Representative Vos
Senator Darling

GENERAL FUND TAXES/DEPARTMENT OF REVENUE

Omnibus Motion
[LFB Papers #310 thru #325 and #570]

Motion:

Move to adopt the following provisions related to general fund taxes and the Department of Revenue (DOR):

1. *Deferral for Capital Gain Reinvested in Qualified Wisconsin Businesses and Capital Gain Exclusion for Wisconsin Capital Asset.* Adopt Alternatives #1a and #1b of LFB Issue Paper #310, and Alternatives #1 and #4 of LFB Issue Paper #311, which would approve the Governor's recommendation to create a deferral for capital gains reinvested in qualified Wisconsin businesses and to create a capital gain exclusion for Wisconsin capital assets with modifications to: (a) delete the provision that specifies a claimant may not use a deferred gain to claim an exclusion for Wisconsin capital assets and (b) create a provision specifying that a deferred gain cannot be part of a gain excluded as a Wisconsin capital asset. Modify the recommendation to create an exclusion for Wisconsin capital assets to specify that any gain deferred from taxation as a gain reinvested in qualified Wisconsin businesses may not be included under the exclusion. [Note: This change would allow a deferred gain to be used as an investment that could qualify for the exclusion for investments in Wisconsin capital assets, but the amount originally deferred would become taxable when the subsequent investment in the Wisconsin capital asset is sold.]

2. *Earned Income Tax Credit (EITC).* Adopt Alternative #3 of LFB Issue Paper #312, which would modify the percentages used to calculate the EITC by decreasing the percentage from 14% to 11% for claimants with two children and decreasing the percentage from 43% to 34% for claimants with three or more children, beginning in tax year 2011. Reestimate total funding for the credit at $113,300,000 in 2011-12 and $119,500,000 in 2012-13. Approve the Governor's recommendation to increase TANF funding for the credit by $37,000,000 annually, but decrease the program's GPR sum sufficient appropriation by $3,300,000 in 2011-12 and increase GPR funding by $2,700,000 in 2012-13 to reflect the reestimate of the program's total cost.

3. *Veterans and Surviving Spouses Property Tax Credit.* Adopt the modification in LFB Issue Paper #313, which would reestimate the cost of the veterans and surviving spouses property tax credit at $19,000,000 in 2011-12 and $20,000,000 in 2012-13. Compared to the bill, increase estimated expenditures by $5,400,000 GPR in 2011-12 and $4,300,000 GPR in 2012-13.

4. *Illinois-Wisconsin Income Tax Reciprocity.* Adopt the modification in LFB Issue Paper #314, which would reestimate Wisconsin's payments under the Illinois-Wisconsin income tax reciprocity agreement at $47,900,000 in 2011-12 and $71,600,000 in 2012-13. Compared to the

bill, increase the estimated payment in 2011-12 by $11,600,000 GPR and decrease the payment in 2012-13 by $3,400,000 GPR.

5. *Internal Revenue Code Update.* Adopt Alternative #1 of LFB Issue Paper #315, which would approve the Governor's recommendation regarding the Internal Revenue Code update.

6. *Angel Investment Tax Credit.* Adopt the modification in LFB Issue Paper #316, which would retain current law regarding the treatment of tax-option corporations under the angel investment tax credit.

7. *Combined Reporting -- Use of Pre-2009 Net Business Loss Carryforwards.* Modify provisions included in the bill related to the use of pre-2009 net business loss carry-forwards under combined reporting to specify that "pre-2009 net business loss carry-forward" means a corporation's total net Wisconsin business carry-forward computed under state income and franchise tax provisions as of the beginning of its first tax year beginning on or after January 1, 2009, but not used by the corporation in any tax year beginning prior to January 1, 2012.

Specify that, starting with the first tax year beginning after December 31, 2011, and for each of the 19 subsequent tax years, and subject to the limitations under state law relating to carry-overs in certain corporate acquisitions, for each tax year that a corporation that is a member of a combined group, the corporation may, after using such pre-2009 net business carry-forward to offset its own income for the tax year as provided under state combined reporting provisions, use up to 5% of the pre-2009 net business loss carry-forward, until used or expired, to offset the Wisconsin income of all other members of the combined group on a proportionate basis, to the extent such income is attributable to the unitary business. Provide that, if the full 5% of such pre-2009 net business loss carry-forward cannot be fully used to offset the Wisconsin income of all other members of the combined group, the remainder may be added to the portion that may offset the Wisconsin income of all other members of the combined group in a subsequent year, except that unused pre-2009 net business loss carry-forwards may not be used in any tax year that begins after December 31, 2031.

