Legislative Fiscal Bureau
One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

May 12, 2008

TO: Members
Committee of Conference
March 2008 SS AB 1

FROM: Bob Lang, Director

SUBJECT: 2007-09 Budget Adjustment: Conference Substitute Amendment

On February 13, 2008, the Legislative Fiscal Bureau estimated that, without gubernatorial or legislative action, the state would end the 2007-09 biennium with a general fund deficit of $652.3 million.

At that time, the Secretary of the Department of Administration indicated that short-term general obligation borrowing that would otherwise be paid off in 2007-08 and 2008-09 would be rolled over. This action reduces debt service payments by $125.4 million for the biennium. Thus, the projected deficit would be reduced by $125.4 million to $526.9 million.

This memorandum describes the provisions of a Conference Substitute Amendment, which address the remaining $526.9 million deficit.

Following is a 2007-09 general fund condition statement and a table which identifies the general fund effect of each of the provisions.

The tables are followed by a summary and fiscal effect of each of the items of the substitute amendment.

2007-09 General Fund Condition Statement

	2007-08	2008-09
Revenues		
Opening Balance, July 1	$66,288,000	$77,845,100
Estimated Taxes	12,868,300,000	13,286,500,000
Departmental Revenues		
Tribal Gaming Revenues	96,731,600	46,250,700
Other	515,409,000	460,870,600
Total Available	$13,546,728,600	$13,871,466,400
Appropriations and Reserves		
Gross Appropriations	$13,674,410,400	$14,117,862,500
Compensation Reserves	62,759,600	156,617,900
Less Lapses	-268,286,500	-429,286,400
Net Appropriations	$13,468,883,500	$13,845,194,000
Balances		
Gross Balance	$77,845,100	$26,272,400
Less Required Statutory Balance	-25,000,000	-25,000,000
Net Balance, June 30	$52,845,100	$1,272,400

General Fund Effect on the Projected 2007-09 Deficit
(In Millions)

	Item	Net Balance
February 13, 2008, Projection		-$652.28
Administrative Action		
Rollover Short-Term Borrowing	$125.40	-526.88
Committee of Conference		
Permanent Endowment Fund to Medical Assistance	209.00	-317.88
School Aid Payment Delay	125.00	-192.88
Additional Lapses	69.00	-123.88
Transfer from Budget Stabilization Fund to General Fund	57.00	-66.88
Reduce Statutory Balance	40.00	-26.88
Transfer REAL ID Reserve to the General Fund	22.00	-4.88
Deductions for Certain Rental and Interest Payments	15.00	10.12
Reduce Medical Assistance Appropriation	10.00	20.12
Child Care	-18.60	1.52
Tobacco Use Control Grants	-0.25	1.27

Summary of Provisions

1. DOA SECRETARY AUTHORITY TO LAPSE OR TRANSFER FUNDS TO THE GENERAL FUND

Change to Current Law	
GPR-REV	$69,000,000

Require the Secretary of DOA to lapse or transfer $69,000,000 biennially to the general fund from the unencumbered balances of appropriations of executive branch state agencies, other than sum sufficient appropriations and federal appropriations, during each of the 2007-09 and 2009-11 fiscal biennia. This $69,000,000 lapse or transfer requirement would be in addition to the similar $200,000,000 biennial lapse or transfer requirement under 2007 Act 20. These moneys would be treated as revenue (GPR-Earned) to the general fund.

Specify that the Secretary of DOA 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. In addition, specify that no amounts could be lapsed or transferred from appropriations to the Department of Transportation, Department of Revenue, general and categorical elementary and secondary school aids, or the GPR appropriations for SeniorCare benefits and tobacco use control grants.

2. LIMITATION ON LAPSE FROM THE DEPARTMENT OF TRANSPORTATION; GENERAL FUND-SUPPORTED, GENERAL OBLIGATION BONDS FOR HIGHWAY PROGRAMS

Change to Current Law	
BR	$50,000,000

Amend a provision of Act 20 that requires total lapses and transfers to the general fund of $200,000,000 from executive branch agencies during the 2007-09 biennium to specify that it does not apply to the Department of Transportation, except to the SEG appropriation for state highway rehabilitation. Specify that the total amount lapsed from the Department of Transportation is limited to $50 million in the biennium under the Act 20 provision.

Authorize $50,000,000 in general fund-supported, general obligation bonds for the state highway rehabilitation program. This authorization would be added to an existing authorization, provided by 2005 Act 25, of $250,000,000 for the program. These bonds were issued during the 2005-07 biennium. Once all of the new bonds are issued, general fund debt service payments could be expected to be about $5.4 million per year.

Under this provision, the $50,000,000 that could be transferred to the general fund would be replaced with $50,000,000 in general obligation bonds. However, this does not include a $22,000,000 transfer from funds provided in Act 20 for implementation of the federal Real ID Act, summarized separately below.

3. TRANSFER REAL ID IMPLEMENTATION FUNDS TO THE GENERAL FUND

Change to Current Law	
GPR-REV	$22,000,000
SEG-Lapse	$21,989,300
SEG-Transfer	$22,000,000

Prohibit the Joint Committee on Finance from providing an appropriation supplement to the Department of Transportation for the cost of implementing provisions of the federal Real ID Act. Increase estimated transportation fund appropriation lapses by $9,805,300 in 2007-08 and $12,184,000 in 2008-09 to reflect this provision. Transfer $22,000,000 from the transportation fund to the general fund.

4. DEPARTMENT OF TRANSPORTATION HIGHWAY PROGRAM FUNDING ADJUSTMENTS

Change to Current Law	
FED	$76,967,500

Provide increases of $20,000,000 in 2007-08 for the major highway development program and $56,967,500 in 2007-08 for the state highway rehabilitation program.

5. COUNTY TRANSPORTATION AID PAYMENT DELAY TO FUND STATE HIGHWAY MAINTENANCE

Permanently delay the April quarterly county general transportation aid payment until July and provide additional funding for state highway maintenance in 2008-09. Reduce the funding necessary to make county general transportation aid payments by $24,846,900 in 2008-09 and make a corresponding, one-time increase to the state highway maintenance appropriation in 2008-09.

