



---

---

# Wisconsin Briefs

from the Legislative Reference Bureau

---

---

Brief 00-4

May 2000

---

## EXECUTIVE VETOES OF BILLS PASSED BY THE 1999 WISCONSIN LEGISLATURE FROM JANUARY 4, 1999, THROUGH MAY 19, 2000

---

### I. INTRODUCTION

---

This brief contains the veto messages of Governor Tommy G. Thompson affecting all legislation, except 1999 Wisconsin Act 9, as passed by the 1999 Wisconsin Legislature from January 4, 1999, through May 19, 2000. **See Wisconsin Brief 99-10 for the partial vetoes of 1999 Wisconsin Act 9 (executive budget act).**

#### *Status of Legislation*

During the 1999-2000 legislative session, through May 19, 2000, there were 1,503 bills (530 Senate Bills and 973 Assembly Bills) introduced, of which 203 were passed by both houses. Through May 19, 2000, Governor Thompson has acted upon 202 bills (including the partial veto of 9 bills and the full veto of 5 bills). *At the time of publication, Governor Thompson had not yet acted upon May 2000 Special Session Senate Bill 1.*

---

Complete Vetoes	Page	Complete Vetoes	Page
1999 Assembly Bill 189 .....	2	1999 Assembly Bill 690 .....	3
1999 Assembly Bill 587 .....	2	1999 Assembly Bill 827 .....	4
1999 Assembly Bill 663 .....	3		

---

Partial Vetoes	Page	Partial Vetoes	Page
1999 Wisconsin Act 5 (SB-114) .....	6	1999 Wisconsin Act 167 (AB-892) .....	12
1999 Wisconsin Act 10 ( <i>Oct. 99 Spec.Sess.</i> AB-1) .	7	1999 Wisconsin Act 177 (AB-471) .....	15
1999 Wisconsin Act 109 (SB-125) .....	9	1999 Wisconsin Act 187 (AB-942) .....	17
1999 Wisconsin Act 113 (AB-806) .....	10	1999 Wisconsin Act 197 (AB-796) .....	19
1999 Wisconsin Act 136 (AB-582) .....	11		

---

#### *Veto Brief Format*

This brief provides the following information:

- 1) The legislative action for each completely vetoed or partially vetoed bill, including the vote for final passage in each house and the page number of the loose-leaf journals in each house referring to the vote ("S.J." stands for Senate Journal; "A.J." stands for Assembly Journal).
- 2) The text of the governor's veto message for each bill.
- 3) For partially vetoed bills, the sections of the act in which the veto occurred (with the vetoed material indicated by a distinguishing shading — **like this**, and the write downs indicated by a distinguishing reverse shading of white numerals on black background — **like this**).

---

## II. COMPLETELY VETOED BILLS

---

### **1999 Assembly Bill 189: Consolidation or merger of incorporated Roman Catholic congregations**

On June 1, 1999, the assembly passed Assembly Bill 189 [as amended by Assembly Amendments 1 and 2] by a vote of 99 to 0, A.J. 06/01/99, p. 216.

On October 26, 1999, the senate concurred in Assembly Bill 189 by a vote of 31 to 2, S.J. 10/26/99, p. 301.

On December 23, 1999, the Governor vetoed Assembly Bill 189, A.J. 12/30/99, p. 583.

### **TEXT OF GOVERNOR'S VETO MESSAGE**

December 23, 1999

To the Honorable Members of the Assembly:

I am vetoing **Assembly Bill 189** in its entirety. This decision comes after receiving strong feedback from several hundred parishioners and parish leaders in the Archdiocese of Milwaukee regarding the harmful impact this legislation could have on the ongoing dispute over current parish mergers in that Archdiocese. My concern is not over whether the mergers might be warranted, but that this legislation would insert the state in the middle of a merger process that has already started.

The Archdiocese of Milwaukee and the people of the parishes involved in the merger process each make strong

arguments. I understand that merging and closing parishes is always a difficult decision for church leaders. But the state should not be changing the rules on parish consolidations in the Roman Catholic Church in Wisconsin in the middle of a existing merger process.

