenue that would be generated from the certified public expenditure (CPE) program. These revised estimates are based on lower anticipated operating deficits at municipally-owned nursing homes associated with the higher supplemental payments.

Under current law, DHS may distribute up to \$37,100,000 (all funds) annually to municipally-owned nursing homes (primarily county-owned nursing homes) and managed care organizations that serve MA-funded nursing home recipients to reduce these facilities' operating deficits. DHS makes these payments with a combination of GPR and FED matching funds budgeted for MA benefits.

Conference Committee/Legislature: Modify the Senate provision by reducing, from \$40,100,000 to \$39,100,000, the annual amount of funding budgeted for DHS to provide as supplemental MA payments to municipally-owned nursing homes. Reduce funding by \$1,000,000 (\$1,000,000 GPR, -\$704,500 FED and \$704,500 SEG) in 2009-10 and \$1,000,000 (\$1,000,000 GPR, -\$655,500 FED and \$655,500 SEG) in 2010-11 to reflect the net cost of this item. Increase estimates of SEG revenue to the MA trust fund by \$704,500 in 2009-10 and by \$655,500 in 2010-11 to reflect the estimated change in revenue that would be generated from the CPE program.

Veto by Governor [D-10]: Delete the provision that would have required DHS to provide \$39,100,000 annually and instead restore DHS' discretion to provide "no more than" the amount budgeted (\$39,100,000 annually) in supplemental payments to municipally-owned nursing homes. The Governor's veto also reduces MA benefits funding by \$1,704,500 (-\$1,000,000 GPR and -\$704,500 FED) in 2009-10 and by \$1,655,500 (-\$1,000,000 GPR and -\$655,500 FED) in 2010-11 to reflect the Governor's intent to provide municipally-owned nursing homes supplemental payments of \$38,100,000 annually in the 2009-11 biennium. By reducing the increase in supplemental payments, revenue to the MA trust fund is anticipated to increase by approximately \$704,500 in 2009-10 and by \$655,500 in 2010-11 to reflect the estimated increase in

revenue that would be generated from the CPE program.

[Act 28 Section: 1292n]

[Act 28 Vetoed Section: 1292n]

10. NURSING HOME SUPPLEMENTAL PAYMENT --

GPR	\$300,000
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TREMPEALEAU COUNTY IMD

Senate: Provide \$138,600 in 2009-10 and \$157,000 in 2010-11 in one-time funding for DHS to reimburse the Trempealeau County Health Care Center facility for the cost that facility incurs for paying the nursing home bed assessment. Create an appropriation for the purpose of making supplemental payments to this facility, and repeal the appropriation effective July 1, 2011. Under the nursing home bed assessment, as modified by this bill, all 77 licensed nursing home beds would be subject to a monthly assessment of \$150 per bed per month in 2009-10 and \$170 per bed per month in 2010-11.

Trempealeau County Health Care Center is a licensed institute of mental disease (IMD) and provides diagnosis, treatment or care for individual with mental diseases, including medical care, nursing care and related services. Federal law prohibits states from covering IMD services under their MA programs for individuals between the ages of 22 and 65, but Wisconsin provides state funding (GPR funds) for counties to support a portion of the costs of the care for this population through the nursing home reimbursement formula.

Conference Committee/Legislature: Delete provision. Instead, provide \$150,000 annually, from a current appropriation, to increase state support for services provided by the Trempealeau County Health Care Center.

11. MA ELIGIBILITY -- INDEPENDENCE ACCOUNTS OF FORMER MAPP PARTICIPANTS

Governor: Exclude from total assets any amount held in an individual's independence account for purposes of determining eligibility to receive benefits under the state's medical assistance (MA) program.

Under current law, the Medicaid Purchase Plan (MAPP) permits individuals with a disability who are working or want to work to become eligible for MA, since the program has higher income limits than the income limits that would otherwise apply to disabled individuals. An individual is eligible to participate in the MAPP program if: (a) the individual's family income, excluding income that is excluded under federal SSI rules, is less than 250% of the federal poverty level (FPL); (b) the individual's countable assets under MA financial eligibility rules do not exceed \$15,000; (c) the individual has a disability, as determined by the Disability Determination Bureau; (d) the individual is engaged in gainful employment or is participating in a training program that is certified by DHS; and (e) the individual is at least 18 years old.

While enrolled in the MAPP program, savings generated from an individual's earnings plus any interest or dividends generated from those savings may accumulate in a special savings account, approved by DHS, called an "independence account". Under current law, any amount held in this account is not counted when determining continued eligibility for the MAPP program. However, if an individual ceases employment, he or she would no longer be eligible for MAPP and would not qualify for MA benefits unless his or her income and assets meet the income and asset eligibility requirements for MA. A disabled individual is eligible for MA if the individual: (a) has countable income equal to or less than \$758 per month, is currently receiving SSI benefits, or spends down his or her income to a level of \$592 per month; and (b) holds assets that do not exceed \$2,000. This bill would exclude any amount held in an independence account from being counted as an asset in determining an individual's eligibility for the state's MA program.

Joint Finance/Legislature: Modify the provision to exclude, in addition to funds held in an independence account, any retirement assets that accrue from employment while eligible for the community options program, or any other Medicaid program, including deferred compensation, savings accumulated in the Wisconsin Retirement System, and Social Security Retirement savings, from total assets for purposes of determining eligibility to receive benefits under the state's MA program.

[Act 28 Section: 1327]

12. CASE MANAGEMENT SERVICES PROVIDED BY INDEPENDENT LIVING CENTERS

Governor/Legislature: Provide that in order to qualify for reimbursement under the MA program for case management services, an independent living center must be an independent living center that is eligible for a grant from DHS to provide nonresidential services to severely disabled individuals. Current law does not explicitly limit MA reimbursement for case management services to independent living centers that are eligible for DHS grants. In addition, the bill would correct cross references to federal laws that define independent living services and individuals with disabilities.

State law defines an independent living center to mean a community-based, nonresidential private nonprofit agency that vests power and authority in individuals with disabilities, that is designed and operated within a local community by individuals with disabilities and that provides an array of independent living services, including independent living core services, on a cross-disability basis.

[Act 28 Sections: 907, 908, and 1305]

13. DISABILITY OMBUDSMAN ADVOCACY SERVICES FOR IRIS PARTICIPANTS

Assembly/Legislature: Require DHS to provide participants in the IRIS program access to advocacy services provided through the disability ombudsman program.

Currently, DHS is required to provide advocacy services for individuals under the age of 60 who receive the Family Care benefit. This provision extends these same services to participants of the IRIS program. The IRIS program (Include, Respect, I Self-Direct), is the self-directed support MA waiver program where individuals may self direct their own long-term care services and manage an individual designated budget amount. It is the fee-for-service alternative to managed care provided through the state's Family Care program.

[Act 28 Sections: 858 and 883x]

Medical Assistance and FoodShare -- Administration

1. MILWAUKEE COUNTY INCOME MAINTENANCE [LFB Paper 440]

	Funding	Positions
GPR	\$7,002,800	8.00
FED	<u>7,002,800</u>	<u>8.00</u>
Total	\$14,005,600	16.00

Governor: Provide \$14,005,600 (\$7,002,800 GPR and \$7,002,800 FED) in 2009-10 only, and 16.0 positions (8.0 GPR positions and 8.0 FED positions) beginning in 2009-10, to support costs associated with the state takeover of the Milwaukee County income maintenance (IM) programs. The funding would be used to support the state's takeover of some aspects of the Milwaukee County IM programs (including operation of a new call center) in the second half of calendar year 2009, and the state's assumption of direct control over all administration aspects of the programs by January 1, 2010. Costs associated with the takeover include personnel costs for the state employees who will staff the new Milwaukee County enrollment services unit within DHS, personnel costs for the current Milwaukee County employees who will provide services to that unit, supplies, equipment, and other transition-related costs.

Income maintenance refers to the eligibility and management functions associated with several state and federal programs, including MA, BadgerCare Plus and FoodShare. Under current state law, county human and social service departments are required to enter into annual contracts with DHS to perform eligibility and management functions with respect to these programs. The activities are typically funded through a combination of state, county, and federal moneys.

Joint Finance/Legislature: Include provision. In addition, require DHS to provide to the Joint Committee on Finance copies of all reports documenting its management of the Milwaukee County IM programs, including all monthly Milwaukee County enrollment services

reports, that DHS is required to provide to the plaintiffs in the litigation commenced against DHS officials and others known as West v. Timberlake, under a settlement agreement entered into on April 16, 2009.

Finally, request the Wisconsin Department of Justice to investigate whether county administrative fraud was committed before May 1, 2009, in connection with the administration of any income maintenance program in Milwaukee County.

Veto by Governor [D-12]: Delete the provision that would have requested the Wisconsin Department of Justice to investigate whether county administrative fraud was committed.

[Act 28 Section: 9122(5x)]

[Act 28 Vetoed Section: 9130]

2. MA ADMINISTRATION CONTRACTS AND ENROLLMENT FEES FOR CHILDLESS ADULTS [LFB Paper 441]

PR-REV	\$4,660,900
GPR	- \$61,600
FED	- 21,546,800
PR	<u>5,814,600</u>
Total	- \$15,793,800

Governor: Decrease funding for MA, BadgerCare Plus and FoodShare administration contracts by \$7,034,500 (-\$30,800 GPR, -\$9,761,500 FED and \$2,757,800 PR) in 2009-10 and by \$8,759,300 (-\$30,800 GPR, -\$11,785,300 FED and \$3,056,800 PR) in 2010-11. Base funding for these contracts is \$95,518,200 (all funds).

These funding changes primarily reflect the following: (a) a reduction in base GPR funding currently budgeted in the Division of Health Care Access and Accountability's general program operations budget to support contracts; (b) the elimination of federal funds budgeted in the current biennium to support the design and implementation of a new Medicaid management information system (MMIS), called interChange, which DHS implemented in November, 2008; and (c) the availability of enrollment fee revenue to support administrative costs of the BadgerCare Plus childless adults program.

Authorize DHS to establish an annual enrollment fee of up to \$75 per year for individuals enrolled in the BadgerCare Plus childless adults demonstration project, and specify that all revenue DHS collects from those enrollment fees be credited to a current DHS program revenue appropriation that supports DHS costs of administering the childless adults demonstration project and BadgerCare Plus. Current law authorizes DHS to establish, by rule, cost-sharing requirements for the childless adults demonstration project, but does not specifically authorize DHS to impose an annual enrollment fee. The administration estimates that revenue from the enrollment fees would total \$2,212,900 in 2009-10 and \$2,448,000 in 2010-11.

Modify an existing DHS appropriation that currently receives MA-related cost-sharing payments and penalty assessments, and funds costs associated with the MA program, to require that any amount credited to the appropriation in excess of \$27,785,500 in a fiscal year be

transferred to the BadgerCare Plus administrative cost appropriation to be used for administration of the childless adults demonstration project and BadgerCare Plus.

Joint Finance/Legislature: Correct an error in the Chapter 20 appropriation schedule by deleting an appropriation funded from BadgerCare Plus enrollment fees paid by childless adults enrolled in the program and transferring this funding to a current appropriation that supports BadgerCare Plus administrative costs.

[Act 28 Sections: 356, 358, and 1301]

3. INSURANCE PAYMENT INTERCEPT [LFB Paper 442]

	Governor (Chg. to Base)	Legislature (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 by \$2,164,800 (-\$1,116,600 GPR, -\$1,533,500 FED, and \$485,300 PR) in 2009-10 and by \$4,459,400 (-\$2,266,200 GPR, -\$3,163,800 FED, and \$970,600 PR) in 2010-11 to reflect the administration's estimate of the net fiscal effect of implementing a mandatory insurance payment intercept program.

Require insurers authorized to do business in Wisconsin, before paying an insurance claim of \$500 or more to an individual, to verify with DHS whether the individual has an MA liability and to check the statewide support lien docket to determine whether the individual has a support liability. If the individual has either such liability, require the insurer to distribute the insurance claim as follows: (a) first, if there is a support liability, to the Department of Children and Families to pay the support liability, up to the amount of the support liability or the amount of the claim, whichever is less; (b) next, if there is an MA liability, to DHS to pay the MA liability, up to the amount of the MA liability or the amount of the claim, whichever is less; and (c) last, to the individual, the remainder of the claim proceeds, if any.

For these purposes, define "medical assistance liability" to mean any of the following amounts DHS is currently authorized to recover: (a) payments incorrectly made to, or on behalf of, recipients of the MA, BadgerCare Plus, or certain other public assistance programs; (b) penalties against employers for failing to provide health insurance information relating to their employees as requested by DHS; and (c) third-party liability for medical services provided to MA recipients. Define "support liability" to mean an amount entered in the statewide support lien docket pertaining to unpaid child or family support or maintenance obligations.

Require DHS to promulgate rules for the administration of the insurance payment intercept program, including procedures for insurers to follow and any notice and hearing requirements. Permit DHS to promulgate these rules as emergency rules without a finding of emergency.

Provide that if any insurance policy that is in effect on the effective date of the bill contains a provision that is inconsistent with the statutory changes described above, these changes would first apply to that policy on the date on which it is renewed.

Benefits Savings. Reduce funding for MA benefits by \$2,750,100 (-\$1,166,600 GPR, and -\$1,583,500 FED) in 2009-10 and by \$5,500,000 (-\$2,301,200 GPR and -\$3,198,800 FED) in 2010-11 to reflect the administration's estimates of savings to the MA program resulting from implementing the insurance payments intercept program.

Administrative Costs. Provide \$585,300 (\$50,000 GPR, \$50,000 FED, and \$485,300 PR) in 2009-10 and \$1,040,600 (\$35,000 GPR, \$35,000 FED, and \$970,600 PR) in 2010-11 to fund implementation costs (GPR and FED), and to pay a contracted entity in the form of a percentage of total recoveries (PR).

