

2005 ASSEMBLY BILL 1168

April 3, 2006 – Introduced by Representatives ZEPNICK, KRAWCZYK, BIES, BERCEAU, COLON, FIELDS, MOLEPSKE, OTT, POPE-ROBERTS, SHERIDAN, SHERMAN, SINICKI, TOLES and TURNER, cosponsored by Senator MILLER. Referred to Joint Committee on Finance.

1 **AN ACT** *to amend* 20.435 (4) (o) and chapter 77 (title); and *to create* 20.435 (4)
2 (xm), 20.435 (4) (xn), 25.17 (1) (cm), 25.771, 49.45 (3) (n), subchapter XIV of
3 chapter 77 [precedes 77.9981] and 250.16 of the statutes; **relating to:** imposing
4 a tax on the sale of soft drinks, creating a dental access trust fund, creating
5 grants for dental public health and dental education projects, and making
6 appropriations.

Analysis by the Legislative Reference Bureau

This bill imposes an excise tax on the sale at wholesale of soft drinks sold in this state and creates the dental access trust fund. The tax is equal to: 1) \$2 for each gallon of soft drink syrup sold in this state in the taxable year; 2) 21 cents for each gallon of bottled soft drinks sold in this state in the taxable year; and 3) on the sale of a package or container of soft drink syrups, simple syrups, powders, or other base products, 21 cents for each gallon of soft drink that may be produced from each package or container according to the manufacturer's instructions. The revenue generated from the tax is deposited into the dental access trust fund.

Under the bill, moneys deposited into the dental access trust fund are appropriated, beginning January 1, 2007, to supplement reimbursement for dentists' services provided to recipients under the Medical Assistance Program and to fund grants from the Department of Health and Family Services for dental public health and dental education projects.

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For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

		2005-06	2006-07
20.435	Health and family services; department of		
(4)	HEALTH SERVICES PLANNING, REG & DELIVERY; HLTH CARE FIN; OTHER SUPPORT PGMS		
(xm)	Dental access trust fund; medical assistance dental services supplement	SEG B	-0- -0-

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

20.435 (4) (o) *Federal aid; medical assistance.* All federal moneys received for meeting costs of medical assistance administered under ss. 46.284 (5), 49.45 and 49.665, to be used for those purposes and for transfer to the medical assistance Medical Assistance trust fund and to the dental access trust fund, for those purposes.

SECTION 3. 20.435 (4) (xm) of the statutes is created to read:

20.435 (4) (xm) *Dental access trust fund; medical assistance dental services supplement.* From the dental access trust fund, biennially, the amounts in the schedule for supplementary payments under s. 49.45 (3) (n) for dentists' services.

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

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1 20.435 (4) (xm) *Dental access trust fund; dental public health and education*
2 *projects.* From the dental access trust fund, all moneys received, less the moneys
3 appropriated under par. (xm), for dental public health and education projects under
4 s. 250.16.

5 **SECTION 5.** 25.17 (1) (cm) of the statutes is created to read:

6 25.17 (1) (cm) Dental access trust fund (s. 25.771);

7 **SECTION 6.** 25.771 of the statutes is created to read:

8 **25.771 Dental access trust fund.** There is created a separate nonlapsible
9 trust fund, designated as the dental access trust fund, consisting of all of the
10 following:

11 (1) All moneys collected under subch. XIV of ch. 77 from the soft drink tax
12 imposed under s. 77.9982.

13 (2) All federal money received, including moneys that the department of health
14 and family services may transfer from the appropriation under s. 20.435 (4) (o), that
15 are related to supplementary payments under s. 49.45 (3) (n) for dentists' services
16 provided as specified in ss. 49.46 (2) (b) 1. and 49.47 (6).

17 **SECTION 7.** 49.45 (3) (n) of the statutes is created to read:

18 49.45 (3) (n) From the appropriation under s. 20.435 (4) (xm), the department
19 shall supplement the rate of reimbursement for dental services otherwise paid under
20 this subsection by an amount that increases the rate so as to equal the 75th
21 percentile of the fees specified in the most recent American Dental Association fee
22 schedule for the east north central region, as determined by the department.