Specify that, unless otherwise provided by DOR by rule, if the corporation may no longer be included in the combined group, as determined under state combined reporting provisions, the corporation's pre-2009 net business loss carry-forward will be available only to that corporation.

Require DOR to promulgate rules to administer these provisions

Specify that a corporation or an insurer that is part of a combined group under state combined reporting provisions, may offset against its Wisconsin net income any unused pre-2009 net business loss carry-forward under these provisions for the next 20 years that begin on or after January 1, 2012.

8. *Combined Reporting -- DOR Authority To Disallow Commonly Controlled Group Election.* Adopt Alternative #1 of LFB Issue Paper #318, which would approve the Governor's recommendation to delete the current requirement that DOR must disregard the tax effect of an election to include a commonly controlled business in a combined group, or disallow the election,

for any year of the election period if the Department determines that the election has the effect of tax avoidance, for tax years beginning on or after January 1, 2009.

9. *Jobs Tax Credit Modifications.* Adopt the modification in LFB Issue Paper #319, which would restore the requirement that the jobs tax credit be based on wages of at least $20,000 in a tier I county and $30,000 in a tier II county.

10. *Sales and Use Tax Exemption for Modular and Manufactured Homes Used in Real Property Construction Activities Outside the State.* Adopt Alternative #1 of LFB Issue Paper #325, which would approve the Governor's recommendation regarding imposition of the sales and use tax on modular homes and manufactured homes.

11. *Long-Term Vacancies.* Adopt the modification in LFB Issue Paper #570, which would restore annual funding of $322,700 GPR and 5.0 positions in DOR's administrative services and space rental appropriation and delete $304,500 GPR and 5.0 positions annually in DOR's collection of state taxes appropriation

12. *Debt Offset Program -- Definition of Municipality.* Modify the definition of "municipality" for DOR's debt offset program to mean any city, village, town, and to include consolidated services among eligible entities.

13. *Contributions to College Savings Accounts Owned by Others.* Allow a parent, grandparent, great-grandparent, aunt, or uncle to contribute to a college savings account owned by another individual if the account beneficiary is the contributor's relative. Modify the current law provision that allows owners of college savings program accounts to deduct their contributions to those accounts from their adjusted gross income for state individual income tax purposes by allowing deductions for parents, grandparents, great-grandparents, aunts, and uncles who contribute to accounts owned by another individual and where the beneficiary is the contributor's relative. Extend similar changes regarding contributions and deductions to current law provisions related to the college tuition and expenses program, which is not currently accepting contributions or new accounts. Extend these provisions to contributions made beginning in tax year 2011.

14. *Dairy Manufacturing Facility Investment Tax Credit.* Specify, for tax years beginning after December 31, 2010, that the maximum aggregate amount of the dairy manufacturing facility investment tax credits that could be claimed by eligible claimants would be $200,000 per facility, regardless of organizational structure of the entity that claimed the credit. In addition, convert the appropriation from which the refundable dairy manufacturing facility investment tax credits are paid to cooperatives from sum sufficient to continuing.

15. *Sales and Use Tax on Products Provided Free of Charge.* Specify that if a person provides a product free of charge to a purchaser who must also purchase another product or products that are all subject to sales and use tax in the same transaction, the person who provides the product free of charge may purchase the product provided free of charge without tax for resale. Specify that this provision would take effect on the first day of the second month beginning after publication of the budget bill or September 1, 2011, whichever is later.

16. *Sales of Alcoholic Beverages at Movie Theaters*. Permit a movie theater to obtain either a Class "B" beer, or a "Class B" liquor, license or permit. Specify that a movie theater selling alcoholic beverages may allow underage persons that are not accompanied by their parent, guardian, or spouse to enter, knowingly attempt to enter, or be on any premises for which such a license or permit has been issued. Specify that a movie theater may remain open for the conduct of its regular business, but may not sell intoxicating liquor during closing hours (after bar time).