Joint Finance: Include provision. However, specify that only the following types of insurance payments would be subject to the intercept program: (a) auto insurance payments; (b) casualty insurance payments; (c) liability insurance payments; (d) malpractice insurance payments; and (e) workers compensation payments. Specify further that the following insurance payments would not be subject to the intercept program: (a) life insurance payments; (b) property insurance/homeowners insurance payments; (c) long-term care insurance payments; and (d) health insurance payments. In addition, specify that the insurance payment intercept program would not apply to penalties against employers for failing to provide health insurance information about their employees as requested by DHS.

Assembly/Legislature: Delete provision.

4. INCENTIVE PAYMENTS TO DCF FOR IDENTIFYING OTHER INSURANCE COVERAGE FOR MA CHILDREN [LFB Paper 242]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	- \$910,800	- \$300,000	- \$1,210,800
FED	<u>- 1,549,200</u>	<u>- 300,000</u>	<u>- 1,849,200</u>
Total	- \$2,460,000	- \$600,000	- \$3,060,000

Governor: Provide \$300,000 (\$150,000 GPR and \$150,000 FED) annually to fund incentive payments to the Department of Children and Families (DCF) for identifying children who are receiving MA benefits and who have other health insurance coverage or access to other health insurance coverage. Authorize DCF to disclose to DHS information it possesses or obtains that would assist DHS to identify children with MA coverage who have other health insurance coverage or access to other health insurance coverage. Reduce MA benefits funding by \$3,060,800 (-\$1,210,800 GPR and -\$1,849,200 FED) in 2010-11 to reflect the administration's estimates of savings the MA program would realize, as costs that would otherwise be paid by MA would instead be paid by other insurance sources.

The administration estimates that in both 2009-10 and 2010-11, child support agencies will identify approximately 3,000 children who are receiving MA benefits who also have (or have access to) other health insurance coverage, and that DHS will pay DCF \$100 for each child DCF identifies. The projected savings to the MA program are based on the administration's estimate that the coverage provided under these other insurance policies would allow the MA program to save an average of \$1,020 per child in MA benefit costs per year, beginning in 2010-11.

Joint Finance/Legislature: Delete DHS funding for the incentive payments to DCF, and instead, budget funding for those payments in DCF. Further information about this item is summarized in "Children and Families."

5. FOODSHARE BENEFITS FOR QUALIFIED ALIENS [LFB Paper 443]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	-\$1,000,000	\$1,000,000	\$0

Governor: Repeal the state-option FoodShare program that provides benefits to qualified legal immigrants. Reduce funding by \$500,000 annually to reflect the elimination of this program.

Current law requires DHS to provide state-funded FoodShare benefits, under the state option FoodShare program, to any legal immigrant (referred to in federal legislation as a "qualified alien") who would meet FoodShare eligibility requirements, except that he or she does not qualify for federal FoodShare benefits based on immigration status. These are individuals who would have qualified for federal benefits based on eligibility criteria that applied prior to the enactment of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Many of these individuals do not qualify for federal benefits because they have lived in the United States for less than five years.

Joint Finance/Legislature: Delete provision.

6. TRANSFER BADGER RX GOLD PROGRAM FROM DETF TO DHS

Governor/Legislature: Transfer responsibility for the development and administration of the pharmacy benefits program (referred to as BadgerRx Gold) currently administered by the Department of Employee Trust Funds (DETF) to DHS. Authorize DHS to receive moneys from enrollees in the pharmacy benefits program and to receive rebates from drug manufacturers for prescription drugs purchased under the program, and to transfer from these revenues, in each fiscal year, an amount determined by the DHS Secretary that is sufficient for DHS to administer a contract with an entity to operate the pharmacy benefits program. Limit the amount of the annual transfer to not more than five percent of the total amount paid by persons to purchase prescription drugs as members of the program in the fiscal year. Modify four DHS administrative appropriations to permit DHS to fund costs relating to the program. These

changes would take effect on January 1, 2011.

In addition, require the DETF Secretary to transfer to DHS, before July 1, 2011, any remaining moneys related to the pharmacy benefits program, and to develop a methodology to determine the amount to be transferred.

The BadgerRx Gold program is a prescription drug purchasing pool available to Wisconsin residents that is administered by DETF and is currently operated under contract by Navitus Health Solutions. Enrollment in BadgerRx Gold has recently increased, reflecting the fact that DHS automatically enrolled participants in the BadgerCare Plus childless adults demonstration project into the program.

[Act 28 Sections: 344, 347, 357, 359, 803, 2427, 9215(1), and 9422(3)]

7. FOODSHARE AND ELIGIBILITY FOR LOW-INCOME HEATING ASSISTANCE

Governor/Legislature: Provide eligibility for benefits under the low-income home energy assistance program (LIHEAP) to any household that includes at least one person who is eligible for FoodShare benefits, excluding any household in an institution, as defined by DHS by rule. However, provide that any household that becomes eligible for LIHEAP benefits would be eligible for a heating assistance benefit of no more than \$1. In addition, correct a cross reference to federal law relating to the special nutrition assistance program (SNAP, formerly the food stamp program).

Currently, a household is eligible for LIHEAP benefits if the household is entirely composed of persons who receive benefits under certain programs, including FoodShare. This provision would not affect benefits for these households, but would permit additional households to qualify for LIHEAP benefits (although they would only receive a nominal benefit).

The purpose of this provision is to permit FoodShare recipients who do not currently qualify for LIHEAP benefits to receive greater FoodShare benefits. Under federal law, households receive greater FoodShare benefits if they also receive low-income heating assistance, due to an allowable deduction from their gross income for heating and shelter. This allowance from gross income is provided to households that do either of the following: (a) pay for heating costs separately from rent or mortgage payments: or (b) receive federally funded energy assistance payments from LIHEAP.

[Act 28 Sections: 68 and 69]

8. CONSOLIDATED ENROLLMENT FOR PUBLIC BENEFIT PROGRAMS

Governor: Require the Department of Children and Families, the Department of Health Services, the Department of Workforce Development, and the Department of Administration, in conjunction, to develop a plan, by July 1, 2010, for streamlining enrollment processes,

coordinating computer systems, and developing compatible billing methodologies under the public benefit programs administered by these agencies for the purpose of coordinating the administration of these programs and creating a system in which a single smart card may be used for all of these programs. Require the plan to include a process for implementing the proposed changes. Require the departments to prepare any proposed legislation that is necessary for the implementation of the plan by July 1, 2010, if the departments determine that statutory changes, including for transferring funds between agencies, are necessary for implementing the plan.

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

9. INCOME MAINTENANCE -- FEDERAL FUNDING ADJUSTMENTS [LFB Paper 444]

FED	\$2,878,800
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Joint Finance/Legislature: Increase funding in the bill by \$1,439,400 FED annually to reflect the following modifications: (a) reduce funding by \$873,600 annually to reflect the reduced federal matching funds associated with the bill's reduction in state funding for county fraud and abuse prevention activities (-\$500,000) and the bill's reduction in state supplemental funding for the five original Family Care counties (-\$373,600); and (b) annually, provide \$2,313,000 FED of supplemental funding under the American Recovery and Reinvestment Act of 2009 to DHS for administration of the FoodShare program, with the requirement that DHS allocate \$4,550,000 of those supplemental federal funds during the biennium to tribal governing bodies and counties other than counties having populations of 500,000 or more, and allocate the remainder of those supplemental federal funds to DHS for its administration of the FoodShare program in Milwaukee County.

The Governor's bill would reduce funding for income maintenance and related activities by \$1,566,200 (-\$1,219,900 GPR and -\$346,300 FED) annually to reflect the following: (a) reduction of funding for county fraud and abuse prevention activities (-\$500,000 GPR annually); (b) elimination of supplemental funding that DHS has provided to income maintenance contracts in the five counties where the Family Care benefit was initially offered (-\$346,300 GPR and -\$346,300 FED annually); and (c) a 1% reduction to most non-federal appropriations in the bill (-\$373,600 GPR annually). Though not separately identified in AB 75, the administration also indicates that based on the funding provided under the bill, DHS would no longer provide the supplemental allocations to the basic county income maintenance contracts beginning in calendar year 2010. In 2009, DHS allocated \$4,111,800 (\$2,055,800 GPR and \$2,055,800 FED) for those supplemental allocations.

Veto by Governor [D-14]: Delete the requirement that DHS allocate \$4,550,000 of the additional one-time funds the state expects to receive under ARRA to tribal governing bodies and counties other than counties having populations of 500,000 or more, and delete the requirement that DHS allocate the balance of those additional one-time funds to the Department for its administration of the FoodShare program in Milwaukee County. As a result of the Governor's partial veto, DHS is required to provide these federal funds to tribal

governing bodies and counties for administration of the FoodShare program. The Governor's veto message directs DHS to allocate \$400,000 to Milwaukee County and \$4,226,000 to the remaining counties and tribal governing bodies for these purposes.

[Act 28 Sections: 362p, 362r, 1371p, 1371r, 1371s, and 9422(13x)]

[Act 28 Vetoed Section: 1371r]

10. FOODSHARE EMPLOYMENT AND TRAINING PLAN

Senate/Legislature: Require DHS to work with Portage, Adams, Wood, and Milwaukee Counties to modify the FoodShare employment and training program in those counties for the purpose of increasing the amount of federal funding that the state receives under the program.

[Act 28 Section: 9122(12u)]

Public Health

1. DISEASE AIDS

GPR	\$1,227,500
PR	- 33,600
Total	\$1,193,900

Governor/Legislature: Provide \$414,600 (\$439,500 GPR and -\$24,900 PR) in 2009-10 and \$779,300 (\$788,000 GPR and -\$8,700 PR) in 2010-11 to fund the Wisconsin chronic disease program (WCDP), also known as the disease aids program. The WCDP makes payments to health care providers for disease-related services for people with chronic renal disease, adult cystic fibrosis, or hemophilia. This funding increase reflects a projected increase in pharmacy and health care costs, and a projected decrease in manufacturer rebates on drugs bought by the WCDP. Base funding for the program is \$5,332,200 (\$5,080,000 GPR and \$252,200 PR).

2. AIDS/HIV PROGRAM [LFB Paper 450]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$1,151,500	-\$240,000	\$911,500
PR	0	363,100	363,100
Total	\$1,151,500	\$123,100	\$1,274,600

Governor: Provide \$1,151,500 in 2010-11 to reflect the administration's estimates of the cost to fully fund the AIDS/HIV drug assistance program (ADAP) and the AIDS/HIV health insurance premium subsidy program in the 2009-11 biennium.

AIDS Drug Assistance Program (ADAP). ADAP pays pharmacies for certain drugs provided to Wisconsin residents with AIDS or HIV with family income under 300% of the federal poverty level (FPL), and whose drugs are not paid for by a third party. ADAP is funded by GPR, federal funds the state receives under the Ryan White AIDS/HIV program, medical assistance (MA) and other third-party payers, and rebates the state receives from drug manufacturers.

The administration estimates that: (a) medication costs in 2008-09, 2009-10, and 2010-11 will increase by 23% annually, with corresponding percentage increases in manufacturer rebate revenue to partially offset these costs; and (b) program savings will result as additional individuals who currently participate in ADAP enroll in the health insurance risk-sharing plan (HIRSP), under which ADAP pays HIRSP premiums and the costs of drugs for pre-existing conditions for the first six months following an individual's enrollment in HIRSP.

In addition, the bill would provide \$240,000 in 2010-11 for DHS to contract with a vendor to use a pharmacy benefit management (PBM) system to process pharmacy claims.

Health Insurance Premium Subsidy Program. This program subsidizes premiums individuals pay for continuation coverage under group and individual health insurance policies, including premiums for individuals participating in the HIRSP pilot program. Enrollees qualify if their family income is less than 300% of the FPL, and they have a condition that requires them to reduce or end their employment because of an HIV-related condition. The administration estimates that costs in 2008-09, 2009-10, and 2010-11, will increase by 18% annually.

Make permanent a three-year pilot program created in 2007 Wisconsin Act 20, under which ADAP pays premiums and copayments for antiretroviral drugs for individuals who are eligible for ADAP, and do not have health insurance coverage. The three-year pilot program began on January 1, 2008. Finally, clarify DHS authority to expend funds budgeted for HIV/AIDS services to include care management services provided by private nonprofit agencies to MA recipients with HIV infection.

Joint Finance/Legislature: Provide one-time funding of \$363,100 PR in 2010-11, from unallocated vital records fee revenue, to fund estimated costs of the AIDS/HIV program in 2010-11. In addition, reduce funding by \$240,000 GPR in 2010-11, which the Governor had recommended to fund the implementation of a pharmacy benefits management system.

[Act 28 Sections: 327, 327d, 1360 thru 1363, 9122(5v), and 9422(13v)]

3. TUBERCULOSIS PROGRAM [LFB Paper 451]

GPR	\$503,800
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Governor: Provide \$215,200 in 2009-10 and \$288,600 in 2010-11 to: (a) fully fund the administration's estimates of the costs of providing services under the tuberculosis (TB) program (\$50,700 in 2009-10 and \$83,000 in 2010-11 for pharmacy costs, and \$64,500 in 2009-10

and \$105,600 in 2010-11 for public health dispensary service costs); and (b) provide \$100,000 annually for targeted prevention activities in counties with large populations vulnerable to TB infection.

The TB program reimburses public health dispensaries at MA rates for clinical services and treatment, chest x-rays, directly observed therapy, and educational programs. The program also pays the drug and hospitalization costs of individuals with TB. The administration projects a decrease in the overall TB caseload over the biennium, but an increase in the caseload of multi-drug resistant TB (which involves expensive treatment), and in the number of counties that operate dispensaries.

Base GPR funding for the program is \$450,300 annually, which supports TB-related medical costs and pharmacy costs to local dispensaries. The program is also supported with federal funds the state receives from the Centers for Disease Control and Prevention (approximately \$367,200 in calendar year 2009), which DHS uses to support a variety of program operations costs.

Joint Finance/Legislature: Provide the funding level recommended by the Governor, but specify that DHS may only expend up to \$81,100 GPR annually on targeted prevention activities.