Under current law, county general transportation aid is funded at $99,387,700 for calendar year 2009. In 2009, even quarterly general transportation aid payments are required to be made on the first Monday of January, April, July, and October. Under this provision, the April payment date requirement would be permanently changed, beginning in 2009, to the same date as the July payment, resulting in 25% of the total calendar year amount being paid in January, 50% in July, and 25% in October.

6. TRANSPORTATION FUND DEFICIT

Change to Current Law	
SEG	- $28,000,000
SEG-S	28,000,000
Total	$0

Reduce funding by $28,000,000 SEG in 2008-09 for the major highway development program and provide a corresponding increase of $28,000,000 SEG-S (from currently-authorized transportation revenue bonds) in 2008-09 for the program. Specify that these adjustments shall not be reflected in the 2008-09 appropriation base for the purpose of the preparation of the 2009-11 biennial budget.

The one-time reduction in SEG funding is intended to eliminate a projected transportation fund deficit of $27.5 million, leaving an estimated fund balance of $0.5 million.

Currently-authorized transportation revenue bonds would be used to keep the major highway development program at the same overall funding level.

7. PROPERTY TAX EXEMPTION FOR LOW-INCOME HOUSING

Modify the property tax exemption for educational, religious and benevolent institutions, women's clubs, historical societies, fraternities, and libraries to extend to low-income housing and exclude low-income housing from the "rent use" requirement under current law. (Current law limits the use of income from exempt, leased properties to the property's maintenance or the retirement of any construction debt.) Define low-income housing as any housing projects financed by the Wisconsin Housing and Economic Development Authority (WHEDA) or any residential unit within a low-income housing project that is occupied by a low-income or very low-income person or is vacant and is only available to such persons. Define "housing projects financed by the Wisconsin Housing and Economic Development Authority" as all property of a housing project that is: (a) owned by a corporation, organization, or association described in section 501(c)(3) of the Internal Revenue Code and is exempt from taxation under section 501(a) of the Internal Revenue Code; (b) financed by WHEDA under current law provisions; (c) subject to a first-lien mortgage security interest held by WHEDA; and (d) in existence on January 1, 2008. Define "low-income housing project" as a residential housing project where at least 75% of the occupied residential units are occupied by low-income or very low-income persons or are vacant and available only to low-income or very low-income persons and at least one of the following applies: (a) at least 20% of the residential units are rented to persons who are very low-income persons or are vacant and are only available to such persons; or (b) at least 40% of the residential units are rented to persons whose income does not exceed 120% of the very low-income limit or are vacant and only available to such persons.

In addition, for purposes of the exemption, require the determination of low-income persons and very low-income persons to be made in accordance with the income limits published by the federal Department of Housing and Urban Development (USHUD) for low-income and very low-income families under the National Housing Act of 1937 and provide that all properties included within the same USHUD contract or within the same federal Department of Agriculture (USDA) rural development contract be considered as one low-income housing project.

USHUD determines low-income and very low-income limits for purposes of extending certain income tax credits and determining if organizations are charitable and qualify for tax-exempt status. Low-income families are defined as families whose incomes do not exceed 80% of the median family income for an area, and very low-income families are defined as families whose incomes do not exceed 50% of the median family income for an area. These limits vary both by geographic area and by family size. Based on data collected by the U.S. Bureau of the Census in the American Community Survey, the median income in Milwaukee County equals $67,700 for 2008. Consequently, for Milwaukee County, the limit for low-income families equals $54,150, and the limit for very low-income families equals $33,850. These amounts are for four-person families.

Except as noted below, provide that leasing property that is exempt from taxation as low-income housing does not render it taxable if the lessor uses all of the leasehold income from the property for any of the following reasonable expenditures directly related to the low-income housing project to which the property belongs: (a) maintenance; (b) capital replacements; (c) insurance premiums; (d) project management; (e) debt retirement; (f) moneys reserved for project-related purposes; (g) general and administrative expenses; (h) social services and other resident services provided at the project; (i) utilities; (j) financing costs; (k) any other expenditure related to preserving and managing the project; and (l) any other similar project-related expenditure. Permit a lessor to use up to 10% of the leasehold income for any of the preceding reasonable expenditures directly related to any other low-income housing project under common control with that project and located in Wisconsin. In addition, permit a lessor to use any of the leasehold income for debt service for any other low-income housing project under common control with that project, under the same mortgage, and located in Wisconsin and provide that such amount is not considered for purposes of the 10% maximum.

Require each person who owns a low-income housing project to annually file, no later than March 1, with the assessor of the taxation district in which the project is located, a statement that specifies which units were occupied on January 1 of that year by persons whose income satisfied the income limit requirements under the exemption, as certified by the property owner to the appropriate federal or state agency, and a copy of the USHUD contract or USDA rural development contract, if applicable. Extend the current law provision that authorizes the Department of Revenue to prescribe tax forms to the format and distribution of the statements. Authorize the taxation district assessor to require that a property owner submit other information to prove that the person's property qualifies as low-income housing that is exempt from taxation. Require the taxation district assessor to send a property owner a notice, by certified mail, to the owner's last known address of record, if the assessor has not received a statement by March 1. Require the notice to state that failure to file a statement subjects the owner to penalty. Provide that a person who fails to file a statement within 30 days after notification shall forfeit $10 for each succeeding day on which the form is not received by the taxation district assessor, but not more than $500.

Increase the current acreage limitation for exempt property owned by churches or religious or benevolent associations that is used for low-income housing from 10 acres to 30 acres, but provide that no more than 10 contiguous acres may be exempt in any one municipality. Extend these limitations to all low-income property under common control.

Provide that current law provisions related to the taxation of omitted property do not apply to property that is exempt as low-income property for the years before 2009.

Extend these provisions to property tax assessments as of January 1, 2009.