23 **SECTION 8.** Chapter 77 (title) of the statutes, as affected by 2005 Wisconsin Act
24 25, is amended to read:

CHAPTER 77

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1 **TAXATION OF FOREST CROPLANDS;**
2 **REAL ESTATE TRANSFER FEES;**
3 **SALES AND USE TAXES; COUNTY**
4 **AND SPECIAL DISTRICT SALES AND**
5 **USE TAXES; MANAGED FOREST LAND;**
6 **TEMPORARY RECYCLING SURCHARGE;**
7 **LOCAL FOOD AND BEVERAGE TAX;**
8 **LOCAL RENTAL CAR TAX; PREMIER**
9 **RESORT AREA TAXES; STATE RENTAL**
10 **VEHICLE FEE; DRY CLEANING FEES;**
11 **REGIONAL TRANSIT AUTHORITY FEE;**
12 **SOFT DRINK TAX**

13 **SECTION 9.** Subchapter XIV of chapter 77 [precedes 77.9981] of the statutes is
14 created to read:

15 **CHAPTER 77**
16 **SUBCHAPTER XIV**
17 **SOFT DRINK TAX**

18 **77.9981 Definitions.** In this subchapter:
19 **(1)** “Bottled soft drink” means any complete and ready-to-consume soft drink
20 sold in a container.

21 **(2)** “Partnership” has the meaning given in s. 77.92 (4m).

22 **(3)** “Soft drink” means a flavored nonalcoholic beverage that contains sugar,
23 corn fructose, aspartame, or some other sweetener as an ingredient and includes all
24 of the following:

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1 (a) Ginger ale, cola, or any other drink that is commonly referred to as a soft
2 drink.

3 (b) Any fruit or vegetable drink that contains no more than 10 percent natural
4 fruit or vegetable juice.

5 (c) Any package or container of powder, syrup, or other base product that, when
6 mixed with a liquid, produces a soft drink that may be dispensed from a machine.

7 (4) "Taxable year" has the meaning given in s. 71.22 (10).

8 (5) "Wholesaler" means a person who receives, stores, manufactures, bottles,
9 or sells any of the following for resale to retailers, distributors, or other wholesalers
10 or manufacturers:

11 (a) Bottled soft drinks.

12 (b) Soft drink syrups, simple syrups, powders, or other base products, if any
13 such items are used for making soft drinks.

14 **77.9982 Imposition.** For taxable years beginning on or after January 1, 2006,
15 an excise tax is imposed on every wholesaler doing business in this state in the
16 following amounts:

17 (1) Two dollars for each gallon of soft drink syrup sold in this state in the
18 taxable year.

19 (2) Twenty one cents for each gallon of bottled soft drinks sold in this state in
20 the taxable year.

21 (3) On the sale of a package or container of soft drink syrups, simple syrups,
22 powders, or other base products, 21 cents for each gallon of soft drink that may be
23 produced from each package or container according to the manufacturer's
24 instructions.

ASSEMBLY BILL 1168**SECTION 9**

1 **77.9983 Interest and penalties.** The interest and penalty provisions under
2 ss. 71.82 (1) (a) and (b) and (2) (a) and (b), 71.83 (1) (a) 1., 2., and 7. and (b) 1., (2) (a)
3 1. to 3. and (b) 1. to 3., and (3), and 71.85, as they apply to the taxes under ch. 71, apply
4 to the tax imposed under this subchapter.

5 **77.9984 Applicability. (1)** With regards to a tax-option corporation, the tax
6 imposed under this subchapter is imposed on the tax-option corporation, not its
7 shareholders, except that, if the tax due from the tax-option corporation is
8 delinquent, the shareholders are jointly and severally liable for the delinquent tax.

9 **(2)** With regards to a partnership, the tax imposed under this subchapter is
10 imposed on the partnership, not its partners, except that, if the tax due from the
11 partnership is delinquent, the partners are jointly and severally liable for the
12 delinquent tax.

13 **77.9985 Single-owner entities.** A single-owner entity that is disregarded
14 as a separate entity under ch. 71 is disregarded as a separate entity under this
15 subchapter. The owner of that entity shall include the information from the entity
16 on the owner's return under this subchapter.

17 **77.9986 Administration. (1)** The revenue from the tax collected under this
18 subchapter, including interest and penalties, shall be deposited into the dental
19 access trust fund.

20 **(2)** The tax imposed under this subchapter is due on the date on which the
21 person's return under ch. 71 is due without regard to any extension.

22 **(3)** The department of revenue shall levy, enforce, and collect the tax imposed
23 under this subchapter.