[Act 28 Sections: 378d and 2523d]

4. **REPEAL VITAL RECORDS FEE INCREASE SUNSET** [LFB Paper PR-REV \$5,995,000
452]

Governor: Repeal the July 1, 2010, sunset date for increases in fees for vital records made in 2007 Wisconsin Act 20. Act 20 increased fees as follows: (a) from \$10 to \$20 for one certified or uncertified copy of a birth certificate; (b) from \$7 to \$20 for one certified or uncertified copy of a death, marriage or divorce certificate; and (c) from \$10 to \$20 for expedited services. However, Act 20 contained a "sunset provision" for the fee increases, with the fees decreasing to their previous levels on July 1, 2010. The Act 20 fee increases were intended to fund one-time costs of implementing a statewide vital record electronic verification system.

The costs of implementing the automated system would include development, hosting, and maintenance costs, the cost of preserving and converting existing paper records, and supplemental costs. DHS estimates that annual costs of the project will be \$6,640,400 PR in 2009-10 and \$8,371,000 PR in 2010-11. By financing the project through a seven-year masterlease, DHS estimates annual costs of between \$6.1 million and \$9.3 million from 2011-12 to 2017-18.

Without these statutory changes, DHS estimates that it would collect \$8,051,600 in 2009-10 and \$2,137,200 in 2010-11 from vital record fee revenue, and costs of the automated system would exceed revenues by 2013-14. Under the bill, DHS estimates that it would collect \$8,051,600 in 2009-10 and \$8,132,200 in 2010-11, and the revenues from vital records fees would be sufficient to fund the estimated cost of the automated system.

A separate item relating to changes in funding for program revenue appropriations (DHS -- Departmentwide), would increase funding for DHS from vital records fee revenue by \$3,857,200 in 2009-10 and by \$5,539,700 in 2010-11 to enable DHS to expend these revenues.

Joint Finance/Legislature: Include provision. In addition, specify in the appropriation language for vital records that the revenue generated could be used for automation of the vital records system, including master lease payments. This change was intended to limit the use of vital records fee revenue to those specified purposes.

Veto by Governor [D-2]: Delete Joint Finance modification.

[Act 28 Sections: 1502, 1503, 1505c, 1506 thru 1510, and 9422(2)]

[Act 28 Vetoed Sections: 327 and 327d]

5. BIRTH CERTIFICATE FEES [LFB Paper 453]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
PR-REV	\$612,000	- \$612,000	\$0
PR	\$912,800	- \$912,800	\$0

Governor: Increase the fee for issuing a certified or uncertified copy of a birth certificate from \$20 to \$22, and increase the fee for issuing an additional copy at the same time from \$3 to \$5. 2007 Wisconsin Act 20 increased fees from \$10 to \$20 for one certified or uncertified copy of a birth certificate. However, Act 20 included a provision to sunset the increase on July 1, 2010. This item would repeal the sunset provision for birth certificate fees, making permanent the fee increase enacted in Act 20, along with the \$2 increase proposed in the bill.

The administration estimates that the \$2 fee increase for the issuance of a birth certificate would generate an estimated \$306,000 annually. From the program revenue appropriation to which all vital records fee revenue is credited, the bill would require DHS to annually transfer the following amounts: (a) \$150,400 to a DHS PR interagency/intra-agency appropriation to increase support for general maternal and child health services, including health education, oral health, nutrition, childhood and adolescent injury prevention and family health benefits counseling; and (b) \$155,600 to the Department of Children and Families to fund a foster care public information campaign, a new departmental duty that would be created in the bill. The funding under (a) is double-counted in the DHS budget, first as an increase to the Division of Public Health's licensing and certification appropriation, and then as an increase to the Division's interagency and intra-agency appropriation.

Joint Finance/Legislature: Delete provision.

6. ACCESS TO INFORMATION FOR CANCER RESEARCH

PR-REV	\$40,000
PR	\$40,000

Governor/Legislature: Provide \$20,000 annually, from fees collected for access to cancer registry information, to support DHS costs of collecting, compiling, and disseminating cancer information. Authorize DHS to charge a reasonable fee for disclosing information to researchers. The administration estimates that revenue from fees would total approximately \$20,000 annually. Create a program revenue appropriation for this fee revenue, and permit DHS to expend all moneys it receives for this purpose.

Define "research" as a systematic investigation through scientific inquiry, including development, testing and evaluation, that is designed to develop or contribute to generalizable knowledge, and a "researcher" as a person who performs research.

Permit researchers to access individually identifiable cancer reporting information if the researcher applies in writing to DHS with all the following information: (a) a written protocol to perform research; (b) the researcher's professional qualifications to perform the proposed research; (c) documentation of approval of the research protocol by an institutional review board of a domestic institution that has a federalwide assurance approved by the Office of Human Research Protections of the U.S. Department of Health and Human Services; and (d) any other information required by DHS. The proposed research would have to be for the purpose of studying cancer, cancer prevention, or cancer control. Exempt information obtained from DHS under these provisions from Chapter 19 provisions that generally apply to the inspection, copying, or receipt of records.

Prohibit persons to whom information is disclosed from doing any of the following: (a) using the information for purposes other than the proposed research, as specified in the application; (b) disclosing the information to a person who is not connected with performance of the research; or (c) revealing any identification in the final research product. A researcher would be liable for actual damages and costs to the subject of the disclosed information, plus exemplary damages of up to \$1,000 for a negligent violation and \$5,000 for an intentional violation. A researcher would be fined up to \$15,000 and imprisoned for up to one year for an intentional violation, and any violation would be subject to a fine of up to \$100. Each day that the violation continues would constitute a separate offense.

Currently, DHS may only release confidential cancer information received from hospitals, physicians, and laboratories to national or state tumor registries.

[Act 28 Sections: 328, 2431, and 2553 thru 2560]

7. TRAUMA SYSTEM -- POSITION FUNDING CHANGE

	Positions
GPR	1.00
PR	-1.00
Total	0.00

Governor/Legislature: Convert 1.0 position, which currently supervises the Division of Public Health's trauma system program, from a PR-funded position to a GPR-funded position, beginning in 2009-10.

This position is currently supported with SEG funding from the transportation fund that the Department of Transportation (DOT) transfers to DHS. The amount of the annual transfer (\$80,000) is established in statute. Under this item, DHS would support trauma center site visits, (currently funded from the Division's general program operation), with the PR funds transferred from DOT, and fund the costs of the supervisor position with GPR funds that are currently used to support site visits. This item would not change the amount of the annual transfer from DOT to support the trauma system program.

8. WIC AND TEFAP TRANSFER

GPR	\$1,017,800
PR	<u>259,200</u>
Total	\$1,277,000

Governor: Provide \$638,500 (\$508,900 GPR and \$129,600 PR) annually to reflect a transfer of state funding and the statutory authority to administer the women, infants and children supplemental food program (WIC) and the temporary emergency food assistance program (TEFAP) from the Department of Children and Families (DCF) to DHS. 2007 Wisconsin Act 20 transferred these programs from DHS to DCF, beginning in 2008-09. However, federal regulations require state health departments to administer these food and nutrition programs. In 2008-09, DHS administers these programs through an agreement with DCF. Federal funding for WIC benefits and administration and TEFAP administration is already included in the DHS base budget, due to an action under s. 16.54 of the statutes.

The following annual amounts would be transferred from DCF to DHS: (a) \$320,000 GPR for TEFAP food distribution; (b) \$179,300 GPR to provide the state's match for federal funds available under the WIC farmers' market program; (c) \$9,600 GPR for TEFAP operations support; and (d) \$129,600 PR from surcharges, forfeitures and recoupments to support WIC fraud reduction activities. The bill would provide corresponding decreases in state funding for these purposes over the biennium in the DCF budget, and renumber three DCF appropriations to become DHS appropriations. In addition, the bill includes nonstatutory provisions relating to the transfer of assets and liabilities, employee transfers, employee status, the transfer of tangible property, contracts, pending matters, and rules and orders to accommodate the transfer of these programs from DCF to DHS.

In addition, authorize any benefits that DHS administers to be administered by an electronic benefit transfer (EBT) system if: (a) DHS obtains any federal authorization from a federal agency that is required under federal law to deliver the benefits by an EBT system; (b) DHS promulgates an administrative rule to deliver the benefits by an EBT system; and (c) DHS does not require a county or tribal governing body to use the EBT system if the costs to the county or tribal government of delivering the benefits by the EBT system would be greater than the costs to the county or tribal government of delivering the benefits by means other than an EBT system.

Joint Finance/Legislature: Correct references to WIC and TEFAP appropriations in DHS

to be consistent with the Department's new program organization structure.

[Act 28 Sections: 485, 488, 490, 829, 1144, 1217 thru 1220, 1376, 2480, 3237 thru 3239, 3392, and 9122(1)]

9. AUDIT OF GRANTS FOR DENTAL SERVICES

Governor: Repeal the requirement that the Legislative Audit Bureau perform annual financial audits of expenditures of grant funds DHS provides for dental services. In 2008-09, DHS is budgeted \$3,136,600 GPR annually to fund grants for dental services, including: (a) funding to the Marquette University School of Dentistry for students and faculty to provide dental services in underserved areas, to underserved populations, to inmates of correctional centers in Milwaukee county, and in clinics in the City of Milwaukee; (b) grants for fluoride supplements, a fluoride mouth-rinse program, and for a school-based dental sealant program; and (c) oral health services provided to technical college district boards.

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

10. ONE-TIME ALLOCATIONS OF UNEXPENDED VITAL RECORDS FEE REVENUE

PR	\$1,171,200
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Joint Finance/Legislature: Provide \$585,600 in 2009-10 and in 2010-11 in one-time funding to the following programs or organizations, to be funded with unallocated fee revenue from the vital records program (the amounts indicated below will be provided in each year of the 2009-11 biennium):

- a. \$77,800 to a foster care public information campaign in the Department of Children and Families;
- b. \$102,200 to the state poison control program;
- c. \$255,500 for community health services grants, allocated to community health centers;
- d. \$25,000 for the AIDS Network of Madison;
- e. \$16,300 to a health center in Lincoln Plaza in Milwaukee County that offers a colposcopy program for low-income women, and performs loop electrosurgical excision procedures;
- f. \$8,800 to the Marquette Dental School;
- g. \$25,000 for Lakes Community Dental Center in Ashland;
- h. \$25,000 for the La Crosse Community Dental Clinic;

i. \$25,000 in each year of the biennium for Health Care for the Homeless in Milwaukee; and

j. \$25,000 for services to reduce fetal and infant mortality and morbidity in Racine.

In addition, require the Department of Administration, for the purposes of developing the 2011-13 biennial budget, to specify that base funding for the state poison control program is \$425,000 GPR, and to specify that base funding for community health services grants is \$6,100,000 GPR. These amounts equal the base funding levels for each of these programs in 2008-09.

[Act 28 Sections: 327, 327d, 9108(8v), 9122(5v), (6v) & (7v), 9222(4v), and 9422(13v)]

11. VITAL RECORDS REVENUE LAPSE

GPR-REV	\$5,271,400
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Joint Finance/Legislature: Require DHS to transfer to the general fund \$2,535,700 in 2009-10, and \$2,735,700 in 2010-11, from vital records fee revenue. The vital records appropriation is projected to carry a surplus of approximately \$7.4 million over the course of the 2009-11 biennium, in excess of the expenditure authority provided in the Governor's budget. This transfer requirement would be paid from these unallocated surplus revenues.

[Act 28 Section: 9222(5w)]

12. BIRTH DEFECT PREVENTION AND SURVEILLANCE PROGRAM [LFB Paper 456]

PR	\$190,000
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Joint Finance/Legislature: Provide \$95,000 annually for the birth defect prevention and surveillance program, to be funded with vital records fee revenue. This would be an ongoing allocation from the vital records program.

Require DHS to prepare and submit a report to the appropriate standing committees of the Legislature before December 1, 2009, which includes all of the following information:

a. Recommendations for improving the birth defect prevention and surveillance system;

b. Standards for measuring the performance of the birth defect prevention and surveillance system;

c. Individual privacy considerations involved in any recommendations for improving the system; and

d. A review of potential federal and private funding sources for the birth defect prevention and surveillance system.

Veto by Governor [C-12]: Delete the requirement that DHS prepare and submit a report to the appropriate committees of the Legislature before December 1, 2009.

[Act 28 Sections: 327 and 2545d]

[Act 28 Vetoed Section: 9122(8v)]

13. TOBACCO USE CONTROL GRANTS [LFB Paper 454]

	Jt. Finance (Chg. to Gov)	Legislature (Chg. to JFC)	Net Change
GPR	-\$10,000,000	-\$5,000,000	-\$15,000,000

Joint Finance: Reduce funding for tobacco use control grants by \$5,000,000 in each year of the biennium. DHS distributes these grants to fund a range of tobacco control-related activities, including community and school-based programs, enforcement of local laws aimed at reducing exposure to secondhand smoke underage access to tobacco, marketing activities, and projects to reduce tobacco use among minorities and pregnant women.

Conference Committee/Legislature: Reduce funding for tobacco use control grants by \$2,500,000 in each year of the biennium.

Funding for these grants in the 2009-11 biennium equals \$6,850,000 annually. The \$8,400,000 annual reduction to the 2008-09 base level of funding of \$15,250,000 includes the following: (a) a \$900,000 annual reduction included in the Governor's original budget recommendations (which is summarized under "Health Services -- Departmentwide"); (b) a \$5,000,000 annual reduction by the Joint Finance Committee; and (c) a \$2,500,000 annual reduction by the Conference Committee.

14. PATIENT HEALTH CARE RECORDS

Joint Finance: Make the following changes related to the treatment of patient health care records:

Definitions. Explicitly include ambulance service providers, emergency medical technicians, and first responders in the definition of "health care provider," as it relates to patient health care records. Currently, records made by an ambulance service provider, an emergency medical technician, or a first responder are treated as patient health care records, even though these providers are not explicitly listed as health care providers in Chapter 146 of the statutes.