8. EXEMPTION FOR NONPROFIT CAMPS FROM TOWN SANITARY DISTRICT OR TOWN SPECIAL ASSESSMENTS

Extend the current law exemption for eligible farmland from special assessments for the construction of a sewerage or water system by a town sanitary district or a town to camps. Define "camp" as all real and personal property of any camp conducted by a nonprofit corporation, a charitable trust, or other nonprofit association that is described in section 501 (c) (3) of the Internal Revenue Code and is exempt from federal tax under section 501 (a) of the Internal Revenue Code and that is organized under the laws of Wisconsin, so long as the property is used primarily for camping for children and not for pecuniary profit of any individual. In addition, extend to camps the following current law provisions providing exceptions to the exemption: (a) for property that is connected to a sanitary sewer or public water system at the time or after the time that a special assessment is first imposed; (b) for property that is subsequently divided into two or more parcels; and (c) for property that does not subsequently qualify for the exemption. Extend these provisions for special assessments levied on the first day of the fourth month beginning after the bill's effective date.

9. UTILITY AID HOLD-HARMLESS

Modify the 2007 Wisconsin Act 20 changes to the utility aid component of the shared revenue program that will take effect in 2009 by creating a hold-harmless payment for qualifying municipalities. Provide that any municipality containing a production plant that began operating before 2004 shall receive the greater of the payment based on the combined aid amounts for production plant, substation, and general structure property in the municipality under the Act 20 provisions or the combined aid amounts based on that same property's value as used to calculate the municipality's payment in 1990, reduced to reflect the value of property no longer in use.

A 2003 law change created a new utility aid distribution formula where aid payments for newly-constructed production plants (those that began operating after 2003) are based on the plant's generating capacity. Aid payments for all other aidable utility property continue to be based on the property's current net book value, except the aidable value in each municipality and county cannot be lower than the net book value in 1990, provided that property is still in service. Effective in 2009, Act 20 has modified the aid payment for production plants that began operating before 2004 by changing the aid to the greater of the payment based on the plant's current net book value or its generating capacity under the 2003 law change. Payments for substations and general structures will continue to be based on the property's net book value. In addition, Act 20 repealed the 1990 hold-harmless guarantee. The Act 20 changes will reduce payments to four municipalities that contain production plants where payments have been calculated using the 1990 values. The proposed hold-harmless will offset those reductions by increasing payments by an estimated $139,110 to the four municipalities:

City of Menomonie (Dunn County)	$413
Town of Anson (Chippewa County)	99,317
Town of Wilson (Sheboygan County)	13,132
Village of Rothschild (Marathon County)	26,248

No fiscal effect is reflected for the 2007-09 biennium because the provision will first effect payments in 2009 (2009-10). Therefore, the increased expenditures are delayed until the first year of the 2009-11 biennium.

10. PAYMENT OF PREMIUMS FOR HEALTH OR LONG-TERM CARE INSURANCE COVERAGE OF RETIRED PUBLIC SAFETY OFFICERS

	Change to Current Law Funding	Positions
SEG	$307,100	3.20

Authorize the Department of Employee Trust Funds (ETF) to pay the premiums for any health care coverage or long-term care coverage for a Wisconsin Retirement System (WRS) annuitant who is a "public safety officer" from the individual's retirement annuity or deferred compensation account. Under current law, any WRS annuitant may have insurance premiums for health or long-term care coverage paid directly from his or her WRS annuity (but not from his or her deferred compensation account), if the coverage is offered under a program established by the Group Insurance Board (GIB). The bill would allow, for "public safety officer" annuitants only, the payment of premiums for plans not offered by the GIB from either an annuity or a deferred compensation account. Specify that these provisions would take effect on January 1, 2009.

Provide $307,100 SEG and 3.2 SEG positions (1.1 FTE permanent and 2.1 FTE two-year project positions) in 2008-09 for the implementation and operational costs of the provisions. The positions would be authorized upon enactment of the bill. Ongoing, annualized costs of the program after implementation are estimated to be $54,200.

Require the annuitant to elect to authorize these payments by providing written notice to ETF, as well as all necessary information to permit the department to make the payment in a timely manner. Require ETF to establish procedures to permit an annuitant who is a public safety officer to elect to have his or her premium paid as a deduction from his or her annuity. Provide that, if the annuitant receives an annuity that is not sufficient to cover premium payments, the annuitant must make premium payments directly to the insurer. The bill would also provide that the Deferred Compensation Board may require a deferred compensation plan, upon election by a participant who is a public safety officer, to allow for the deduction of insurance premiums for health or long-term care insurance coverage from an amount distributed from a participant's account and for the payment of the premiums directly to an insurer.

Provide that "public safety officer" would have the meaning given under federal law and would include any individual serving in any public agency in an official capacity, with or without compensation, as a law enforcement officer (including correctional officers and probation and parole agents), a fire fighter, a chaplain, or a member of a rescue squad, or ambulance crew.

11. "CUSTODY" OF PERSONS ON PROBATION, PAROLE, OR EXTENDED SUPERVISION RELATED TO ESCAPE

Modify current law related to the crime of escape by defining "custody" to include actual custody or authorized physical control of persons on probation, parole or extended supervision by the Department of Corrections or under the control of a correctional officer. Provide that a person who is in the custody of a probation, parole or extended supervision agent or correctional officer, based on an allegation or finding that the person violated the rules or conditions of their probation, parole or extended supervision, is guilty of a Class H felony if they intentionally escape from custody. Further, provide that, if the custodian of the person who escaped is injured during the escape, the maximum term of imprisonment may be increased by not more than five years.

Under current law for the crime of escape, persons on probation, parole or extended supervision are excluded from the definition of "custody." As a result, if a person on probation, parole or extended supervision is detained by an agent and flees detention, the escape statute does not apply.

12. EQUALIZATION AID PAYMENT DELAY

Change to Current Law	
GPR	- $125,000,000

Increase the amount of equalization aid paid on a delayed basis by $125 million, from $75 million to $200 million, beginning with payments made in 2008 for the 2007-08 school year. Also, change the date of the total $200 million delayed payment from the current law fourth Monday in July to the first Monday in July. Reduce the general school aids appropriation by $125 million in 2007-08 to reflect the delay.