17. *Required Health Insurance Coverage of Adult Dependents.* Repeal current law provisions, enacted as part of 2009 Wisconsin Act 28, that require private health insurance policies and self-insured governmental plans, if requested by an applicant or insured, to provide coverage for an adult child as a dependent of the applicant or insured if the child satisfies all of the following: (a) the child is over 17 but less than 27 years of age; (b) the child is not married; and (c) the child is not eligible for coverage under a group health benefit plan through the child's employer and for which the premium is no greater than the premium for coverage as a dependent under the parent's plan. Repeal the Act 28 provision that requires an insurer or a self-insured health plan to determine the premium for coverage of a dependent who is over 18 years of age on the same basis as the premium is determined for coverage of a dependent who is 18 years of age or younger.

Instead, require that every insurer that provides coverage under a disability insurance policy that provides dependent coverage of children, provide coverage for a child of an applicant or insured as a dependent of the applicant or insured if the child is under the age of 26, in order to conform state law with the dependent coverage requirements of federal law under the Patient Protection and Affordable Care Act (PPACA), which requires that adult dependents be treated the same as other dependents in the determination of premiums.

Specify that, for any policy year or plan beginning before January 1, 2014, a policy or plan that is a "grandfathered health plan" is required to provide dependent coverage for an adult child only if that child is not eligible for coverage under an eligible employer-sponsored plan other than the policy or plan.

Prohibit an insurer or self-insured health plan from doing any of the following: (a) defining a "dependent" for purposes of eligibility for dependent coverage of children other than in terms of relationship between a child and an applicant or insured; or (b) vary the terms of coverage under a policy or plan on the basis of age except for children 26 years of age or older.

Define "eligible employer-sponsored plan" as that term is defined under the Internal Revenue Code, Section 5000A. Define "grandfathered plan" as that term is defined under Section 1251 of the Patient Protection and Affordable Care Act (generally defined as a plan that was in effect prior to March 23, 2010).

Specify that these provisions would go into effect on January 1, 2012, and specify that these provisions first apply to the following:

a. To policies that are issued or renewed, and governmental or school district self-insured health plans that are established, extended, modified, or renewed, on January 1, 2012;

b. To policies covering employees who are affected by a collective bargaining agreement containing provisions inconsistent with these requirements that are issued or renewed on the day that the collective bargaining agreement expires, or the day that the collective bargaining agreement is extended, modified, or renewed (whichever is earlier); and

c. To governmental or school district self-insured health plans covering employees who are affected by a collective bargaining agreement containing provisions inconsistent with those described above, that are established, extended, modified or renewed on the day that the collective bargaining agreement expires, or the day that the collective bargaining agreement is extended, modified, or renewed (whichever is earlier).

Modify a reference to these insurance dependent coverage requirements as they relate to eligibility determinations for the BadgerCare Basic Plan.

Modify the Act 28 requirement so that every insurer that provides coverage under a disability insurance policy that provides dependent coverage of children, provide coverage for a child of an applicant or insured as a dependent of the applicant or insured if the child meets the following criteria: (a) is a full-time student, regardless of age; and (b) was called to federal active duty in the national guard or in a reserve component of the U.S. armed forces while the child was attending, on a full-time basis, an institution of higher education.

Note:

The fiscal effects of this motion are outlined in the following table:

	Change to Bill			
	2011-12	2012-13	Biennium	
Earned Income Tax Credit	-$3,300,000	$ 2,700,000	-$600,000	GPR
Veterans Property Tax Credit	5,400,000	4,300,000	9,700,000	GPR
Illinois-Wisconsin Reciprocity	11,600,000	-3,400,000	8,200,000	GPR
DOR Long-Term Vacancies	18,200	18,200	36,400	GPR
Total Change to Bill	$ 13,718,200	$ 3,618,200	$ 17,336,400	GPR

[Change to Bill: $17,336,400 GPR]

Representative Strachota

GENERAL FUND TAXES/DEPARTMENT OF REVENUE

Required Health Coverage of Adult Dependents
[Amendment to Motion #407]

Motion:

Move to modify Item #17 in Motion #407 to incorporate, into state law, the federal definition of health policies and plans to which the federal requirements relating to required health coverage of adult dependents would apply.