Explicitly specify that "patient health care records" includes all records made by an ambulance service provider, an emergency medical technician, or a first responder in administering emergency care procedures to, and handling and transporting sick, disabled, or

injured individuals. Specify that "patient health care records" include billing statements and invoices for treatment or services provided by a health care provider, and include health summary forms.

Access to Patient Health Care Records. Provide that a patient or a person authorized by the patient (as defined in current law) may inspect the health care records of a health care provider, and that the health care provider shall make the records available for inspection during regular business hours, within 21 days after receiving notice from the patient or the person authorized by the patient. Specify that a health care provider may not charge a fee for inspection under this provision.

Provide that if a patient or a person authorized by the patient requests copies of the patient's health care records, provides informed consent, and pays the applicable fees, the health care provider must provide the patient or person authorized by the patient copies of the requested records within 21 days after receiving the request.

Provide that if a patient or a person authorized by the patient requests a copy of a health care provider's report regarding an X-ray of the patient, provides informed consent, and pays the applicable fees, the health care provider shall provide the patient or person authorized by the patient a copy of the report, or provide the X-ray to another health care provider of the patient's choice within 30 days after receiving the request.

Penalties for Not Providing Records or Not Allowing Inspection of Records. Provide that a health care provider who does not allow inspection of patient health care records within 21 days of receiving notice, does not provide copies of a patient health care records within 21 days of a request being received, or does not provide copies of X-rays within 30 days of a request being received, shall result in a forfeiture of \$100 and \$10 per day for each day that the health care provider does not allow inspection or provide copies.

Elimination of Establishment of Fees by Rule. Repeal provisions that require DHS, by rule, to prescribe fees for patient health care records that are based on an approximation of actual costs. Repeal provisions that specify that the fees established by rule, and applicable tax, are the maximum amount that a health care provider may charge for duplicate patient health care records, duplicate X-ray reports, or the referral of X-rays to another health care provider of the patient's choice. Repeal provisions that specify that the rule must also permit the health care provider to charge for actual postage or other delivery costs.

Repeal provisions that allow DHS, in determining the approximation of actual costs, to consider all of the following factors: (a) operating expenses, such as wages, rent, utilities, and duplication equipment and supplies; (b) the varying cost of retrieval of records, based on the different media on which the records are maintained; (c) the costs of separating requested patient health care records from those that are not requested; (d) the cost of duplicating requested patient health care records; and (e) the impact on costs of advances in technology.

Delete the requirement that DHS, by January 1, 2006, and every three years thereafter, revise the rules promulgated under these provisions to account for increases or decreases in

actual costs. Instead, these fees would be established in statute, as described below.

Fees Charged to a Patient or a Person Authorized by the Patient. Provide that if a patient or if a person authorized by the patient (as defined in current law) requests copies of the patient's health care records, the health care provider may charge no more than the following fees:

- (a) for paper copies, a charge of 35 cents per page;
- (b) for microfiche or microfilm copies, \$1.25 per page;
- (c) for a print of an X-ray, \$10 per image;
- (d) actual shipping costs; and

(e) if the patient or person authorized by the patient requests delivery of the copies within seven or fewer days after making a request for copies, and the health care provider delivers the copies within that time, a fee equal to 10 percent of the total fees that may be charged as described above.

Provide that if a patient or person authorized by the patient requests copies of the patient's health care records for use in appealing a denial of social security disability insurance or supplemental security income, the health care provider may charge no more than the amount that the federal social security administration reimburses DHS for copies of patient health care records.

Provide that a health care provider may not charge a fee for providing one set of copies of a patient's health care records if the patient is eligible for medical assistance. Specify that a health care provider may require that a patient or person authorized by the patient provide proof that the patient is eligible for medical assistance before providing copies without charge. Allow a health care provider to charge any applicable fees for providing a second or additional set of copies of patient health care records for a patient who is eligible for medical assistance.

Fees Charged to a Person Other Than the Patient or a Person Authorized by the Patient. Provide that if a person other than a patient and other than a person authorized by the patient requests copies of a patient's health care records, provides informed consent, and pays the applicable fees, the health care provider shall provide the person making the request copies of the requested records.

Provide that a health care provider may charge no more than the total of all of the following that apply for providing copies requested by a person other than a patient, and other than a person authorized by the patient:

- (a) for paper copies, 35 cents per page;
- (b) for microfiche or microfilm copies, \$1.25 per page;
- (c) for a print of an X-ray, \$10 per image;

(d) for certification of copies, \$5;

(e) for processing and handling, a single \$15 charge for all copies requested;

(f) actual shipping costs; and

(g) if the person other than the patient or other than a person authorized by the patient requests delivery of the copies within seven or fewer days after making a request for copies, and the health care provider delivers the copies within that time, a fee equal to 10 percent of the total fees that may be charged.

Provide that if DHS requests copies of a patient's health care records in determining eligibility for social security disability insurance, or supplemental security income, the health care provider may charge no more than the amount that the federal Social Security Administration reimburses for copies of patient health care records.

Provision of Records in an Electronic Format. Provide that upon the request of the person requesting copies of patient health care records, the health care provider shall provide the copies in a digital or electronic format unless the health care provider's record system does not provide for the creation or transmission of records in a digital or electronic format, in which case the health care provider shall provide the person a written explanation for why the copies cannot be provided in a digital or electronic format.

Allow the health care provider to include the written explanation with the production of paper copies of the records if the person chooses to receive paper copies.

Specify that a health care provider may not charge for the disc or other storage medium on which the copies are provided in electronic format.

Patient Health Care Records -- Statutes Related to Evidence. In the definition of "health care provider" under s. 908.03(6m) of the statutes, include all health care providers listed in the definition of health care provider in s. 146.81(1) of the statutes.

Specify that health care provider records would be subject to subpoena if upon a properly authorized request of an attorney, the health care provider refuses, fails, or neglects to supply within two business days a legible certified duplicate of its records for the fees that would be established in statute.

Provide, in the statutes relating to evidence and patient health care records, that any billing statement or invoice that is included in patient health care records under s. 146.81(1) and s. 146.81(4) of the statutes is presumed to be the reasonable value of health care services provided, and the health care services provided are presumed to be reasonable and necessary to the care of the patient. Provide that any party attempting to rebut the presumption of the reasonable value of the services provided shall not be allowed to present evidence of payments made or benefits conferred by collateral sources.

Finally change references in Chapter 908 from "health care provider records" to "patient

health care records."

Senate: Modify the provisions as follows:

Indexing of Fees. Provide that the fees for medical records that would be set in statute would be adjusted annually to reflect changes in the consumer price index for all urban consumers (CPI-U), U.S. city average, as published by the U.S. Bureau of Labor Statistics.

Access to Records. Modify the current statutory definition of a "person authorized by the patient," as it relates to health care record access and fees, to remove any person authorized in writing by the patient from the current definition, and to include the patient's personal representative, which would be defined as a person who both has authority under state law to act on behalf of the patient and qualifies as a personal representative under 45 CFR 164.502 (g). Consequently, the time periods by which providers would need to provide access and produce copies of records would not apply to persons authorized in writing by the patient, and would only apply to the patient, specific persons listed under current law, and the patient's personal representative. In addition, one set of fees would apply to requests from patients, specific persons listed under current law, and the patient's personal representatives; another set of fees would apply to requests from other individuals.

Require a provider to: (a) make records available for inspection within 30 days, rather than 21 days, after receiving notice from the patient or person authorized by the patient; (b) provide authorized copies of the requested records within 30 days, rather than 21 days after receiving the request.

Conference Committee/Legislature: Delete Senate modifications. In addition, provide that DHS and DOC are exempt from the following requirements: (a) to make records available for inspection by the patient or person authorized by the patient (as defined in current law) within 21 days after receiving notice; (b) provide copies of requested records to the patient or person authorized by the patient within 21 days of the request; (c) to provide the patient or the person authorized by the patient a copy of a report regarding an X-ray or provide the X-ray to another health care provider of the patient's choice within 30 days of the request; and (d) to provide one set of copies at no charge to patients who are eligible for medical assistance.

Specify that a health care provider may charge up to a \$5 fee per request for records provided in electronic format.

Veto by Governor [D-11]: Delete the requirement that a health care provider allow inspection of patient health care records or provide copies of patient health care records (excluding X-rays and X-ray reports) within 21 days of a request. Delete the provision that subjects health care providers to a forfeiture if he or she does not provide access to patient health care records within 21 days of a request, provide copies of patient health care records within 21 days of a request, or provide copies of X-rays or X-ray reports within 30 days of the request. Federal requirements of the Health Insurance Portability and Accountability Act (HIPAA) still apply to the provision of records by health care providers.

Delete the single charge of \$5 fee for copies provided in an electronic format, specifying that a health care provider may assess a charge for all copies provided in digital or electronic format. Delete the prohibition on charging a fee for the disc or other storage medium on which copies are provided in a digital or electronic format.

[Act 28 Sections: 970g, 1427L, 1427r, 1582, 1662, 1728, 2171r, 2429b thru 2429e, 2433b thru 2433p, 2433t, 2433v, 2436n, 2506r, 2521n, 2530r, 2572g, 2572h, 2740b, 2740r, 2995ctm, 2995g, 3135t, 3138n, 3147g, 3173b, 3197n, 3285gb thru 3285p, and 9322(9c)]

[Act 28 Vetoed Sections: 2433b, 2433d, 2433f, and 2433r]

15. RACINE INFANT MORTALITY PROGRAM

Joint Finance/Legislature: Require that at least 90 percent of the funding allocated for reducing fetal and infant mortality and morbidity in Racine County be used for direct services, provided to families participating in the program, and allow these funds to be used as the state share of medical assistance payments for case management services. Require the City of Racine Public Health Department to maximize and leverage additional resources, including the maximum allowable medical assistance reimbursement for services provided by this program.

Require DHS to work with the Racine Health Department by providing oversight and approval of the program, and to explore ways to maximize the use of federally qualified health centers for the program.

Other items in the budget bill provide \$247,500 GPR annually, and one-time funding of \$25,000 PR (from vital records fee revenue) in each year of the biennium to fund this program. Both sources of funding are subject to the requirements described in this item.

[Act 28 Sections: 2550d, 2550f, 2550h, and 3410]

16. SEAL-A-SMILE DENTAL SEALANT PROGRAM

Joint Finance/Legislature: Require DHS to determine whether any federal moneys are available in 2009-10 for the school-based dental sealant program ("seal-a-smile"), and apply for these moneys if they are available. Further, specify that, if DHS receives federal moneys, DHS would be required to allocate an amount equal to an amount donated by individuals and organizations to the recipient of seal-a-smile grants. Specify that the grant recipient use all moneys allocated by the Department under this item for dental services, and not administrative costs. Specify that any federal funds allocated under this item would be in addition to other funding allocated to the program in the budget.

[Act 28 Section: 9122(5u)]

17. MARQUETTE DENTAL SCHOOL AND DENTAL SERVICES

	Legislature (Chg. to JFC)	Veto (Chg. to Leg)	Net Change
GPR	\$343,600	-\$343,600	\$0

Assembly/Legislature: Provide \$171,800 GPR annually to restore base funding for GPR-funded grants for dental services, including funding to support dental services provided by the Marquette University School of Dentistry. (The initial funding reduction is summarized under "Health Services -- Departmentwide.")

In 2008-09, DHS was budgeted \$3,176,600 GPR to support dental services, of which DHS allocated \$2,860,500 to support the provision of dental services by students and faculty of Marquette University School of Dentistry in underserved areas and to underserved populations. From this appropriation, DHS also distributes grants for fluoride supplements, a fluoride mouth-rinse program, and a school-based dental sealant program. Under current law, the DHS may also provide funding to technical college district boards to provide oral health services.

Veto by Governor [D-5]: Delete provision.

[Act 28 Vetoed Section: 176 (as it relates to s. 20.435(1)(de))]

18. MILWAUKEE DENTAL CLINIC GRANT

	Legislature (Chg. to JFC)	Veto (Chg. to Leg)	Net Change
GPR	\$600,000	-\$400,000	\$200,000

Senate/Legislature: Provide a one-time grant of \$600,000 in 2009-10 to Milwaukee Health Services, Inc., for dental services and equipment at a clinic that has an address with the ZIP code 53218. Create an appropriation in DHS for this purpose, and repeal the appropriation, effective July 1, 2010. Milwaukee Health Services, Inc. is a federally qualified health center that operates two clinics in the City of Milwaukee.

Veto by Governor [D-1]: Reduce the amount of the one-time grant by \$400,000. As a result, Milwaukee Health Services, Inc., will receive a one-time grant of \$200,000 in 2009-10 for the purposes approved by the Legislature.

[Act 28 Sections: 326p, 326r, 9122(5k), and 9422(7x)]

[Act 28 Vetoed Sections: 176 (as it relates to s. 20.435(1)(dj))]

19. DEFINITION OF A RETAIL TOBACCO STORE

Assembly: Modify the definition of a "retail tobacco store," as it relates to exceptions to smoking restrictions enacted in 2009 Wisconsin Act 12. Under this provision, the sale of cigarettes would be counted, in addition to tobacco products and accessories, in determining whether the store generates 75 percent or more of its gross annual income from the retail sale of tobacco products (and, consequently, qualifies for the exemption). Specify that this change would take effect on July 5, 2010, the effective date of Act 12.

Act 12 imposes a statewide ban on smoking in most indoor locations. An exception is provided for retail tobacco stores in existence on the day after publication of Act 12 (June 3, 2009), in which only the smoking of cigars and pipes is allowed. This provision would include the sale of cigarettes in the list of products that would count towards whether a retail establishment qualifies as a "retail tobacco store." Act 12 defines a retail tobacco store as a retail establishment that does not have a "Class B" intoxicating liquor license or a Class "B" fermented malt beverages license and that generates 75 percent or more of its gross annual income from the retail sale of tobacco products and accessories. The current definition does not include the sale of cigarettes as a product that counts towards the gross annual income requirement.