Under current law, general school aids are paid on the following schedule: 15% in September, 25% in December, 25% in March, and 35% in June. The June payment is made on the third Monday. The payment of $75 million in aid is statutorily delayed to the fourth Monday in July and counted as a receipt in the previous year. The $75 million is deducted proportionately from the payments that would otherwise be made to districts in the other four months. Under the proposal, the additional $125 million delay would be taken from the June payment.

Create a mechanism to buy back the $200 million delayed payment into the current fiscal year. Modify the current law provision regarding treatment of additional general fund tax revenue realized by the state in a given fiscal year to specify that this additional revenue would be used to reduce the amount of the delayed payment. Under current law, 50% of this additional revenue would be transferred to the budget stabilization fund. This transfer would resume when the entire $200 million delayed payment has been bought back into the current year.

Create a second appropriation for the payment of equalization aid, which would be a sum sufficient equal to the amount of the reduction to the delayed payment in the current year.

Require DPI, for the purposes of determining the maximum per pupil payment under the Milwaukee parental choice program in 2007-08 and 2008-09 and in making the final general school aids calculation for 2007-08, to consider the amount of general school aid appropriated for 2007-08 as if the proposed decrease had not occurred.

13. FOUR-YEAR-OLD KINDERGARTEN PHASE-IN

Specify that, if a school board establishes a four-year-old kindergarten (K4) program, the program must be available to all eligible pupils. Provide that a school board that is operating a K4 program in the 2007-08 school year that did not comply with this requirement would need to be in compliance by the beginning of the 2013-14 school year. Specify that a K4 pupil enrolled in such a program would be included in the definition of membership for revenue limit and general school aid purposes.

Under current law, school districts may establish a K4 program, and pupils enrolled in the program are counted as 0.5 or 0.6 pupil for revenue limits and general school aids. In January of 2008, the State Superintendent sent a letter to school district administrators on K4 program requirements. In the letter, she indicated that, if a district does not make a K4 program available to all four-year-old students, the district would not be able to count any K4 pupils in its pupil membership counts, effective with the 2008-09 school year. The State Superintendent indicated that this policy was based on provisions in the Wisconsin Constitution under which "schools shall be free and without charge for tuition to all children between the ages of 4 and 20 years." This provision would put into statute that any K-4 program must be available districtwide, but would create statutory language allowing for a five-year phase-in for existing K4 programs.

14. BUDGET STABILIZATION FUND TRANSFER

Change to Current Law	
GPR-REV	$57,000,000

Transfer $57 million of the amount in the budget stabilization fund (currently at $57.5 million) to the general fund in 2007-08.

15. STATUTORY BALANCE

Change to Current Law	
Req. Statutory Balance	- $40,000,000

Reduce the required statutory balance from $65 million to $25 million for 2007-09.

16. TOBACCO SECURITIZATION

Change to Current Law	
SEG-REV	$209,000,000
SEG	209,000,000
GPR	- 44,000,000
GPR-Lapse	165,000,000
BR	$1,700,000,000

Increase the transfer from the permanent endowment fund to the medical assistance (MA) trust fund by $209 million in the biennium (from $50 million annually under 2007 Act 20 to $309 million in 2008-09) associated with a second tobacco securitization transaction to be carried out by the Department of Administration (DOA). Specify that

the current law provision that requires $50 million annually associated with a second tobacco securitization transaction to be transferred from the permanent endowment fund to the MA trust fund would begin in 2009-10, rather than 2007-08. The remainder of the repurchased tobacco settlement revenues would be transferred each year to the general fund to be used to make annual debt service payments on the appropriation bonds issued to carry out this second securitization transaction.

Provide $165 million GPR in 2008-09 as a place holder to establish the base level of debt service to be paid on the appropriation bonds in 2009-10, as required when issuing appropriation obligations. Because little or no debt service will be paid in 2008-09, increase estimated GPR-Lapses by $165 million.

Reduce funding for MA and BadgerCare Plus benefits by $209 million GPR in 2008-09 to reflect the availability of the additional MA trust fund revenues to support MA and BadgerCare Plus benefits costs in the 2007-09 biennium. Make a corresponding increase in the MA and BadgerCare Plus benefits segregated appropriation from the MA trust fund to permit DHFS to expend the funds transferred to the MA trust fund associated with this securitization transaction.

Authorize DOA to issue up to $1.7 billion in appropriation obligation bonds of the state before July 1, 2009, for the purpose of purchasing any of the tobacco settlement revenues that had been sold by the DOA Secretary under current law, unless a higher amount is required to defease any outstanding indebtedness secured by tobacco settlement revenues and to release those revenues to the state free and clear. Specify that this limit of $1.7 billion in bonds would not apply to: (a) any obligations that have been defeased under a cash optimization program; and (b) obligations issued to pay issuance or administrative expenses, to make deposits to reserve funds, to pay accrued interest, to pay the costs of credit enhancement, and to make payments on ancillary agreements. Sunset the authority of the DOA Secretary to sell tobacco settlement revenues on July 1, 2009. Specify that the Legislature finds and determines that the purchase of such tobacco settlement revenues from the net proceeds of any appropriation obligation bonds would be appropriate and in the public interest and would be serve a public purpose. Create an appropriation for the receipt of all moneys received from the sale of appropriation obligations, and any moneys earned on such moneys or any moneys held, issued for the purpose of purchasing any of tobacco settlement revenues sold by the DOA Secretary.

Specify that recognizing its moral obligation to do so, the Legislature expresses its expectation and aspiration that it would make timely appropriations from moneys in the general fund that are sufficient to: (a) pay principal and interest due in any year with respect to any appropriation obligations issued to purchase tobacco settlement revenues; (b) make payments of the state under agreements and ancillary arrangements associated with these obligations; (c) make deposits to required reserve funds; and (d) to pay related issuance and administrative expenses. Create an annual GPR debt service appropriation from which these payments would be made.

Establish statutory references specific to DOA's existing appropriation obligation authority for refinancing the state's unfunded liabilities under the Wisconsin Retirement System

to differentiate this appropriation obligation authority from the proposed tobacco settlement revenue appropriation obligation authority. At the time the state established the appropriation obligation authority needed to refinance its unfunded pension and accumulated sick leave conversion liabilities, DOA was also authorized to issue excise tax revenue obligation bonds for that same purpose. Because DOA used the appropriation obligation authority to refinance these liabilities, the excise tax revenue obligation authority is no longer needed. The bill would delete this excise tax revenue obligation bond authority.