I am more than willing to revisit this issue in the next session of the Legislature if legislation can be crafted to address the concerns of the Catholic Church in Wisconsin while not affecting existing mergers.

Sincerely,

TOMMY G. THOMPSON  
Governor

---

### **1999 Assembly Bill 587: Eligibility of second cousins for payments under the kinship care and long-term kinship care programs**

On March 14, 2000, the assembly passed Assembly Bill 587 by a vote of 98 to 0, A.J. 03/14/00, p. 748.

On March 29, 2000, the senate concurred in Assembly Bill 587 on a voice vote, S.J. 03/29/00, p. 559.

On May 17, 2000, the Governor vetoed Assembly Bill 587, A.J. 05/18/00, p. 962.

### **TEXT OF GOVERNOR'S VETO MESSAGE**

May 17, 2000

To the Honorable Members of the Assembly:

I am vetoing **Assembly Bill 587** in its entirety. This bill expands the kinship care and long-term kinship care programs by adding second cousin to the definition of a kinship care relative.

I am vetoing **Assembly Bill 587** because no funding was provided to finance this expansion of the kinship care program. The Legislature should not expand a program without appropriating sufficient funding. If the demand for program funding exceeds a county or tribe's kinship

care allocation, the county or tribe would be forced to use its own funds or put relatives on waiting lists. Additionally, expansion of kinship care eligibility to second cousins may set a precedent for further expansion of the program beyond the original intent of compensating relatives formerly under the AFDC Nonlegally Responsible Relative program.

Sincerely,

TOMMY G. THOMPSON  
Governor

---

**1999 Assembly Bill 663: Disclosure of pupil records by the department of public instruction**

On March 21, 2000, the assembly adopted Assembly Substitute Amendment 1 to Assembly Bill 663 on a voice vote, A.J. 03/21/00, p. 786, and passed Assembly Bill 663, as amended, by a vote of 88 to 11, A.J. 03/21/00, p. 786.

On March 28, 2000, the senate concurred in Assembly Bill 663 on a voice vote, S.J. 03/28/00, p. 539.

On May 18, 2000, the Governor vetoed Assembly Bill 663, A.J. 05/18/00, p. 963.

**TEXT OF GOVERNOR'S VETO MESSAGE**

May 18, 2000

To the Honorable Members of the Assembly:

I am vetoing **Assembly Bill 663** in its entirety. This bill allows the Wisconsin Department of Public Instruction to disclose pupil records received from school boards to appropriate state agencies and local education agencies as determined by the State Superintendent. The bill permits the Department to charge a fee to cover the direct costs of complying with data requests. It also allows individuals to view, but not obtain a copy of state assessment instruments.

I support the provisions of **Assembly Bill 663** that control access to state assessment instruments. Protecting the confidentiality and security of our state examinations is an important step in our drive for greater accountability in Wisconsin's schools. I intend to reintroduce this proposal for the improvement of public policy in my 2001-03 biennial budget.

I support the idea of clarifying the circumstances under which the State Superintendent can release pupil records. Impartial and fair evaluations of the state's educational programs require that researchers be able to examine confidential pupil records. As drafted, however, the bill would create two categories of investigators (State employees and all others) whose access to data would not be uniform. Researchers employed by State agencies could have access to the entire group of pupil records necessary to conduct a complete evaluation, while other researchers from private or non-public institutions and universities would only be allowed to review redacted portions of the total data set.

This bill, in its current form, therefore would have prevented researchers from private institutions of higher

learning from assessing some of the claims regarding the Milwaukee Parental Choice Program (MPCP) made by researchers hired by the Department. Without equitable access, agencies could be accused of doing the State's business under the cover of darkness. As Wisconsin continues to be a leader in educational innovations, we must be wary of any inference that these important evaluations are not available for public scrutiny. It is imperative that the public, the legislature, and policy makers receive evaluations and research able to stand the test of intense and valid analysis.