24 **(4)** Sections 71.74 (1) to (3), (6), (7), and (9) to (15), 71.75 (1), (2), (4), (5), and
25 (6) to (10), 71.76, 71.77, 71.78 (1) to (8), 71.80 (1) (a) to (d), (3), (3m), (6), (8) to (12),

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1 (14), and (18), 71.87, 71.88, 71.89, 71.90, 71.91, and 71.93, as they apply to the taxes
2 under ch. 71, apply to the tax imposed under this subchapter.

3 (5) Each person subject to the tax imposed under this subchapter shall, on or
4 before the due date, including extensions, for filing under ch. 71, file an accurate
5 statement of the person's gross tax liability or net business income. Payments made
6 after the due date under sub. (2) and on or before the due date under this subsection
7 are not delinquent but are subject to interest at the rate of 12 percent per year.

8 (6) Persons who owe amounts under this subchapter shall mail or deliver those
9 amounts to the department of revenue or, if the department prescribes another
10 method of submitting or another destination, those persons shall use that other
11 method or submit those amounts to that other destination.

12 **SECTION 10.** 250.16 of the statutes is created to read:

13 **250.16 Grants for dental public health and dental education projects.**

14 From the appropriation under s. 20.435 (4) (xn), the department shall, upon
15 application from qualified entities, award moneys in each fiscal year for all of the
16 following:

17 (1) Dental public health projects.

18 (2) Dental education projects, including projects affiliated with the Marquette
19 University School of Dentistry.

20 **SECTION 11. Effective dates.** This act takes effect on the day after publication,
21 except as follows:

22 (1) The treatment of sections 20.435 (4) (o), (xm), and (xn), 49.45 (3) (n), and
23 250.16 of the statutes takes effect on January 1, 2007.

24 (END)

Fiscal Estimate - 2005 Session

Original Updated Corrected Supplemental

LRB Number 05-3809/1	Introduction Number AB-1168
Description Imposing a tax on the sale of soft drinks, creating a dental access trust fund, creating grants for dental public health and dental education projects, and making appropriations	
Fiscal Effect	
State:	
<input type="checkbox"/> No State Fiscal Effect <input type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input checked="" type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> Create New Appropriations <input type="checkbox"/> Decrease Costs	
Local:	
<input type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate 1. <input type="checkbox"/> Increase Costs 3. <input type="checkbox"/> Increase Revenue 5. Types of Local Government Units Affected <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities 2. <input type="checkbox"/> Decrease Costs 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts	
Fund Sources Affected	
<input type="checkbox"/> GPR <input checked="" type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input checked="" type="checkbox"/> SEG <input type="checkbox"/> SEGS	
Affected Ch. 20 Appropriations	
Agency/Prepared By DHFS/ Ellen Hadidian (608) 266-8155	Authorized Signature Andy Forsaith (608) 266-7684
Date 7/17/2006	

Fiscal Estimate Narratives

DHFS 7/20/2006

LRB Number	05-3809/1	Introduction Number	AB-1168	Estimate Type	Original
Description Imposing a tax on the sale of soft drinks, creating a dental access trust fund, creating grants for dental public health and dental education projects, and making appropriations					

Assumptions Used in Arriving at Fiscal Estimate

AB 1168 creates an excise tax on the sale of wholesale soft drinks sold in Wisconsin. The bill also creates a dental access trust fund for Medical Assistance (MA) dental services and a dental access trust fund for dental public health and education projects, using the proceeds of the excise tax. Under the bill, the funds deposited into the dental access trust funds are to be used to (1) supplement reimbursement for dentists' services provided to Medicaid recipients and (2) to fund grants from the Department for dental public health and dental education projects.

The Department of Revenue (DOR) estimates that this tax will result in additional revenue of \$83.6 million SEG annually. These funds, less the amount needed for DOR administrative expenses (estimated to be \$44,700), will be deposited in the two dental trust funds appropriations. The bill specifies that funds not appropriated for the purpose of increasing MA reimbursement to dentists are to be deposited in the trust fund for dental public health projects.