Existing Securitization Transaction

Under 2001 Act 16 (the 2001-03 budget), the Secretary of DOA was authorized to securitize the state's rights to its tobacco settlement payments. Using this authority, the DOA Secretary assigned the rights to the state's tobacco settlements to the Badger Tobacco Asset Corporation (BTASC) on April 18, 2002. BTASC, after receiving the rights to the state's tobacco settlement payments, used the newly-acquired revenue stream to back the issuance of $1.59 billion in revenue bonds. Under federal tax law, these bonds may only be refinanced once. In return for the rights to the state's tobacco settlement payment revenues, BTASC provided the state with the net proceeds from those bonds. The securitization transaction resulted in $1.275 billion in net bond proceeds being available to the state.

Under the 2002 securitization transaction, the state assigned the rights to 30 years of its tobacco settlement payments to BTASC, so that these revenues are legally pledged through 2032. However, as indicated in the offering circular on the bonds, fewer years of the state's settlement payments are expected to be needed to retire those bonds. The repayment requirements associated with most of the bonds that were issued require that any excess, annual tobacco settlement revenues, after all the scheduled, annual debt service payments are made, must be used to prepay the outstanding principal on the BTASC bonds. Despite this requirement, the BTASC would not be considered in default on the bonds until the 30-year repayment schedule is not met. Due to the prepayment, and according to the offering circular, using a conservative, independent forecast of the annual tobacco settlement revenues to be received by BTASC, it is projected that all of BTASC's outstanding tobacco bonds will be paid off by 2018. Therefore, beginning during 2018, tobacco settlement revenues currently assigned to BTASC will again flow to the state. In 2019, the state expects to regain access to the full annual amount of tobacco settlement revenues.

Under 2007 Act 20, a second securitization transaction was proposed by DOA, using the current law authority provided to BTASC. The second securitization transaction considered at that time would have involved BTASC refinancing its existing bonds and restructuring the repayment of those bonds to generate $50 million annually. The $50 million annually would have been deposited to the permanent endowment fund and, under Act 20, transferred each year to the medical assistance trust fund.

As part of the Governor's 2007-09 budget adjustment proposal, DOA indicated that $15 million in additional annual revenues to the permanent endowment fund would be generated by BTASC carrying out a second tobacco securitization transaction. This transaction would be different than the securitization transaction proposed during legislative deliberations on 2007

Act 20. This second securitization transaction, which could be implemented under current law, would involve BTASC issuing $1.5 billion in new bonds to pay off their outstanding bonds. The repayment of the new BTASC bonds would be structured in a way that would lower the amount of tobacco settlement revenues needed to retire the obligations by $68 million annually compared to the existing BTASC bonds. The lower annual debt service costs would primarily be the result of extending the expected repayment date on the bonds from 2018 to 2027.

Current Securitization Proposal

Under the current securitization proposal, the state, rather than BTASC, would issue up to $1.7 billion in appropriation obligation bonds to refund the outstanding BTASC bonds and fund an upfront deposit of $309 million in 2008-09 to the MA trust fund. Appropriation obligations are not considered public debt of the state, but rather are backed by a pledge of the state to appropriate funds in an amount sufficient to meet the annual debt service payment on the bonds. Under this proposal, the debt service on the appropriation obligations would be repaid from a general fund appropriation through 2028-29. These costs to the general fund would be offset by the annual deposit of most of the repurchased tobacco settlement revenues to the general fund during that same period.

The state would expect to pay a lower interest rate on the appropriation obligation bonds compared to the existing BTASC revenue bonds, which would help lower the required annual interest costs associated with the bonds. In addition, the expected final repayment date on the bonds issued under the transaction would be extended from the current repayment date of 2018 to 2029, which would significantly lower the annual debt service payment needed to retire the bonds. The final maturity of the bonds could be extended from 2032 under the existing securitization transaction, to 2037, the projected date of rated final maturity of the state issued appropriation obligation bonds.

By extending the expected final repayment date by twelve years, the required debt service payment on the bonds issued under this securitization proposal could be reduced by $50 million annually beginning in 2009-10. In addition, as part of the transaction, the state would issue sufficient bonds to generate additional revenues in 2008-09. As a result, the transaction could also allow the state to receive a one-time amount $309 million in 2008-09 ($209 million in additional funds compared to Act 20) for deposit in the permanent endowment fund, which would then be transferred to the medical assistance trust fund.

The following table lists the expected tobacco settlement revenues to be received by the state through 2029-30 under the existing securitization transaction and under the proposed transaction.

Estimated Tobacco Settlement Revenues Available to the State
Under the Existing Securitization Transaction and Under the Proposed Transaction
($ in Millions)

Fiscal Year	Estimated GPR Revenues Under Existing Securitization	An Illustration of the Structure of Net Revenues Under the Proposed Transaction		
		MA Trust Fund	General Fund Net of Debt Service	Total
2008-09	$0	$309	$0	$309
2009-10	0	50	0	50
2010-11	0	50	0	50
2011-12	0	50	0	50
2012-13	0	50	0	50
2013-14	0	50	0	50
2014-15	0	50	0	50
2015-16	0	50	0	50
2016-17	0	50	0	50
2017-18	115	50	0	50
2018-19	179	50	0	50
2019-20	181	50	0	50
2020-21	183	50	0	50
2021-22	185	50	0	50
2022-23	188	50	0	50
2023-24	190	50	0	50
2024-25	192	50	0	50
2025-26	195	50	0	50
2026-27	197	50	0	50
2027-28	200	50	0	50
2028-29	203	50	111	161
2029-30	206	50	156	206

As indicated in the table, this tobacco securitization proposal involves restructuring the timing of future cash flows to the state. The medical assistance trust fund would receive $309 million in 2008-09, and $50 million in tobacco settlement revenues annually from 2009-10 through 2029-30 through transfers from the permanent endowment fund. In exchange, the state would effectively forgo its expected annual tobacco settlement payments ranging from $115 million to $200 million from 2017-18 through 2027-28, which would provide revenues to the general fund needed to pay debt service on the appropriation obligation bonds.