As new alternatives to traditional education programs evolve, the Wisconsin Department of Public Instruction must be vigorous in its oversight of educational programs. This veto will not in any way hinder the ability of the State Superintendent to monitor or collect data on individual programs over which the department has statutory responsibility. Because the bill deals with the release of pupil records and not financial audits or other accountability requirements, this veto will also do nothing to impede the Department from approving schools to participate in the MPCP or removing them from the program should the need arise. I believe alternative exemptions to the confidentiality provisions currently in state law, such as those included in federal statute, can be drafted to balance the privacy of students and educational researchers' legitimate needs to review pupil records without privileging particular categories of researchers. I encourage the Department to explore such alternatives.

Respectfully submitted,

TOMMY G. THOMPSON  
Governor

**1999 Assembly Bill 690: Grants for the preservation of historic property**

On March 29, 2000, the assembly passed Assembly Bill 690 [as amended by Assembly Amendment 1] by a vote of 89 to 9, A.J. 03/29/00, p. 870.

On March 30, 2000, the senate concurred in Assembly Bill 690 by a vote of 30 to 3, S.J. 03/30/00, p. 574.

On May 18, 2000, the Governor vetoed Assembly Bill 690, A.J. 05/18/00, p. 963.

**TEXT OF GOVERNOR'S VETO MESSAGE**

May 18, 2000

To the Honorable Members of the Assembly:

I am vetoing **Assembly Bill 690** in its entirety. This bill allows the State Historical Society to establish a Heritage Trust Program, establishes definitions regarding the program and sets limits on grants made to the Wisconsin Trust for Historic Preservation and grants for preservation. The bill provides \$20 million in bonding revenue over ten years to the Society for this purpose and \$33,800 GPR in FY01 to administer the Heritage Trust Program. I have long supported the objective of preserving historic properties in Wisconsin, and I am proud of my track record on this issue. However, the state's bond counsel has raised serious questions regarding the constitutionality of the bill.

When I vetoed an identical provision from being included in Assembly Bill 133, the biennial budget bill, my veto message cited the fact that the proposal had not been included in the state's strategic plan for capital financing as the primary reason for the veto. **Assembly Bill 690** also did not undergo a systematic review of how the bonding authority authorized in the bill would fit into the state's comprehensive bonding plan. As a result, the state's general obligation bond counsel did not have an opportunity to comment on the bill prior to its passage.

The state's bond counsel has two concerns with the bill as drafted. First, the state's bond counsel cannot offer the unqualified opinion that the bill is constitutional. An unqualified opinion is required for the state to sell its bonds. Second, federal tax law sets strict limits on the investment of revenue from tax exempt bonds. As a result, the state may be required to issue taxable bonds, which would require the state to make significantly higher interest payments.

I believe that alternative options to using bond revenue to fund historic preservation can be developed that will balance the legitimate preservation needs of the state, local governments and nonprofit organizations with the need for the state to maintain sound constitutional and financial practices.

Attached is the state's bond counsel's opinion on the constitutionality of the bill. *[See Attachment "A" located at the end of this Wisconsin Brief.]*

Respectfully submitted,

TOMMY G. THOMPSON  
Governor

**1999 Assembly Bill 827: Minimum number of railroad employees required to be in lead locomotive**

On March 28, 2000, the assembly passed Assembly Bill 827 [as amended by Assembly Amendment 1] on a voice vote, A.J. 03/28/00, p. 852.

On March 29, 2000, the senate concurred in Assembly Bill 827 on a voice vote, S.J. 03/29/00, p. 557.

On May 18, 2000, the Governor vetoed Assembly Bill 827, A.J. 05/18/00, p. 964.

**TEXT OF GOVERNOR'S VETO MESSAGE**

May 18, 2000

To the Honorable Members of the Assembly:

I am vetoing **Assembly Bill 827** in its entirety.

**Assembly Bill 827** requires a railroad train, operating in Wisconsin, to have two persons in the lead controlling locomotive cab at all times when the train or locomotive is in motion except for the purpose of switching. Under current law (1997 Wisconsin Act 42), all locomotives or trains operating in Wisconsin must have on board a federally certified railroad engineer and a qualified railroad trainperson. The Office of the Commissioner of Railroads may, by rule, waive this requirement if it will not endanger life or property. The requirement also does not apply if it is contrary to federal laws or regulations.