Conference Committee/Legislature: Delete provision.

20. DIABETES PREVENTION AND CONTROL TARGETING NATIVE AMERICAN POPULATIONS

PR	\$50,000
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Senate/Legislature: Create an annual PR appropriation to provide \$25,000 annually in tribal gaming revenue to support activities in the Wisconsin diabetes prevention and control program (DPCP) that are specifically targeted to Native American populations. The DPCP performs several functions, including designing population-based community interventions and health communications, engaging in outreach to high-risk populations, conducting surveillance and evaluation of the burden of diabetes, and coordinating efforts through the Wisconsin diabetes advisory group. As part of a separate item, the interagency and intra-agency local assistance appropriation supported by tribal gaming revenues in the Department of Children and Families is reduced by \$25,000 PR annually.

[Act 28 Sections: 330r, 587d, and 2520d]

21. AIDS/HIV PROGRAMS -- BLACK HEALTH COALITION OF WISCONSIN, INC.

Senate/Legislature: Require DHS to provide a one-time grant of \$100,000 FED in 2009-10 to the Black Health Coalition of Wisconsin, Inc., to provide HIV infection outreach, education, referral and other services. The source of this grant would be existing federal funds the state receives under Part B of the Ryan White Comprehensive AIDS Resources Emergency Act.

[Act 28 Section: 9122(6q)]

22. MAXIMUM FEE FOR EXPEDITED ISSUANCE OF A MARRIAGE LICENSE

Senate/Legislature: Increase the maximum allowable fee for expedited issuance of a marriage license from \$10 to \$25. Under current law, no marriage license may be issued within five days of application. However, a county clerk may, at his or her discretion, issue a marriage license in less than five days if the applicant pays an additional fee of up to \$10 to cover any increased processing cost incurred by the county. This fee increase has no effect on state revenues, as the fee for expedited issuance is paid to the county treasury.

[Act 28 Sections: 3205r and 9357(1f)]

23. EXEMPTION FROM LIFEGUARD STAFFING REQUIREMENT

Senate/Legislature: Prohibit DHS from requiring that a swimming pool be staffed by a lifeguard as a condition of receiving a permit to maintain, manage or operate the pool if the following criteria are met: (a) the pool is less than 2,500 square feet; (b) the pool is located in a private club in the City of Milwaukee; and (c) the club has a policy that prohibits a minor from using the swimming pool when not accompanied by an adult.

Currently, DHS (or a local health department granted agent status) regulates and issues permits to public swimming pools. No person, or state or local government may conduct, maintain, manage or operate a swimming pool without being issued a permit. Current administrative rules requires pools with a surface area of 2,000 square feet or more to be staffed with a certain number of lifeguards (based on pool size, pool type, and number of patrons) when the pool is in use or is open to the public. This provision exempts a pool that meets the criteria in the first paragraph from these staffing requirements.

[Act 28 Section: 2552g]

Care Facilities

1. SOUTHERN WISCONSIN CENTER [LFB Paper 458]

	Governor (Chg. to Base)		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR-REV	\$656,600		\$459,400		\$1,116,000	
SEG-REV	- 470,700		272,500		- 198,200	
GPR	\$366,000	0.00	\$138,200	0.00	\$504,200	0.00
FED	3,929,200	0.00	- 820,900	0.00	3,108,300	0.00
PR	- 12,768,200	- 310.80	6,684,300	190.70	- 6,083,900	- 120.10
SEG	- 470,700	0.00	272,500	0.00	- 198,200	0.00
Total	-\$8,943,700	- 310.80	\$6,274,100	190.70	-\$2,669,600	- 120.10

Governor: Reduce funding by \$1,178,200 (\$100,000 GPR, \$1,009,200 FED, -\$2,203,900 PR, and -\$83,500 SEG) in 2009-10 and \$7,765,500 (\$266,000 GPR, \$2,920,000 FED, -\$10,564,300 PR, and -\$387,200 SEG) in 2010-11, and eliminate 310.8 positions in 2010-11, to reflect the net effect of accelerating relocations of individuals who currently receive long-term care services at Southern Wisconsin Center (SWC) for the developmentally disabled to alternative community-based settings.

The administration projects that, as of July 1, 2009, there will be approximately 182 residents at SWC, including 175 individuals who receive long-term care services, and seven who receive short-term treatment as part of the intensive treatment program (ITP). The funding and staff changes under this item reflect the administration's estimate that approximately 154 long-term care residents at SWC would be placed in community-based settings under one of the state's MA home- and community-based waiver programs by June 30, 2011. The Governor's budget assumes that, by that date, there would be 45 residents at SWC, including 15 who would continue to receive long-term care services, and 30 who would receive ITP services. The administration indicates that placements would be made on a voluntary basis.

This item includes numerous funding adjustments to reflect changes in costs of providing institutional services (primarily staff costs), services provided under the MA waiver programs, and MA fee-for-service ("card") costs. In addition, the Governor's bill increases estimates of revenue deposited to the general fund by \$360,900 in 2009-10 and by \$295,700 in 2010-11, which primarily reflects an increase in revenue from counties that pay the costs of the ITP program. This item would also reduce estimated revenue to the MA trust fund by \$83,500 in 2009-10 and by \$387,200 in 2010-11 to reflect that there would be fewer licensed ICF-MR beds, which is the basis for claiming federal MA funds under the ICF-MR bed assessment.

Joint Finance/Legislature: Modify funding and positions in the bill as follows: (a) increase MA benefits funding by \$15,800 (\$19,200 GPR, -\$51,700 FED, and \$48,300 SEG) in 2009-10 and reduce MA benefits funding by \$426,000 (\$119,000 GPR, -\$769,200 FED, and \$224,200 SEG) in 2010-11; (b) increase funding for SWC by \$1,193,000 PR in 2009-10 and by \$5,491,300 PR

in 2010-11 and provide an additional 190.7 positions, beginning in 2010-11; and (c) increase estimated GPR revenues by \$64,300 in 2009-10 and \$395,100 in 2010-11. Finally, increase estimated revenue to the MA trust fund by \$48,300 in 2009-10 and by \$224,200 in 2010-11. These changes reflect an assumption that 70 individuals would be relocated from SWC in the 2009-11 biennium, rather than 154 individuals, as assumed in the Governor's bill.

Prohibit DHS from exercising its authority to transfer a resident from SWC to a less restrictive setting unless the resident's guardian or, if the resident is a minor and does not have a guardian, the resident's parent provides explicit written approval and consent for the transfer. Further, prohibit DHS from filing a petition of an order for protective placement to transfer a resident from SWC to a less restrictive setting unless the resident's guardian provides explicit written approval and consent for the transfer, as described above.

Require DHS to create a form on which a resident of SWC, or the resident's guardian, may indicate a preference for where the resident would like to live. Require DHS to make the form available to all residents of SWC and their guardians, and maintain the completed form with the resident's treatment records.

Require DHS to ensure that, if a resident is to be relocated from SWC, members of SWC's staff who provide direct care for the resident are consulted in developing a residential placement plan for the resident.

Provide that, if a SWC resident is relocated after the bill's general effective date, DHS must provide the resident's guardian or, if the resident is a minor and does not have a guardian, the resident's parent, information regarding the process for appealing the decision to relocate the resident and the process for filing a grievance regarding the decision.

Require DHS to submit an annual report to the Joint Committee on Finance, by October 1, that describes the status of all individuals that were placed in the community from SWC as part of the facility's restructuring process. Specify that the report would include the following: (a) an assessment of the impact that relocation has had on the health status of individuals relocated within the previous three state fiscal years, which could be measured by assessing the person's weight and changes in medications, preventable hospitalizations and emergency room visits, incidence of chronic disease, and changes in performance of activities of daily living, (b) a list of each setting in which each individual lived over the past three years; (c) information on the involvement that guardians or family members of the individuals have had with the individuals in the previous state fiscal year; and (d) the cause of death for each individual who died in the previous state fiscal year.

Veto by Governor [C-12]: Delete the provision that would require DHS to submit an annual report to the Joint Committee on Finance, by October 1, that describes the status of all individuals that were placed in the community from Southern Wisconsin Center as part of the facility's restructuring process.

[Act 28 Sections: 1424p, 1431g thru 1431k, 1444m, and 1444n]

[Act 28 Vetoed Section: 1424m]

2. WISCONSIN RESOURCE CENTER -- FEMALE INMATE TREATMENT UNIT

	Governor (Chg. to Base)		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	\$4,662,000	113.00	-\$2,551,300	0.00	\$2,110,700	113.00

Governor: Provide \$4,662,000 in 2010-11 and 113.0 positions, beginning in 2010-11, to staff and operate a new 45-bed mental health unit at the Wisconsin Resource Center (WRC) for severely mentally ill Department of Corrections (DOC) female inmates. The new unit would open in February, 2011.

WRC currently provides treatment for male inmates with severe mental illness and individuals committed as sexually violent persons under Chapter 980 of the statutes. The new female treatment facility at WRC was enumerated as part of 2007 Act 20 in response to a U.S. Department of Justice finding that mental health services provided to female inmates at the Taycheedah Correctional Institution (TCI) do not meet constitutional standards. Currently, female inmates with mental illness receive some treatment services at the Winnebago Mental Health Institute (WMHI). However, the administration has concluded that this arrangement is not adequate due to limited capacity, lack of maximum security, and legal barriers associated with obtaining a Chapter 51 commitment. Upon successful completion of treatment at the WRC, all female inmates would be returned to TCI for the remainder of their sentences.

Joint Finance/Legislature: Reduce funding by an additional \$2,551,300 in 2010-11 to reflect the estimated cost savings of delaying the opening of the unit until June 1, 2011, rather than February, 2011.

3. VARIABLE NONFOOD COSTS [LFB Paper 459]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$5,693,000	-\$2,449,500	\$3,243,500
PR	1,646,100	- 1,285,100	361,000
Total	\$7,339,100	-\$3,734,600	\$3,604,500

Governor: Provide \$2,707,700 (\$2,086,500 GPR and \$621,200 PR) in 2009-10 and \$4,631,400 (\$3,606,500 GPR and \$1,024,900 PR) in 2010-11 to fund projected increases in variable nonfood costs at DHS care facilities. Variable nonfood costs include medical services and supplies, drugs, clothing, and other supplies.

Joint Finance/Legislature: Reduce funding by \$1,751,900 (-\$1,110,400 GPR and -\$641,500 PR) in 2009-10 and by \$1,982,700 (-\$1,339,100 GPR and -\$643,600 PR) in 2010-11 to reflect reestimates of variable nonfood costs at these facilities.

4. FUEL AND UTILITIES

GPR	\$1,190,700
PR	<u>1,496,500</u>
Total	\$2,687,200

Governor/Legislature: Provide \$1,042,600 (\$521,400 GPR and \$521,200 PR in 2009-10 and \$1,644,600 (\$669,300 GPR and \$975,300 PR) in 2010-11 to fund projected increases in the cost of fuel and utility services at DHS facilities.

5. SAND RIDGE SECURE TREATMENT CENTER

GPR	- \$1,946,100
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Governor/Legislature: Reduce funding by \$1,025,500 in 2009-10 and \$920,600 in 2010-11 to reflect estimates of the amount of funding that will be needed to operate the Sand Ridge Secure Treatment Center (SRSTC) in the 2009-11 biennium. The administration proposes to delay the opening of several newly constructed units at SRSTC to reflect current trends in the commitment of sexually violent persons, resulting in savings in the cost of salaries, fringe benefits, and non-fuel supplies and services (-\$1,374,100 in 2009-10 and -\$1,293,700 in 2010-11). This item includes a funding increase to reflect anticipated increases in the cost of fuel at SRSTC (\$348,600 in 2009-10 and \$373,100 in 2010-11).

6. INSTITUTIONS -- CONTRACTED SERVICES

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	- \$945,300	- \$35,200	- \$980,500

Governor: Reduce funding by \$789,100 in 2009-10 and \$156,200 in 2010-11 to reflect projected decreases in the cost of certain contracted services relating to DHS facilities. Base funding for these services is \$9,313,300 GPR.

Supervised Release. Provide \$132,500 in 2009-10 and \$300,300 in 2010-11 to fund projected increases in the costs of treating 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 DHS. The projected increase in costs results from an estimated increase in caseload and service costs, including costs of global positioning system monitoring and escorts. The administration estimates that the average number of individuals on supervised release will increase from 19 in 2008-09 to 21 in 2009-10 and 22 in 2010-11, with per person costs averaging \$77,530 in 2009-10 and \$81,640 in 2010-11.

Outpatient Competency Examination. Reduce funding by \$143,900 in 2009-10 and \$27,300 in 2010-11 to fund projected decreases in the cost of outpatient competency-to-stand-trial examinations. DHS contracts with a private vendor, Wisconsin Forensics Unit (WFU), to conduct outpatient examinations in jails or locked units of a facility. The administration estimates that the vendor will conduct 1,143 outpatient examinations in 2009-10, at a cost of \$1,250 per examination, and 1,189 outpatient examinations in 2010-11, at a cost of \$1,300 per examination.

Conditional Release. Reduce funding by \$1,187,600 in 2009-10 and \$927,900 in 2010-11 to reflect reestimates of the costs of contracting with the Department of Corrections to supervise individuals who have been conditionally released from the state mental health institutes. This reestimate reflects lower-than-expected population growth compared to the 2007-09 budget estimates. The administration estimates that the average daily population (ADP) of individuals on conditional release will be 283 in 2009-10 and 292 in 2010-11, at an annual cost of \$13,790 per person in 2009-10 and \$14,250 per person in 2010-11.

Treatment to Competency. Provide \$104,800 in 2009-10 and \$146,500 in 2010-11 to fund projected increases in the cost of contracting with Behavioral Consultants, Inc. to provide outpatient treatment to competency services. The administration estimates that 19 individuals will receive outpatient treatment in 2009-10 at an annual cost per individual of \$23,700 and 20 individuals will receive services in 2010-11 at an annual cost per individual of \$24,600.