Under the proposed transaction, the state would receive $1,626 million from 2008-09 through 2029-30, but would effectively forgo $2,414 million over the same period, resulting in a net reduction of $788 million. It is also useful to compare the two cashflow streams using a net present value calculation. Using an annual discount rate of 5.23%, which approximates the projected interest rate on the bonds issued under this alternative transaction, the revenues under the transaction from 2008-09 through 2029-30 would have an estimated net present value of $980 million. In comparison, the revenues under current law from 2008-09 through 2029-30

would have an estimated net present value of $1,068 million. Based on this comparison, the net present value of the revenues that would be received by the state under this alternative transaction would be an estimated $88 million less than under current law.

It should be noted that the information included in the table is based on the market conditions that existed at the time an analysis was conducted for the administration. Because the current financial markets are volatile, the actual cashflows and costs of financing could vary significantly from those used in the analysis of these transactions.

In addition, under the existing tobacco securitization transaction, the state, from a legal standpoint, has no legal liability associated with the BTASC bonds in the event the tobacco settlement revenues are not sufficient to meet the debt service payments on the bonds. However, due to the close association of the state with BTASC, it may be difficult from a bond market perspective for the state to allow BTASC to default on the bonds. From a practical standpoint, tobacco settlement revenues would have to decline significantly before BTASC would be in default on its tobacco bonds. BTASC would only be considered in default on the tobacco bonds if it could not make the annual debt service payments that were based on the 30-year repayment schedule, not under the schedule for the projected pre-payment date of 2018. It is unlikely that annual tobacco settlement revenues would experience such a significant reduction that BTASC would default on the 30-year repayment schedule, which requires significantly lower annual debt service payments.

Under the alternative securitization transaction identified earlier, the state, by issuing appropriation obligation bonds, would fully reacquire the risk associated with any potential decline in future tobacco settlement revenues. As a result, if the tobacco settlement revenues would decline to a level in any year that is below the amounts necessary to make the annual principal and interest payments on the appropriation obligations, the state would have to appropriate general fund revenues in those years to make up that difference.

17. TOBACCO USE CONTROL GRANTS

Change to Current Law	
GPR	$250,000

Increase funding for tobacco use control grants by $250,000 in 2008-09. Current base funding for these grants is $15,000,000 annually.

18. MA BENEFITS FUNDING REDUCTION

Change to Current Law	
GPR	- $10,000,000
FED	- 14,354,600
Total	- $24,354,600

Reduce funding for medical assistance (MA) benefits by $24,354,600 (-$10,000,000 GPR and -$14,354,600 FED) in 2008-09 to reflect savings the Department of Health and Family Services (renamed the Department of Health Services, effective July 1, 2008) would be expected to generate in the program.

19. TRAINING REQUIREMENTS RELATED TO SOLICITATION, NEGOTIATION AND SALE OF LONG-TERM CARE INSURANCE

Revise current law relating to the date by which individuals must complete an initial training program before they can solicit, negotiate, or sell long-term care insurance. Under current law, the Department of Health and Family Services and the Office of the Commissioner of Insurance must approve a training program for individuals who sell long-term care insurance policies in Wisconsin to ensure that those individuals understand the relation of long-term care insurance to the MA program and are able to explain to consumers the protections offered by long-term care insurance and how this type of insurance relates to private and public financing of long-term care. 2007 Act 20 included a provision that prohibited individuals from soliciting, negotiating, or selling long-term care insurance unless they completed the initial portion of that training program by January 1, 2009, and completed ongoing training every 24 months after completing that initial training. This bill would amend current law by prohibiting an individual from soliciting, negotiating, or selling long-term care insurance on or after January 1, 2009 unless they have completed the initial portion of that training program and complete ongoing training every 24 months after completing that initial training.

20. EXPANDING THE TELEPHONE SOLICITATION (DO NOT CALL) PROGRAM

Expand the Department of Agriculture, Trade and Consumer Protection's (DATCP) telephone solicitation regulation (no-call) program to cellular telephones. The definition of a "residential customer" who may sign up for the no-call list would be expanded to include "commercial mobile services", rather than only "basic local exchange" service.

DATCP's no-call program, was created in 2001 Act 16 and requires most telemarketers who sell property, goods or services to register with DATCP and prohibits them from calling, for the purpose of solicitation, consumers who register their phone number on the no-call list maintained by the Department. Businesses are required to purchase this no-call list from DATCP and are not allowed to solicit the phone numbers on the list. The Department is currently provided 7.0 PR positions and approximately $700,000 annually to administer and enforce the program. Staff consists of one supervisor, three investigators and three consumer specialists.

21. NONRESIDENT SNOWMOBILE TRAIL USE STICKER

Change to Current Law	
SEG-REV	$545,000

Increase the fee for an annual non-resident snowmobile trail use sticker (non-resident trail pass) to use public snowmobile corridors in this state from $18 to $35 effective July 1, 2008.

Revenue from the sale of non-resident snowmobile trail passes is deposited in the snowmobile account of the segregated conservation fund. Since 2001-02, $15 from each non-resident trail pass sold the prior year is used for supplemental trail aid payments to counties to cover trail grooming costs.

As the fee for a two-year snowmobile registration would remain $30, it could be expected that some non-residents may purchase a two-year snowmobile registration rather than an annual non-resident trail pass. However, in order to register a snowmobile in Wisconsin, a non-resident would be required to pay sales tax on the value of the snowmobile or present proof that he or she had paid the sales tax on the machine. Therefore, it is not expected that a substantial number of non-resident snowmobile users would purchase a two-year registration rather than an annual non-resident trail pass. However, to the extent that some users switched from a trail pass to a registration, the amount of the motor fuel tax transfer to the snowmobile account would be increased due to the increased registrations. Further, the annual trail pass fee would almost double. This would likely result in some reduction in sales. While the precise effects of these factors on annual trail pass sales is not known, for the purposes of this estimate, a 5% reduction in sales is assumed.