The bill directs the Department to ensure that dentists who provide services to MA patients are reimbursed at the 75th percentile of fees specified by the American Dental Association fee schedule for the east north central region. The cost of this provision would depend in part on the degree to which the increase expands access to dental services, and, as a result, expands MA clients' utilization of dental services. The Department has calculated that an increase in Medicaid dental fees to the 75th percentile will increase utilization 25% in the first year and 25% in the second year over current levels. The increase will apply both to fee-for-service (FFS) Medicaid rates and to managed care Medicaid rates. The increase for fee-for-service Medicaid rates is estimated to be \$66.7 million in the first year and \$102.0 million in the second year. Of this, \$40.9 million in the first year and \$40.9 million in the second year would be attributable to the actual fee increase and \$25.8 million in the first year and \$61.1 million in the second year to the utilization increase. The increase for managed care MA rates is estimated to be \$2.9 million AF in the first year and \$3.6 million AF in the second year. Of this, \$1.3 million in the first year and \$1.3 million in the second year would be attributable to the actual fee increase and \$1.6 million in the first year and \$2.3 million in the second year to the utilization increase. The total cost of increasing Medicaid dental rates according to the provisions of this bill would be \$69.6 million AF in the first year and \$105.6 million AF in the second year.

In SFY 07, Medicaid costs will be funded 42.48% by state funds and 57.52% by federal funds. There will also be some increased costs to the Badger Care program, which in SFY 07 will be funded 29.74% by state funds and 70.26% by federal funds. The total cost of raising dental fees to the 75th percentile for MA and Badger Care recipients would be approximately \$28.4 million SEG and \$41.2 million FED in the first year and \$43.1 million SEG and \$62.5 million FED in the second year. It may be that utilization after these two years will increase by more than 25%, but it is uncertain what this subsequent increase will be.

AB 1168 specifies that funds not needed for the fee increase are to be used for dental public health and education projects. Based on DOR revenue estimates, there will be approximately \$55.2 million available in the first year and \$40.5 million available in the second year for this purpose as a result of this bill.

Long-Range Fiscal Implications

Fiscal Estimate Worksheet - 2005 Session

Detailed Estimate of Annual Fiscal Effect

Original
 Updated
 Corrected
 Supplemental

LRB Number 05-3809/1		Introduction Number AB-1168	
Description			
Imposing a tax on the sale of soft drinks, creating a dental access trust fund, creating grants for dental public health and dental education projects, and making appropriations			
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):			
II. Annualized Costs:		Annualized Fiscal Impact on funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations - Salaries and Fringes		\$	\$
(FTE Position Changes)			
State Operations - Other Costs			
Local Assistance			
Aids to Individuals or Organizations	146,114,600		
TOTAL State Costs by Category	\$146,114,600		\$
B. State Costs by Source of Funds			
GPR			
FED	62,559,300		
PRO/PRS			
SEG/SEG-S (83,555,300)	83,555,300		
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, ets.)			
		Increased Rev	Decreased Rev
GPR Taxes		\$	\$
GPR Earned			
FED	62,559,300		
PRO/PRS			
SEG/SEG-S (83,600,000)	83,600,000		
TOTAL State Revenues	\$146,159,300		\$
NET ANNUALIZED FISCAL IMPACT			
		State	Local
NET CHANGE IN COSTS	\$146,114,600		\$
NET CHANGE IN REVENUE	\$146,159,300		\$
Agency/Prepared By		Authorized Signature	
DHFS/ Ellen Hadidian (608) 266-8155		Andy Forsaith (608) 266-7684	
		Date	
		7/17/2006	

Fiscal Estimate - 2005 Session

Original Updated Corrected Supplemental

LRB Number 05-3809/1	Introduction Number AB-1168	
Description Imposing a tax on the sale of soft drinks, creating a dental access trust fund, creating grants for dental public health and dental education projects, and making appropriations		
Fiscal Effect		
State:		
<input type="checkbox"/> No State Fiscal Effect <input type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input checked="" type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> Create New Appropriations <input type="checkbox"/> Decrease Costs		
Local:		
<input type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate 1. <input type="checkbox"/> Increase Costs 3. <input type="checkbox"/> Increase Revenue 5. Types of Local Government Units Affected <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities 2. <input type="checkbox"/> Decrease Costs 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts		
Fund Sources Affected		
<input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS 20.566(1)(a)		
Affected Ch. 20 Appropriations		
Agency/Prepared By	Authorized Signature	Date
DOR/ Jacek Cianciara (608) 266-8133	Paul Ziegler (608) 266-5773	5/8/2006

Fiscal Estimate Narratives

DOR 5/8/2006

LRB Number	05-3809/1	Introduction Number	AB-1168	Estimate Type	Original
Description Imposing a tax on the sale of soft drinks, creating a dental access trust fund, creating grants for dental public health and dental education projects, and making appropriations					

Assumptions Used in Arriving at Fiscal Estimate

Under current law, no excise tax is imposed on the sale of soft drinks sold in this state. This bill imposes an excise tax, at wholesale, on the sale of soft drinks sold in this state and creates the dental access trust fund.