Contracts with Corrections. Provide \$305,100 in 2009-10 and \$352,200 in 2010-11 to reflect increases in funding for contracts with the Department of Corrections for supervision services, equipment rental and escort transportation.

Joint Finance/Legislature: Reduce funding in the bill by \$106,400 GPR in 2009-10 and increase funding in the bill by \$71,200 GPR to reflect the following: (a) providing funding for staff costs to implement a new community reintegration program for inmates at the Wisconsin Resource Center who are approaching their mandatory release dates program, beginning January 1, 2011 (\$71,200 GPR in 2010-11); and (b) deleting funding to support community reintegration services in 2009-10 to reflect the January 1, 2011, start date for the new program (-\$106,400 GPR in 2009-10). Modify the current appropriation that supports contracted services for DHS facilities to reference services for Department of Corrections inmates on community supervision.

[Act 28 Section: 340h]

7. FOOD [LFB Paper 460]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$776,600	- \$409,700	\$366,900
PR	<u>- 652,500</u>	<u>- 228,400</u>	<u>- 880,900</u>
Total	\$124,100	- \$638,100	- \$514,000

Governor: Reduce funding by \$41,800 (\$307,500 GPR and -\$349,300 PR) in 2009-10 and increase funding by \$165,900 (\$469,100 GPR and -\$303,200 PR) in 2010-11 to fund the difference between base funding budgeted for food for residents at the Centers for People with Developmental Disabilities, the Mental Health Institutes, the Wisconsin Resource Center, and the Sand Ridge Secure Treatment Center in the 2009-11 biennium, and projected costs of food at these facilities in 2009-10 and 2010-11.

Joint Finance/Legislature: Reduce funding by \$317,000 (-\$198,500 GPR and -\$118,600 PR) in 2009-10 and by \$321,000 (-\$211,200 GPR and -\$109,800 PR) in 2010-11 to reflect reestimates of the projected costs of food at these facilities.

8. WINNEBAGO MENTAL HEALTH INSTITUTE STAFFING

	Funding	Positions
GPR	\$698,000	6.00

Governor/Legislature: Provide \$303,300 in 2009-10 and \$394,700 in 2010-11 and 6.0 positions, beginning in 2009-10, to increase staffing for the Gordon Hall North-2 Unit (GHN2) at the Winnebago Mental Health Institute (WMHI).

GHN2 is a forensic unit that provides mental health services to individuals found not guilty by reason of mental disease or defect and committed by the court to a state mental health institute. The additional staff would permit DHS to use an adjacent, unoccupied space to alleviate crowding concerns and provide separate living arrangements for male and female patients.

9. MENDOTA JUVENILE TREATMENT CENTER

PR	\$353,800
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Governor/Legislature: Provide \$165,000 in 2009-10 and \$188,800 in 2010-11 to reflect increases in the amounts that would be transferred from the Department of Corrections (DOC) to DHS for services provided to juveniles placed at the Mendota Juvenile Treatment Center (MJTC). MJTC is a secure correctional facility that provides mental health services to male adolescents transferred from DOC's juvenile corrections institutions.

10. MENTAL HEALTH INSTITUTES -- ALLOCATION OF COSTS

	Funding	Positions
GPR	\$1,198,400	- 8.71
PR	- 1,198,400	8.71
Total	\$0	0.00

Governor/Legislature: Provide \$705,300 GPR and reduce funding by \$705,300 PR in 2009-10, and provide \$493,100 GPR and reduce funding by \$493,100 PR in 2010-11 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 8.71 GPR positions to PR positions, beginning in 2009-10.

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 (individuals who are under 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 69% GPR/31% PR at Mendota Mental Health Institute, and 54% GPR/46% PR at the Winnebago

Mental Health Institute for both years of the biennium.

11. SHARED SERVICES -- MENDOTA AND CENTRAL WISCONSIN CENTER

Positions	
GPR	0.50
PR	<u>-0.50</u>
Total	0.00

Governor/Legislature: Convert 0.5 PR position to 0.5 GPR position, beginning in 2009-10, to more accurately assign costs of positions that perform services for both the Mendota Mental Health Institute (MMHI) and Central Wisconsin Center (CWC) in Madison to these institutions. Currently, 0.50 PR position that performs telecommunications functions is part of CWC's budget, but MMHI supports the services the position provides with GPR funds it transfers to CWC to reflect services the position provides to MMHI. This item would reassign the position to MMHI's budget to reduce the need for CWC to charge MMHI for these services.

12. CIP IA PLACEMENTS -- EFFECT ON STATE CENTERS [LFB Paper 458]

PR	\$1,186,200
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Governor: Repeal provisions that reduce funding for the state Centers for People with Developmental Disabilities by \$325 per day after a resident transfers from the Centers to a community-based placement under the community integration program. Instead, beginning in 2009-10, require DHS to reduce funding to the Centers by an amount, as determined by DHS for each placement, that is equal to the nonfederal share of the costs for placements under the program.

In addition, repeal a provision that requires DHS to submit an annual report to the Joint Committee on Finance describing the impact the CIP IA program has had during the preceding calendar year on individuals employed at the Centers, including DHS efforts to redeploy employees into vacant positions and the number of employees who were laid off.

Joint Finance/Legislature: Increase funding for the state Centers by \$593,100 PR annually to reflect that fewer residents were placed from the Centers under CIP IA in the 2007-09 biennium than were assumed in Act 20. In addition, delete the provision that would repeal the requirement that DHS submit the annual report.

[Act 28 Section: 1290]

13. ESCORTS FOR SEXUALLY VIOLENT PERSONS DURING THE FIRST YEAR OF SUPERVISED RELEASE

Governor: Repeal a provision that requires a court, as a condition of granting supervised release to a sexually violent person (SVP), to require, during the first year of supervised release, that the SVP be under the direct supervision of a Department of Corrections escort for

permissible outings. Instead, permit DHS to require such escorts as a rule of supervised release during the first year. Specify that this provision would first apply to a person who is on, or who is released on supervised release on the bill's general effective date. In addition, clarify that DHS, rather than the Department of Corrections, contracts for these services, effective with the bill's general effective date.

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 DHS. Under current law, all individuals who have been released into the community on supervised release are restricted to their homes during the first year of their release, except for outings that are for employment purposes, religious purposes, or for caring for the individual's basic living needs. Further, all outings must be under the direct supervision of a DOC escort. The bill would permit DHS to decide whether to require direct supervision of DOC escorts.

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

14. TREATMENT TO COMPETENCY

Governor: Modify provisions relating to treatment to competency as follows.

Reduce Maximum Period of Treatment. Reduce the maximum period for which treatment to competency may be provided from 12 months to six months.

Currently, if a court determines a defendant is not competent to stand trial, but is likely to become competent if the person receives appropriate treatment within a period of time not to exceed six months or the maximum sentence specified for the most serious offense with which the defendant is charged, whichever is less, the court may suspend the proceedings and commit the individual into the custody of DHS. DHS must then determine whether the individual will receive treatment 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. Currently, the individual may receive treatment to competency services for up to 12 months.

Reporting Requirements. Modify reporting requirements relating to defendants who are in DHS's custody for treatment to competency services so that DHS's examiners would be required to furnish written reports of examinations to the court twice -- two months after commitment and within 30 days prior to the expiration of the commitment. Currently, DHS is required to submit up to four reports -- three months after commitment, six months after commitment, nine months after commitment, and within 30 days prior to the expiration of the commitment.

Individuals Restored to Competency who Become Incompetent. Reduce the maximum commitment period for defendants who have been restored to competency but again become incompetent, from 18 months to 12 months. The maximum commitment period must first be reduced by the number of days previously spent committed.

Initial Applicability. These provisions would first apply to commitment periods that are in progress on the bill's general effective date.

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

15. SUPPLEMENTARY MENTAL EXAMINATIONS

Governor: Repeal a court's authority to order a supplementary mental examination in cases where the court lacks sufficient information to determine whether a person found not guilty of a crime by reason of mental disease or mental defect should be committed to institutional care or conditional release. Under the bill, courts would only be authorized to order a predisposition investigation of the person in such cases. This change would first apply to judgments entered on the bill's general effective date.

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

Quality Assurance, Disabilities, and Substance Abuse

1. WISCONSIN QUALITY HOME CARE [LFB Paper 410]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$666,000	-\$450,000	\$216,000
FED	<u>0</u>	<u>450,000</u>	<u>450,000</u>
Total	\$666,000	\$0	\$666,000

Governor: Provide \$333,000 annually for DHS to award as a grant to the Wisconsin Quality Home Care Authority (WQHCA), beginning in 2009-10, for the purpose of providing services to recipients and providers of home care services, and authorize DHS to award grants to counties to facilitate transition to procedures regarding home health services that would be established in the bill.

Repeal a provision that requires DHS to distribute at least \$167,000 annually as a grant to an organization to provide services to consumers and providers of supportive home care and personal care services. Funding for this purpose was provided in 2007 Wisconsin Act 20. Because the bill retains base funding that was provided for this program in Act 20, a total of \$500,000 GPR would be available annually for DHS to support the Authority and grants to counties.

Provision of Quality Home Care Services

Create requirements regarding the provision of home care services under the state's

medical assistance (MA) -supported long-term care programs, as described below. These provisions would apply to residents of: (a) counties where Family Care benefits are available; and (b) counties where Family Care is not yet available, but the county board of supervisors has elected to require county agencies to comply with the provisions set forth in the bill.

Definitions. For these purposes, define a "provider" as any individual providing home care services who is not: (a) an employee of a home health agency who is hired through that home health agency; (b) an employee of a personal care provider agency who is hired through that personal care provider agency; (c) a health care provider, as defined in Chapter 146 (as it relates to health care worker protections) acting in his or her professional capacity; (d) an employee of a company or agency providing supportive home care; (e) an employee of an independent living center; or (f) an employee of a county agency or department.

Define a "qualified provider" as a provider who meets qualifications for payments under Family Care, the Program for All-Inclusive Care for the Elderly (PACE), self-directed service options (IRIS), or MA long-term care waiver programs and who the Authority determines is eligible for placement on a registry maintained by the Authority.

Describe a "recipient of home care services" as an adult who receives home care services and who meets the following criteria: (a) resides in a county in which the statutory provisions under this item have been adopted by the county board of supervisors or in a county that operates the Family Care, Program, PACE, or IRIS programs; (b) the individual self-directs all or part of his or her home care services and is the employer of record of the provider; and (c) the individual is eligible to receive home care services under Family Care, PACE, any of the MA long-term care waiver programs, or a program operated under an amendment to the state MA plan.

Requirements to Receive Benefits. Provide that an adult who receives home care services and meets the criteria described above could receive a benefit for home care services only if he or she: (a) hires only a provider who has been placed on the registry maintained by the WQHCA, or a person whose name has been submitted to the WQHCA and who has been determined eligible for placement on the registry; (b) provides the name, address, and telephone number of a potential provider, not placed on registry, to WQHCA for evaluation of eligibility for placement on the registry; (c) compensates providers in accordance with any applicable collective bargaining agreement; and (d) informs WQHCA of the name, address, and telephone number of any provider that he or she hires.

This provision would first apply to a recipient of home care services on the date that individual's service plan is reviewed.

Providers Subject to Collective Bargaining Agreements. Provide that a qualified provider, as described above, is subject to the collective bargaining agreement that applies to home care providers, as described later in this summary, and that a qualified provider may choose to be placed on the registry maintained by the Authority.

Other Provisions. Authorize DHS to promulgate rules that define terms relating to this

section, including the term "home care services," establishing qualifications that would apply to providers, and establishing procedures for implementing these provisions. Provide that any withholding of MA benefits by DHS for failure of the benefit recipient to comply with these provisions would be subject to the approval by the federal Centers for Medicare and Medicaid Services (CMS).

Collective Bargaining Agreements

Require that all qualified providers providing home care services to individuals under this item be subject to the collective bargaining agreement that applies to home care providers under current statute. Under the bill, these requirements would take effect on July 1, 2011.

Collective Bargaining Unit. Provide home care providers collective bargaining rights under state law similar to those provided to state employees under the State Employment Labor Relations Act (SELRA). Providers would only be considered employees for purposes of collective bargaining benefits. Require DHS to negotiate and administer collective bargaining agreements entered into with home care providers, subject to approval from CMS. Provide that DHS would be responsible for the employer functions of the executive branch and require DHS to structure the collective bargaining unit for employees who are home care providers as a single statewide collective bargaining unit.

Require that after any tentative agreement is officially ratified it be submitted to the Joint Committee on Employment Relations, which would be required to hold a public hearing before determining its approval or disapproval. Any agreement approved by the Committee would then be submitted to the full Legislature for a vote.

Representation. Provide that if a petition is filed with the Employment Relations Commission showing at least 30% of the home care providers included in the collective bargaining have interest in being represented by a labor organization or to changing the existing representative, the Commission would be required to hold an election in which providers may vote on the question of representation, with the labor organization named in the petition on the ballot. Provide that if within 60 days of time the petition is filed, another petition may be filed if at least 10% of providers show interest in being represented by a different labor organization, in which case the name of the labor organization would also be included on the ballot. Require that if a single labor organization receives a majority of the votes, that organization would be the exclusive representative for the collective bargaining unit. Provide that if a majority is not reached, runoff elections may be held until one organization receives a majority of votes.

Rights of Consumers. Provide that consumers employing home care providers retain the right to hire, discharge, suspend, promote, retain, lay off, supervise, or discipline a provider and to set terms, conditions, and duties of employment. The relationship between a consumer and the provider remains at will.

Provide that the representative of the collective bargaining unit may only bargain collectively with respect to matters concerning wages and fringe benefits. Further, the bill

would prohibit employers from bargaining with the collective bargaining unit in regard to the following matters: (a) policies; (b) work rules; (c) hours of employment; and (d) any rights of the consumer as specified above.