While revenues vary substantially from year to year (from about $450,000 to $750,000), the $18 non-resident snowmobile trail pass generates revenues to the snowmobile account of the conservation fund averaging approximately $625,000 per year. This provision would be estimated to increase snowmobile account revenue by approximately $545,000 annually (beginning in fiscal year 2008-09).

22. CONTROL OF INVASIVE SPECIES

Specify that no person may possess, release, control, store, sell, or transport, any fish, or viable fish eggs that are of an invasive species, if the person knows, or should know, that the fish is, or the eggs of the fish are, of an invasive species. The bill would define "invasive fish species" as a species of fish that is not native to the waters of this state and that causes, or is likely to cause, harm to the economy, the environment, or to human health. The bill would require the Department of Natural Resources (DNR) to promulgate rules designating fish that are of an invasive fish species.

In addition, specify that no person may transport a boat, boat trailer, or boating equipment on a public roadway if that equipment has an invasive species (plant or animal), as specified by administrative rule, in, or attached to it.

The prohibitions would not apply to the following: (a) a person who holds a scientific collector permit; (b) a person who holds a permit to import fish; (c) a person who holds a permit to introduce, plant, or stock fish; (d) a person who operates a state or municipal fish hatchery; (e) a person who is authorized by DNR to possess, release, control, sell, or transport fish or fish eggs for scientific or educational purposes or for the purpose of controlling the population of fish that are of an invasive fish species; and (f) a person who, while lawfully fishing, inadvertently catches a fish that is of an invasive fish species (this exemption would be defined by administrative rule).

Establish a penalty for the violation of these provisions of a forfeiture of not more than $1,000.

Under current law, DNR is required to administer a statewide program to control

invasive species which involves a statewide management plan, research and education initiatives, and a watercraft inspection program. The Department is required to promulgate rules to identify and classify invasive species and is authorized to establish procedures and requirements for issuing permits to control invasive species. Current law prohibits the distribution of invasive aquatic plants (as designated by DNR rule) and certain other aquatic management practices (such as introduction of a nonnative aquatic plant into Wisconsin waters, removal of aquatic plants from navigable waters, and control of aquatic plants using chemicals) are also prohibited unless a person holds a valid aquatic plant management permit issued by DNR. Support for the program is provided from permit fees and the segregated conservation fund (primarily water resources account). In addition, federal funding has been used to support aquatic invasive species educational outreach efforts in the coastal counties of Lake Michigan and Lake Superior and for interstate monitoring, information and education, and watercraft inspection efforts along the St. Croix River.

23. CHILD CARE SUBSIDIES

Change to Current Law	
GPR	$18,600,000

Provide $18,600,000 in 2007-08 for direct child care subsidies 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. The additional funds would address an anticipated shortfall in the Wisconsin Shares program.

In addition, except as provided below, require a child care administrative agency to authorize payment for licensed child care providers based on authorized units of service for a child to attend and not on the actual units attended by a child. A child care administrative agency is an agency that has a contract with the Department of Workforce Development (DWD) or the Department of Children and Families (DCF) to administer child care funds or an agency that has a subcontract to administer child care funds with an agency that has a contract with DWD or DCF. However, permit the agency to authorize payment to licensed child care providers based on actual units of service attended by each child, up to the maximum number of authorized hours, if: (a) the schedule of child care to be used is expected to vary widely (with the reimbursement rate increased by 10% to account for absent days); or (b) the agency has documented three separate occasions where the provider significantly overreported the attendance of a child.

Also, require a child care administrative agency to authorize payment for certified child care providers for actual units of service attended by each child, up to the maximum number of authorized units, unless payment is made to the certified child care provider to hold a slot for a child whose parent has a temporary break in employment.

Finally, permit a child care administrative agency to authorize payment to a licensed or certified child care provider to hold a slot for a child if the parent has a temporary break in employment and intends to return to work and continue to use the child care provider upon return to work. Limit such payments to six weeks if the absence is due to a medical reason and is documented by a physician, or to four weeks for other reasons. Provide that payment for a

temporary absence could not be considered an overpayment if the parent intended to return to work but does not actually return.

These statutory changes are identical to current administrative rules governing the payment of child care providers and are intended to prevent DWD or DCF from implementing an emergency rule to change the payment policy for licensed child care providers to an attendance based policy. Pursuant to an emergency rule, from April, 2007, through October, 2007, DWD had implemented an attendance based reimbursement policy such that Wisconsin Shares no longer paid licensed child care providers for absences in child care when attendance was less than half the number of authorized hours per week.

24. DEDUCTIONS FOR RENTAL PAYMENTS AND INTEREST PAYMENTS TO RELATED ENTITIES

Change to Current Law
GPR-REV $15,000,000

Require, under the state individual income and corporate income and franchise taxes, that the deductions claimed for certain rental and interest payments by businesses to related entities be added back when computing state total income.

Generally, federal gross income is the starting point in determining state income or franchise tax liability. However, certain adjustments are made to reflect differences in the state and federal definitions of income. For example, under the state individual income tax and corporate income and franchise tax, a taxpayer is required add to federal income any interest on state and municipal obligations that is exempt from federal income tax.

Under the proposal, certain expenses that may be deducted or excluded under the federal Internal Revenue Code (IRC) would have to be added to gross income under the state individual income and corporate income and franchise taxes. Specifically, rental expenses and interest expenses deducted or excluded under the IRC would have to be added back if they are directly or indirectly paid, accrued, or incurred to, or in connection directly or indirectly with one or more direct or indirect transactions with, one or more related entities.

"Rental expenses" would mean the gross amounts paid which would otherwise be deductible under the IRC and in the computation of Wisconsin adjusted gross income (AGI) for the use of, or the right to use, real property and tangible personal property in connection with real property, including services furnished or rendered in connection with such property, regardless of how the expenses are reported for financial accounting purposes and regardless of how the expenses are computed.

"Interest expenses" would mean interest which otherwise would be deductible under the IRC and deductible in the computation of Wisconsin AGI.