Wisconsin is the only state in the country with a law that requires two person crews. I signed 1997 Wisconsin Act 42 because I believe safety is paramount. The requirements under current law set the standard for the nation and balance safety concerns with the goal of increased railroad service and employment.

However, I am concerned that **Assembly Bill 827** has several shortcomings that may degrade safety and diminish opportunities for expanded railroad commerce and employment in the state. These concerns have been echoed in correspondence I have received from over two dozen local law enforcement officials, mayors, railroad shippers and railroads. Wisconsin has already set the standard on national railroad safety with the current requirement for two person train crews. There must be

time to evaluate the impact of that requirement on safety while fostering passenger and freight rail service and employment expansions.

One key concern is the potential impact on METRA commuter rail service extensions into Wisconsin. METRA service includes considerable operating requirements and mechanical redundancies to ensure the highest possible level of safety. However, METRA has identified the provisions in this bill as too limiting on staff deployment and would considerably reduce, if not eliminate, the ability of METRA to provide cost-effective service in southern and southeastern Wisconsin.

Currently, METRA provides service to Kenosha under certain grandfather provisions included in the transfer of passenger rail authority to METRA. METRA is considering service extensions from Harvard, Illinois to Clinton, Wisconsin and from Kenosha to Racine and Milwaukee. These extensions will require approval by the Illinois Legislature based on recommendations from METRA. I want to ensure Wisconsin is in the best position possible to support METRA in its efforts to secure that approval. This expansion, and other future passenger rail service expansions, will provide Wisconsin citizens with greater transportation options and increase railroad employment.

I am very concerned that **Assembly Bill 827** will reduce railroad safety in the Fox Valley due to its impact on "push-pull" trains. This type of train format utilizes locomotives at both ends of the train each staffed by one engineer. This approach has been approved by the Federal Railroad Administration for operation between Green Bay and Stevens Point, through Neenah, and has been in service since 1994. Use of this approach has reduced the switching operation in Neenah from one hour to 10 minutes. Considerable traffic delays and disruption of traffic patterns have been eliminated due to this change.

The bill would force Wisconsin Central to discontinue "push-pull" service on this line due to prohibitive costs. According to local elected and law enforcement officials and experts from the East Central Wisconsin Regional Planning Commission, use of a standard train set (a locomotive at one end of the train) will cause the return of traf-

fic delays and backups that could lead to increased accidents and diminished traffic safety.

Supporters of this bill identified the size of train crews associated with freight rail service in northern Wisconsin as a reason for enacting these provisions. I have been assured by Wisconsin Central that it will begin to provide two person crews on that line within the next few weeks. I believe this action will address some of the concerns expressed by the railroad operating engineers union. In order to ensure implementation of this commitment, I will personally monitor the actions of Wisconsin Central on this issue in consultation with the Office of Commissioner of Railroads

While there are procedures under current law that would allow the provisions in **Assembly Bill 827** to be waived by the Office of the Commissioner of Rails. I do not believe it is sound government to adopt a requirement and then provide a series of waivers to address multiple conditional uses. Current law provides a safety standard that exceeds the rest of the country. I am requesting the Office of Commissioner of Railroads to monitor railroad safety issues over the next several months and provide a report to me by January 1, 2001. That report will serve as the basis for identifying any additional safety issues and the need for action in the next legislative session. I will also confer with the Office of Commissioner of Railroads, the United Transportation Union, the Brotherhood of Locomotive Engineers and the railroad industry in reviewing that report and providing input on the need for additional legislative action.

My goal is to ensure a thriving passenger and freight rail system in Wisconsin with a safety record that is second to none. That goal can be achieved by continuing to dialogue on infrastructure needs, service opportunities and safety issues. The measures outlined in this message will provide a framework for evaluating railroad safety issues in concert with capitalizing on Wisconsin's passenger and freight rail service opportunities.