Create the Wisconsin Quality Home Care Authority

Create a new statutory chapter, Chapter 52, entitled "Quality Home Care," which describes the creation, organization, and duties of the Authority.

Create the Authority as a public body corporate and politic and require the Authority to do all of the following:

- (a) Establish and maintain a registry of home care providers and provide referral services for individuals in need of home care services;
- (b) Determine eligibility of individual providers for placement on the registry;
- (c) Comply with any conditions necessary for individuals receiving home care services to receive federal MA funding through the state's MA-funded long-term care programs;
- (d) Develop and operate recruitment and retention programs to expand the pool of qualified home care providers available to consumers;
- (e) Maintain a list of home care providers included in a collective bargaining unit;
- (f) Notify home care providers of any procedures for remaining a qualified provider set forth by DHS or the Authority, and of the terms of a collective bargaining agreement;
- (g) Provide orientation activities and skills training for home care providers;
- (h) Provide training and support for individuals hiring a home care provider;
- (i) Provide consumers with information regarding the experience and qualification of home care providers on the registry;
- (j) Develop and operate a system of backup and respite referrals to home care providers, and a 24-hour call service for recipients of home care services;
- (k) Provide an annual report to the Governor on the number of home care providers on the registry and the number of providers providing services under the Authority; and
- (l) Conduct activities to improve the supply and qualify of home care providers.

Board of Directors. Specify that the Authority's Board of Directors would consist of the Secretary of DHS or his or her designee, the Secretary of the Department of Workforce Development (DWD) or his or her designee, and the following members, appointed by the Governor to serve three-year terms: (a) one member of the state Assembly; (b) one member of the state Senate; (c) one representative from a managed care organization; (d) one representative

of a county department, selected from a county not participating in the Family Care program; (e) one representative from the Board for People with Developmental Disabilities; (f) one representative from the Council on Physical Disabilities; (g) one representative from the Council on Mental Health; (h) one representative from the Board on Aging and Long-term Care; and (i) 11 individuals who represent the public interest.

Direct the Governor to appoint one member to serve as Chairperson of the Board, and require the Board to form an executive committee consisting of the Chairperson, the DHS Secretary or his or her designee, the DWD Secretary or his or her designee, and three persons selected from the remaining Board members. This bill identifies the initial Chairperson as the DHS Secretary, or his or her designee.

Provide that each Board member would hold office until a successor is appointed and qualified unless the member vacates or is removed from office, and that a member who serves as a result of holding another office or position vacates his or her office as a member when he or she vacates the other office or position. Provide that a member who ceases to qualify for office vacates his or her office. Require any vacancy on the Board to be filled in the same manner as the original appointment to the Board for the remainder of the unexpired term, if any.

The initial board members identified in (a), (c), and three members from the eleven identified in (i), above, would be appointed for terms that expire July 1, 2010. In addition, the initial board members identified in (b), (d), (f) and four members from the eleven identified in (i), above, would be appointed for terms that expire July 1, 2011. All terms for the remaining board members initially appointed by the Governor would expire July 1, 2012.

Provide that a majority of the members of the Board would constitute a quorum for purposes of conducting the Board's business and exercising its powers. Further, provide that action may be taken by the Board upon a majority vote of the members present, and authorize Board meetings to be held anywhere within the state. Prohibit a member of the Board from being compensated for his or her services, except for reimbursement for actual and necessary expenses incurred in the performance of his or her duties.

Permit the executive committee of the Authority to hire an Executive Director, who would not be a member of the Board, and who would serve at the pleasure of the Board. Further, permit the executive committee to hire additional employees to carry out the duties of the Authority and engage in contracts for services necessary to carry out the duties of the Authority.

Powers of the Authority. Provide the Authority with all powers necessary or convenient to carry out the purposes for which it is created, including the authority to: (a) adopt policies and procedures to govern its proceedings and to carry out its duties; (b) employ, appoint, engage, compensate, transfer, or discharge necessary personnel; (c) make or enter into contracts, including contracts for the provision of legal or accounting services; (d) award grants for the purposes set forth in statute; (e) buy, lease, or sell property; (f) sue and be sued; and (g) collect fees for its services.

Other Provisions. The Authority would be subject to, or exempt from, a range of statutes and regulations, including but not limited to the following: (a) the Authority would be included among the entities to which the Legislative Fiscal Bureau has access, including any books, records, or other documents maintained by the Authority relating to its expenditures, revenues, operations, and structure; (b) the DOA Secretary and his or her designated employees could enter the Authority's office and examine its books and accounts and any other matter that in the Secretary's judgment should be examined, and interrogate the Authority's employees publicly or privately relative thereto; (c) the Authority, its officers, and employees would be required to cooperate with the DOA Secretary, and assist the Secretary in preparing the state budget report and budget bill as the Secretary or Governor may request, and, upon request, provide the Secretary such information concerning anticipated revenues and expenditures as the Secretary requires for effective control of state finances; (d) the Authority would be subject to certain provisions of state law regarding purchasing and bidding, including requirements with respect to nondiscriminatory contracting practices; (e) the Authority would be exempt from various taxes, including the general property tax and the income tax; and (f) the Authority would be subject to certain provisions of state law regarding the code of ethics for public officials. The Authority's records would also be subject to audit by the Legislative Audit Bureau at least once each five years.

Other Statutory Provisions

Rule-Making Authority. Authorize DHS to promulgate rules under these provisions governing home care providers, which would remain in effect until the date on which permanent rules take effect, but not to exceed the period set forth in statute. Provide that DHS is not required to provide evidence that promulgating a rule under this item as an emergency rule is necessary for the preservation of public peace, health, safety, or welfare and is not required to provide a finding of emergency.

Joint Finance/Legislature: Modify the bill as follows.

Define "home care" as supportive home care, personal care, and other non-professional services of a type that may be covered under a medical assistance waiver that are provided to consumers to assist them in meeting their daily living needs, ensuring adequate functioning in their home, and permitting safe access to the community. Authorize DHS to promulgate rules to clarify the services that meet this definition.

Delete the provision that would specify which consumers are subject to the provisions under the bill, and instead define "consumer" as an adult individual who receives home care services, as defined above, and who meets all of the following criteria:

a. The individual is a resident of any of the following: (a) a county where the county board of supervisors has acted to adopt the requirement that the county reimburse independent providers of home care services in accordance with the collective bargaining agreement; (b) a county in which the Family Care program is available; (c) a county in which the Program of All-Inclusive Care for the Elderly, as defined in federal statute, is available; (d) a county in which the

self-directed services program, as defined under federal statute, is available or in which a program operated under an amendment to the state medical assistance (MA) plan, as allowed under federal statute, is available.

b. The individual self-directs all or part of his or her home care services and is the employer of record, as defined below, of a provider.

c. The individual is eligible to receive home care benefits under any of the following: (a) the Family Care program; (b) the Program of All-Inclusive Care for the Elderly; (c) a program operated under a waiver from the Secretary of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) or the self-directed services option, as allowed under federal statute; or (d) a program operated under an amendment to the state MA plan.

Modify the definition of a provider, as specified in the bill, to clarify that an individual that provides home health services is excluded from the definition of a provider, as it relates to the Wisconsin Quality Home Care Authority, while that individual is providing services in the capacity of an employee of any of the following: (a) a home health agency; (b) a personal care provider agency; (c) a health care provider; (d) a company or agency providing supportive home care; (e) an independent living center; or (f) a county agency or department.

Permit Dane County to participate in the program, without further action by the Dane County Board. Permit current board members of the Dane County Quality Home Care Commission to serve on the board of the new Authority for the remainder of their terms.

Clarify that the consumer should be listed as the employer on the provider's income tax forms.

Modify the duties of home care payers, as specified in the bill, to include the requirement that, in addition to informing the Authority of the date of hire, payers, including managed care organizations, the state and participating counties, must also inform the Authority of the date of termination of any provider hired by a consumer to provide home care services.

Delete the current list of duties of consumers specified in the bill ("requirements for benefits") and replace these provisions with the requirement that consumers do all of the following: (a) inform the Authority of the name, address, telephone number, date of hire and date of termination of any provider hired by the consumer to provide home care services; and (b) compensate providers in accordance with any collective bargaining agreement that applies to home care providers and make any payroll deductions authorized by the agreement.

Require that a care management organization make any payroll deductions authorized by any collective bargaining agreement. In addition, require any county that adopts the provision in the bill to compensate providers in accordance with the collective bargaining agreement and make any payroll deductions authorized by such agreements.

Clarify that the Authority must establish and maintain a registry of eligible home care providers who choose to be on the registry for purposes of employment by consumers, and

provide referral services for consumers in need of home care services. Require the Authority to provide DHS with the list maintained by the Authority of all home care providers.

Specify that any collective bargaining agreement may not interfere with the rights of the consumer to hire, discharge, suspend, promote, retain, lay off, supervise, or discipline home care providers or to set duties and conditions of employment. Delete reference to "terms of employment."

Delete the requirement that the Authority notify providers of the terms of the collective bargaining unit, because this is the duty of the legal representative of the collective bargaining unit.

Require DHS, upon request, to provide a list of home care providers to any labor organization that can demonstrate a showing of interest among at least 3 percent of the home care providers, or that is the certified representative of any unit of home care providers in the state, or was the certified representative of such a unit prior to the creation of the statewide Authority. Further, require that DHS provide a list of providers to the labor organization conditional upon the labor organization's agreement to maintain the confidentiality of the list and to use the list solely for the purpose of communicating with the home care providers concerning their exercise of rights pertaining to collective bargaining.

Require DHS to negotiate all collective bargaining agreements, subject to an approved method of rate setting approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services. Delete the provision that states that any withholding of MA benefits by DHS for failure of the recipient to comply with the provisions in the bill is subject to approval by CMS.

Specify that activities related to organizing the collective bargaining unit may take place following the first effective date of the bill. However, retain the provision in the bill that prohibits any collective bargaining agreement from taking effect before July 1, 2011.

Delete the provision that specifies that the provisions in the bill first apply to a recipient of home care services on the date that the recipient's individual service plan is reviewed.

Reduce funding provided for the WQHCA by \$225,000 GPR annually and increase funding by \$225,000 FED annually to reflect that DHS could claim an estimated 90% of the costs of the program as an MA administrative expense. Further, increase funding by \$225,000 GPR annually for the Joint Committee on Finance's supplemental appropriation, which would be available to support the costs of the Wisconsin Quality Home Care Authority if DHS determines that the state cannot claim federal MA administrative funds to support the Authority's costs.

[Act 28 Sections: 3, 10, 16, 20, 23, 24, 44 thru 47, 52, 53, 74, 75, 93 thru 95, 98, 99, 105 thru 112, 114, 120, 163, 164, 863, 884, 893, 894, 1444, 1518, 1623, 1847, 2073, 2156, 2240 thru 2243, 2244 thru 2251, 2253, 2254, 2254g, 2482, 2627, 2632, 3202, 9122(3)&(3f), and 9155m]

2. ASSISTED LIVING FACILITIES CERTIFICATION AND LICENSING FEES

PR-REV	\$432,700
PR	\$747,400

Governor/Legislature: Provide \$369,500 in 2009-10 and \$377,900 in 2010-11 to increase support for activities conducted by the Division of Quality Assurance in regulating assisted living facilities.

Increase biennial certification fees for community-based residential facilities (CBRFs) and licensing fees for adult family homes (AFHs), and adult day care centers (ADCCs) by 27%, to partially address a projected shortfall in a program revenue appropriation that supports DHS' regulatory activities relating to these facilities. The administration estimates that the fee increase would increase program revenues by \$216,300 in 2009-10 and by \$216,400 in 2010-11. The following table summarizes the current biennial fees and the fees proposed by the Governor.

Proposed Assisted Living Licensing and Certification Fee Changes

<u>Facility Type</u>	<u>Current Law</u>	<u>Act 28</u>
CBRF	\$306 + \$39.60/resident	\$389 + \$50.25/resident
AFH	\$135	\$171
ADCC	\$100	\$127

In addition, authorize DHS to increase license fees for CBRFs and AFHs, above the statutory fees that would be established in the bill, by rule. Under current law, DHS may increase certification fees above the statutory fee for ADCCs.

[Act 28 Sections: 1314, 1393, 1400, and 1401]

3. ONE- AND TWO-BED ADULT FAMILY HOMES

PR-REV	\$283,600
PR	\$193,200
FED	<u>401,200</u>
Total	\$594,400

Governor: Provide \$236,800 (\$77,000 PR and \$159,800 FED) in 2009-10 and \$357,600 (\$116,200 PR and \$241,400 FED) in 2010-11 to support activities performed by the Division of Quality Assurance relating to the regulation of one- and two-bed adult family homes (AFHs), beginning in 2009-10. Authorize DHS to assess one- and two-bed adult family homes with a one-time certification fee, beginning in 2009-10. The administration estimates that approximately 278 facilities per year would receive initial certification. Based on its estimate of the amount each AFH would pay for certification (a one-time fee of \$510), the administration estimates that the annual revenue generated from the certification fee will be approximately \$141,800 per year in the 2009-11 biennium. This fee would not be established by statute.

Create a new class of AFHs, which would be defined as a place in which the operator provides care, treatment, support, or services above the level of room and board, but not including nursing care, to up to two adults who are not related to the operator. Exempt the new class of AFHs from several provisions that currently apply to other AFHs, such as services to

residents provided by the Board on Aging and Long-Term Care.

Prohibit any person from operating a one- or two-bed AFH in a county after the date on which the Family Care benefit becomes available in the county, unless the home is certified by DHS, if the home provides services to: (a) supplemental security income (SSI) recipients; (b) Family Care enrollees; or (c) individuals who receive long-term care services under any of the state's waiver programs. Require DHS to certify these homes in accordance with standards established by the Department. Provide that a home's certification would be valid until it is revoked by DHS. Authorize DHS to investigate complaints that an adult family home violated a standard of certification and revoke certification in cases where these standards have been violated.

Under current law, DHS certifies and regulates AFHs that serve three or more residents.