"Related entity" would mean any person related to a taxpayer as provided under specified sections of the Internal Revenue Code during all or a portion of the taxpayer's taxable year, and any real estate investment trust (REIT), under the IRC, except a qualified REIT, of which more than 50% of any class of the beneficial interests or shares of the real estate

investment trust are owned directly, indirectly, or constructively by such taxpayer or any person related to the taxpayer during all or a portion of the taxpayer's tax year. Constructive ownership rules under specified sections of the IRC would apply in determining the ownership of stock, assets, or net profits of any person.

"Qualified real estate investment trust" would mean a REIT except a real estate investment trust the shares or beneficial interest of which are not regularly traded on an established securities market and more than 50% of the voting power or value of any class of the beneficial interests or shares of which are owned or controlled, directly, indirectly, or constructively, by a single entity that is treated as an association taxable as a corporation under the IRC. The following entities would not be considered an association taxable as a corporation:

a. An entity that is exempt from Wisconsin taxation under state law and exempt from federal income tax under the IRC.

b. A qualified REIT.

c. A qualified REIT subsidiary under the IRC which is a subsidiary of a qualified REIT.

d. An Australian unit trust under the Australian Corporations Act in which the principal class of units is listed on a recognized stock exchange in Australia, and is regularly traded on an established securities market; or an entity organized as a trust if a listed Australian property trust owns or controls, directly or indirectly, 75% or more of the voting power or value of the beneficial interests or shares of such trust.

e. A corporation, trust, association, or partnership organized outside the laws of the United States which satisfies all of the following criteria:

(1) At least 75% of the entity's total asset value at the close of its taxable year consists of real estate assets as defined in the IRC, cash and cash equivalents, and U.S. Government securities;

(2) The entity is not subject to tax on amounts distributed to its beneficial owners, or is exempt from entity-level taxation;

(3) The entity distributes at least 85% of its taxable income, as computed in the jurisdiction in which it is organized, to the holders of its shares or certificates of beneficial interest on an annual basis;

(4) Not more than 10% of the voting power or value in such entity is held directly, indirectly, or constructively by a single entity or individual, or the shares or beneficial interests of such entity are regularly traded on an established securities market; and

(5) The entity is organized in a country which has a treaty with the United States.

The constructive ownership rules of the IRC would apply in determining the ownership of stock, assets, or net profits of any person.

A deduction would continue to be allowed for rental and interest expenses if any of the following conditions applied:

a. The related entity to which the taxpayer paid, accrued, or incurred the rental or interest expenses during the tax year directly or indirectly paid, accrued, or incurred such amounts in the same tax year to a person who is not a related entity, or the related entity to which the taxpayer paid, accrued, or incurred such expenses was a holding company or a direct or indirect subsidiary of a holding company as defined under specified sections of the U.S. Code, excluding any entity organized under the laws of another jurisdiction that primarily holds and manages investments of a bank, subsidiary, or affiliate. If a portion of such an expense was paid, accrued, or incurred in the same taxable year to a person who was not a related entity, then that portion would be allowed as a deduction to the taxpayer. For purposes of this paragraph, "interest" would exclude interest that was paid in connection with any debt that was incurred to acquire the taxpayer's assets or stock under the IRC.

b. The related entity was subject to tax on, or measured by, its net income or receipts in this state, or any state, U.S. possession, or foreign country; the related entity's tax base in such state, U.S. possession, or foreign country included the income received from the taxpayer for the rental or interest expenses; the aggregate effective tax rate applied to such income or receipts was at least 80% of the taxpayer's aggregate effective tax rate; and the related entity was not an REIT under the IRC, other than a qualified REIT. "Any state, U.S. possession, or foreign country" would not include any state, U.S. possession, or foreign country under the laws of which the taxpayer filed with the related entity, or the related entity filed with another entity, a combined income tax report or return, a consolidated income tax report or return, or any other report or return that was due because of the imposition of a tax that was measured on or by income or receipts, if the report or return resulted in eliminating the tax effects of transactions directly or indirectly between either the taxpayer and the related entity, or between the related entity and another entity.

c. The taxpayer established that the transaction met any other conditions the Department of Revenue (DOR) deemed relevant, based on the facts and circumstances, to determine that the primary motivation of the transaction was one or more business purposes other than the avoidance or reduction of state income or franchise taxes; that the transaction changed in a meaningful way, apart from tax effects, the economic position of the taxpayer; and that the expense was paid, accrued, or incurred using terms that reflect an arm's length relationship.

Deductions under these provisions would not be allowed unless the amount paid, accrued, or incurred for the type of transactions were disclosed on a separate form prescribed by DOR in the manner prescribed by the Department.

The proposal would specify that if a deduction for rental or interest expenses was denied to a taxpayer because the expenses were paid to a related entity, then such amounts would not be included in the income of the related entity for state tax purposes. This provision is intended to prevent double-taxation.

"Aggregate effective tax rate" would be defined as the sum of the effective tax rates imposed by a state, U.S. possession, foreign country, or any combination thereof on the person or entity.

"Effective tax rate" would mean the maximum tax rate imposed by the state, U.S. possession, or foreign country multiplied by the apportionment percentage, if any, applicable to the person or entity under the laws of that jurisdiction.

Under current law, in any case of two or more organizations, trades, or businesses (whether or not incorporated, whether or not organized in the United States, and whether or not affiliated) owned or controlled directly or indirectly by the same interests, the Secretary of Revenue or his or her delegate is statutorily authorized to distribute, apportion, or allocate gross income, deductions, credits, or allowances between or among such organizations, trades, or businesses, if he or she determines that such distribution, apportionment, or allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income of any such organizations, trades, or businesses. The proposed law change would specify that the authority under the proposed provisions is in addition to and not a limitation of or dependent upon the current statutory authority provisions.

The proposal would first apply to tax years beginning on January 1, 2008.

DOR has entered into a number of settlement agreements with banks and other financial institutions regarding their investment subsidiaries. The proposal also includes a nonstatutory provision that specifies that the intent of the Legislature in enacting these provisions is to have no effect on those settlement agreements.

It is estimated that these provisions would increase state income and franchise tax revenues by $15 million in 2008-09. Of this amount, $6 million would be from the add-back of rental payments and $9 million would be from the add-back of interest payments.