Under this bill, for taxable years beginning on or after January 1, 2006, an excise tax is imposed on every wholesaler doing business in this state in the following amounts: 1) \$2 for each gallon of soft drink syrup, 2) 21 cents for each gallon of bottled soft drinks, and 3) on the sale of a package or container of soft drink syrups, simple syrups, powders, or other base products (such as Kool Aid), 21 cents for each gallon of soft drink that may be produced from each package or container according to the manufacturer's instructions.

Furthermore, under the bill, the revenues generated from the excise tax would be deposited into the dental access trust fund. Beginning January 1, 2007, the dental access trust fund would be used to supplement reimbursement for dentists' services provided to recipients under the Medical Assistance Program and to fund grants from the Department of Health and Family Services for dental public health and dental education projects.

Carbonated Beverages

According to the Beverage Marketing Corporation, in 2004 every man, woman and child in the United States ingested 192 gallons of liquid a year. Out of the total amount of liquid ingested, 28.0% was carbonated drinks. Using Wisconsin's 2004 population estimate of 5.5 million, the total consumption of carbonated soft drinks is estimated at 296.1 million gallons annually.

Based on the industry estimates of market shares, of the total 296.1 million gallons, 228.0 million gallons is the estimated bottled portion of the market while 68.1 million gallons is the estimated soft drink sales from syrup. Since one gallon of syrup constitutes 5.8 gallons of soft drink, the total gallonage of soft drink syrup is estimated to be 11.7 million gallons.

The revenue gain from imposing a \$0.21 per gallon excise tax on carbonated bottled soft drinks is estimated to be \$47.9 million and a \$2.00 per gallon excise tax on carbonated soft drink syrup is estimated to generate \$23.5 million, for a total of \$71.4 million SEG revenue.

Noncarbonated Beverages

Sufficiently detailed information to reliably estimate the revenues that may be generated from the bill's excise tax on non-carbonated soft drinks is not available because only a portion of aggregate consumption figures would be subject to tax. If, however, it is assumed that 25% of the combined consumption of fruit juice, fruit drinks, vegetable juice, powdered fruit drinks and tap water is assumed to be subject to the tax, based upon beverage consumption figures from the Beverage Marketing Corporation, the bill is expected to generate an estimated \$12.2 million SEG revenue annually on the sale of non-carbonated soft drinks.

Total Revenues

In total, the bill is expected to generate estimated \$83.6 million SEG revenue on both carbonated and non-carbonated soft drinks.

The Department will need to develop new excise tax reporting forms for wholesalers and to create or modify a computer processing system to process these forms. The Department estimates one-time costs of \$5,000 for forms design and mailings and on-going costs of \$44,700 for additional staff involved in audit and business registration. Other additional costs will be absorbed within the Department's budget.

Long-Range Fiscal Implications

Fiscal Estimate Worksheet - 2005 Session

Detailed Estimate of Annual Fiscal Effect

Original
 Updated
 Corrected
 Supplemental

LRB Number 05-3809/1		Introduction Number AB-1168	
Description Imposing a tax on the sale of soft drinks, creating a dental access trust fund, creating grants for dental public health and dental education projects, and making appropriations			
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect): The Department estimates one-time costs of \$5,000 for forms design and mailings.			
II. Annualized Costs:		Annualized Fiscal Impact on funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations - Salaries and Fringes		\$44,700	
(FTE Position Changes)			
State Operations - Other Costs			
Local Assistance			
Aids to Individuals or Organizations			
TOTAL State Costs by Category		\$44,700	\$
B. State Costs by Source of Funds			
GPR		44,700	
FED			
PRO/PRS			
SEG/SEG-S			
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)			
		Increased Rev	Decreased Rev
GPR Taxes		\$	\$
GPR Earned			
FED			
PRO/PRS			
SEG/SEG-S		83,600,000	
TOTAL State Revenues		\$83,600,000	\$
NET ANNUALIZED FISCAL IMPACT			
		<u>State</u>	<u>Local</u>
NET CHANGE IN COSTS		\$44,700	\$
NET CHANGE IN REVENUE		\$83,600,000	\$
Agency/Prepared By		Authorized Signature	Date
DOR/ Jacek Cianciara (608) 266-8133		Paul Ziegler (608) 266-5773	5/8/2006