Joint Finance/Legislature: Include provision, but modify the definition of a one- and-two bed AFH by: (a) deleting a reference to "nursing care," so that an AFH could provide care, treatment, support or services above the level of room and board that included nursing care; and (b) removing the restriction that individuals residing in these facilities not be related to the operator.

[Act 28 Sections: 49, 416, 859 thru 861, 1382, 1385 thru 1387, 1390, 1450, 1451, 1453, 1457, and 3133]

4. RE-INSPECTION FEES FOR CERTAIN HEALTH CARE PROVIDERS

PR-REV	\$346,400
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Governor/Legislature: Authorize DHS to assess a fee of \$200 on certain health care providers in cases where DHS took an enforcement action for a violation, and DHS subsequently conducts an on-site inspection of the provider's facility to review the provider's action to correct the violation. The fee for follow-up inspections would apply to adult day care centers, community-based residential facilities, adult family homes, residential care apartment complexes, nursing homes and intermediate care facilities for the mentally retarded that are not operated by the state, hospitals, and home health agencies. DHS would be authorized to assess the re-inspection fee following enforcement actions that occur on the bill's general effective date.

The administration estimates that the new fee would generate \$173,200 annually, beginning in 2009-10.

[Act 28 Sections: 1315, 1389, 1395, 1398, 1403, 1419, 1420, 1421, and 9322(2)]

5. CERTIFICATION FEES FOR PERSONAL CARE SERVICE PROVIDERS

PR-REV	\$97,900
PR	\$90,600
FED	271,800
Total	\$362,400

Governor/Legislature: Provide \$142,400 (\$35,600 PR and \$106,800

FED) in 2009-10 and \$220,000 (\$55,000 PR and \$165,000 FED) in 2010-11 to fund costs of certifying certain entities that provide personal care services under the state's MA program.

Authorize DHS to assess independent personal care providers a certification fee. Define a provider of personal care services to include: (a) independent living centers (ILCs); (b) county departments; (c) federally recognized American Indian tribes or bands certified to provide services to MA recipients; (d) licensed home health agencies; and (e) any other entity certified to provide MA recipients personal care services. However, exempt all providers listed under (a) through (d) from paying the certification fee.

Although the fee amount would not be established by statute, the administration estimates that the fee would be approximately \$1,100 per agency per year to support DHS' costs of certifying these agencies. Based on the administration's estimates of the number of agencies that would pay the fee in each year (39 in 2009-10 and 50 in 2010-11), it is estimated that the fee would increase program revenues by \$42,900 in 2009-10 and by \$55,000 PR in 2010-11. Certification activities for MA providers are funded on a 25% state/75% FED cost-sharing basis.

Authorize DHS to promulgate emergency rules establishing criteria for certification of agencies that provide personal care services under the state's MA program, which would remain in effect until the date on which a permanent rule takes effect. Further, provide that the Department is not required to provide evidence that the emergency rule is necessary for the preservation of public peace, health, safety, or welfare and is not required to provide a finding of an emergency.

Currently, DHS rules define the types of entities that may be certified to provide personal care services under the MA program. The bill would define these entities in statute and expand the number of agencies that can be certified as a personal care provider to include independent agencies.

[Act 28 Sections: 1311 thru 1313, and 9122(2)]

6. COMMUNITY AIDS AND SUBSTANCE ABUSE BLOCK GRANT PAYMENT SHIFT
[LFB Paper 213]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	-\$41,089,800	-\$4,106,700	-\$45,196,500
FED	<u>4,239,800</u>	<u>0</u>	<u>4,239,800</u>
Total	-\$36,850,000	-\$4,106,700	-\$40,956,700

Governor: Decrease community aids funding by \$41,089,800 GPR in 2009-10 and increase funding for the substance abuse, prevention and treatment block grant (SAPTBG) by \$4,239,800 FED in 2009-10 as a one-time funding change due a three-month delay in the basic county allocation payment from the community aids program, and a change in how federal funding years align with county contract periods for the SAPTBG. The community aids program

supports human services provided by counties with state GPR funding and several categorical federal block grants, including the SAPTBG of \$9,735,700. The shift in SAPTBG funding would increase federal funding by \$4,239,800, and decrease GPR by that same amount. Total funding for the SAPTBG in 2009-10 would equal \$13,975,500.

Beginning with calendar year 2010 contracts, DHS would make a payment to counties of 25% of their community aids allocation on January 1 and make a second payment of 75% of their community aids allocation on July 1. This would result in a one-time savings of \$36,850,000 in state fiscal year 2009-10 (approximately 25% of the contract allocation). Under the current contracts, counties receive advance payments in January, February, and March, and are then reimbursed for actual expenditures made, such that approximately 50% of the contract allocation is paid during the first six months of the calendar year, and 50% is paid during the second half of the calendar year.

A similar delay would be made with children and family aids payments in the Department of Children and Families, beginning with the calendar year 2010 contracts.

Joint Finance/Legislature: Reduce funding by \$4,106,700 GPR in 2009-10 to reflect more recent estimates of the amount of funding available for a payment delay in DHS and the Department of Children and Families (DCF). A corresponding increase of \$4,106,700 GPR in 2009-10 from children and family aids in DCF reflects that more funding is available in DHS, rather than DCF, for the payment delay. This would result in total one-time savings of \$40,956,700 GPR in 2009-10 in DHS.

[Act 28 Section: 889]

7. SUPPLEMENTAL SECURITY INCOME (SSI) AND CARETAKER SUPPLEMENT REESTIMATE AND ELIGIBILITY [LFB Paper 411]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$8,156,200	\$3,285,700	\$11,441,900
PR	<u>- 356,500</u>	<u>0</u>	<u>- 356,500</u>
Total	\$7,799,700	\$3,285,800	\$11,085,500

Governor: Provide \$2,756,100 (\$2,951,000 GPR and -\$194,900 PR) in 2009-10 and \$5,043,600 (\$5,205,200 GPR and -\$161,600 PR) in 2010-11 to fund changes in supplemental security income (SSI) state benefit payments, caretaker supplement benefit expenditures, and administrative costs. SSI provides cash benefits to low-income residents who are elderly, blind or disabled. Recipients with dependent children may also receive a caretaker supplement, funded by federal temporary assistance to needy families (TANF) funds received as program revenue from the Department of Children and Families (DCF).

SSI State Supplement Benefits. Provide \$2,951,000 GPR in 2009-10 and \$5,205,200 GPR in 2010-11 to reflect the administration's estimates of the amount necessary to fully fund state

supplemental SSI benefits. The state supplemental payment includes the basic supplement and the exceptional expense benefit (SSI-E). In June, 2008, approximately 102,000 individuals received SSI state supplement payment, including 5,300 "grandfathered" individuals who do not receive federal benefits, but were receiving a state-only benefit when that benefit was discontinued in 1996. Base funding for these state supplemental payments is \$135,449,400 GPR.

SSI Caretaker Supplement -- Funding. Reduce funding by \$1,095,200 PR annually to reflect estimates of SSI caretaker supplement payments. DHS provides SSI recipients with a monthly payment of \$250 for the first dependent child and \$150 for each additional dependent child. The administration projects that the number of recipients and caretaker supplement expenditure will remain constant at 2007-08 levels. Base TANF funding for the caretaker supplement is \$29,450,100 PR.

SSI Caretaker Supplement -- Eligibility. Require DHS, beginning January 1, 2010, to disregard any court-ordered support that is received by, or owed to, the custodial parent in determining the custodial parent's eligibility for caretaker supplement payments. Although this provision would expand eligibility for the receipt of caretaker supplement payments, no additional funding would be provided for a potential increase in the supplemental security income (SSI) caretaker supplement caseload. This provision would first apply to eligibility determinations made or reviewed on January 1, 2010.

SSI recipients are eligible for the supplement if the following apply: (a) the custodial parent receives state SSI benefits and is ineligible for a W-2 employment position solely because he or she receives state SSI benefits; (b) if the dependent child has two custodial parents, each custodial parent receives state SSI benefits; (c) the custodial parent assigns to the state any right of the custodial parent or of the dependent child to support payments from any other person; (d) the dependent child meets the eligibility criteria under the former aid to families with dependent children program; and (e) the dependent child does not receive federal SSI benefits.

Caretaker Supplement Administration. Provide \$900,300 PR in 2009-10 and \$933,700 PR in 2010-11 to fully fund projected administration costs of caretaker supplement payments, including postage, maintenance of the eligibility database, and county income maintenance costs. These costs are projected to equal \$1,544,900 in 2009-10 and \$1,578,300 in 2010-11. During the past several biennia, DHS has transferred surplus funds from other TANF-funded programs to supplement funding that has been budgeted to support these costs (\$644,600). However, all of these TANF funded programs, other than caretaker supplement program, were transferred to DCF in 2008-09.

Joint Finance/Legislature: Provide an additional \$1,483,300 GPR in 2009-10 and \$1,802,400 GPR in 2010-11 to reflect reestimates of SSI state supplement benefits in the 2009-11 biennium.

[Act 28 Sections: 1370, 9322(7)(b), and 9422(12)(b)]

8. OFFICE FOR THE BLIND AND VISUALLY IMPAIRED

FED	\$514,400
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Governor/Legislature: Provide \$251,000 in 2009-10 and \$263,400 in 2010-11 from federal funds the state collects under its income augmentation program, to fully fund projected costs of the Office for the Blind and Visually Impaired (OBVI) in the 2009-11 biennium. OBVI provides assessment, training, and information to adults with vision loss, as well as to their families and interested professionals.

In 2008-09, OBVI is funded from: (a) GPR; (b) federal funds the Department of Workforce Development's Division of Vocational Rehabilitation receives under the Rehabilitation Act of 1973 (Independent Living for Older Blind Individuals) and transfer to DHS; and (c) federal income augmentation funds the Joint Committee on Finance approved on a one-time basis. This item is intended to fund the difference between the administration's estimates of available revenues from these sources (\$1,177,600 annually) and projected OBVI expenses in the 2009-11 biennium (\$1,428,600 in 2009-10 and \$1,441,000 in 2010-11).

9. FEMALE OFFENDER REINTEGRATION PROGRAM [LFB Paper 412]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$0	-\$212,800	-\$212,800

Governor: Repeal all provisions relating to the female offender reintegration program. These provisions require DHS to allocate up to \$106,400 GPR annually to an organization or group of organizations that provides services for female prisoners and offenders from Milwaukee County and their children, if the individual has been convicted of nonviolent crimes. The organization must provide, for up to six months before and up to two years after an individual's release, the following services: (a) screening, assessment, and treatment for prisoners or offenders to assist in community reintegration; and (b) at-risk assessments for all dependent children of these prisoners and offenders, and comprehensive support services. The bill would not eliminate the \$106,400 GPR from the agency's base funding for the program.

Joint Finance/Legislature: Delete \$106,400 annually to reflect the elimination of base funding for the female offender reintegration program.

[Act 28 Section: 895]

10. MILWAUKEE COUNTY ALCOHOL AND OTHER DRUG ABUSE GRANT

Governor: Permit county social services departments and nonprofit organizations in counties with fewer than 500,000 people to compete for alcohol and other drug (AODA) treatment grants. Currently, these grants are available only for the provision of AODA services in counties with a population of 500,000 or more (Milwaukee County).

DHS is currently budgeted \$5,000,000 GPR annually to provide AODA services to

individuals eligible for the temporary assistance to needy families (TANF) program. Since 2000, DHS has allocated these funds to Milwaukee County's Department of Health and Human Services, Behavioral Health Division, which administers the funds on behalf of the Department of Children and Families' Wisconsin Works program. The state counts this funding in meeting the maintenance of effort requirement for the federal TANF grant.

The administration indicates that, with this change, DHS would begin allocating these funds on a competitive basis, beginning in calendar year 2010, and that Milwaukee County and other counties in Southeast Wisconsin, would likely successfully compete to receive this funding.

Joint Finance/Legislature: Delete provision, except retain the Governor's change to reference the DHS "appropriation account," rather than the "appropriation," that supports the program.

[Act 28 Section: 896]

11. NURSING HOMES AND CBRFS -- CONTESTING ACTIONS AND RECEIVERSHIPS

Governor: Increase the period of time during which a nursing home may contest certain actions by DHS (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 receiving a notice from DHS, to within 60 days after receiving a notice. This provision would first apply to violations that are committed after the bill's general effective date.

Further, permit DHS to place a monitor in, and permit the DHS Secretary to petition for appointment of a receiver for, a nursing home or CBRF when: (a) either the Department, nursing home or CBRF determines that estimated operating expenses of the nursing home or CBRF significantly exceed anticipated revenues; or (b) 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. Permit the monitor to assist in the financial management of the facility.

Currently, DHS may place a monitor in, and permit the DHS Secretary to petition for appointment of a receiver for a nursing home or CBRF when: (a) the facility is operating without a license; (b) DHS has suspended or revoked the facility's license; (c) DHS has initiated license revocation procedures and has determined that the lives, health, safety, or welfare of the residents cannot be adequately assured pending a full hearing on license revocation; (d) the facility is closing or intends to close and adequate arrangements for relocation of residents have not been made at least 30 days prior to closure; (e) DHS determines that an emergency exists or that placement of a monitor or appointment of a receivership is necessary to protect the health, safety or welfare of the residents; (f) the facility is in violation of statutes or rules relating to the operation of a nursing home and meets criteria, established by rule, for the placement of a monitor or appointment of a receiver, and there is a need for placement of a monitor or

appointment of a receiver during the period that either there is an orderly closure of the nursing facility, or the nursing facility institutes improvements in order to bring the nursing facility into compliance.

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

12. NURSING HOME BED TRANSFERS

Governor: Repeal the restrictions on nursing home bed transfers, which permit a nursing home to transfer a licensed bed to another nursing home only if the other nursing home is located in the same planning area and shares the same ownership. Under this item, a nursing home would be permitted to transfer a licensed bed to any nursing home in the state, regardless of location or ownership. All transfers would still be subject to DHS review and approval.

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