Sincerely,

TOMMY G. THOMPSON  
Governor

---

---

---

### III. PARTIALLY VETOED BILLS

---

#### 1999 Wisconsin Act 5 (Senate Bill 114): Property tax lottery credit

On May 18, 1999, the senate adopted Senate Substitute Amendment 2 [as amended by Senate Amendments 1, 2 and 3] to Senate Bill 114 on a voice vote, S.J. 05/18/99, p. 152, and passed Senate Bill 114, as amended, by a vote of 29 to 4, S.J. 05/18/99, p. 152.

On May 19, 1999, the assembly adopted Assembly Amendment 1 to Senate Bill 114 by a vote of 61 to 38, A.J. 05/19/99, p. 201, and concurred in Senate Bill 114, as amended, by a vote of 93 to 6, A.J. 05/19/99, p. 201.

On June 15, 1999, the senate adopted Senate Amendment 1 to Assembly Amendment 1 to Senate Bill 114 on a voice vote, S.J. 06/15/99, p. 178, and concurred in Assembly Amendment 1 to Senate Bill 114, as amended, on a voice vote, S.J. 06/15/99, p. 178.

On June 23, 1999, the assembly concurred in Senate Amendment 1 to Assembly Amendment 1 to Senate Bill 114 on a voice vote, A.J. 06/23/99, p. 238.

On July 28, 1999, the Governor approved in part and vetoed in part Senate Bill 114, and the part approved became 1999 Wisconsin Act 5, S.J. 07/29/99, p. 222. The date of enactment is July 28, 1999, and the date of publication is August 11, 1999, and, as provided by section 991.11, Wisconsin Statutes, the effective date of all provisions of the act is August 12, 1999, except those provisions for which the act expressly provides a different date.

#### TEXT OF GOVERNOR'S VETO MESSAGE

July 28, 1999

To the Honorable Members of the Senate:

I have approved **Senate Bill 114** as 1999 Wisconsin Act 5 and have deposited it in the Office of the Secretary of State. I have exercised the partial veto in Sections 22 and 31 of the bill.

In April of this year, 86% of Wisconsin voters approved the distribution of lottery, bingo and pari-mutuel proceeds to Wisconsin residents for property tax relief. By restoring the lottery credit to principal dwellings only, and enhancing the credit by including bingo and pari-mutuel proceeds in the dollars available for the credit, the bill enacts the will of Wisconsin residents. In doing so, it more than doubles the size of the lottery credit to the typical homeowner to an estimated \$90 on the December

1999 property tax bills. It also provides property tax relief to farmers by increasing the maximum farmland tax relief credit from \$1000 to \$1500 and increasing the share of taxes on farmland for which the credit may be claimed from 10% to an estimated 15%.

I am pleased that the Legislature acted quickly on this bill so that Wisconsin homeowners will benefit from the revised lottery credit on the first property tax bills following the passage of the constitutional amendment. My partial vetos will improve the administration of the credit.

Sincerely,

TOMMY G. THOMPSON  
Governor

---

#### Item -1. Section 22

---

#### Governor's written objections

##### *Section 22*

My partial vetos are limited to correcting three technical administrative concerns. Section 22 of the bill specifies the mechanics for mobile homes to qualify for the lottery and gaming credit. I am partially vetoing section 22 to remove both the January 31 deadline for owners of mobile homes to claim the credit and the requirement that eligibility for the credit for mobile homes be tied to the same date as for real property. I am partially vetoing the January 31 deadline because it is unnecessarily restrictive. My partial veto will enable the Department of Revenue to administratively set the date by which the credit must be claimed. Since homeowners are given until the due date of the first installment of

their property taxes to make a claim for the credit, mobile home owners should be given at least the same degree of freedom. I am also partially vetoing the requirement that mobile homes be utilized as principal dwellings on the same date as for real property to gain the lottery credit because this requirement creates an inconsistency. In the bill, for a mobile home to be eligible for the credit, the mobile home must be used as a primary dwelling on January 1 of the year prior to the year the credit is received. For assessment of mobile homes, however, taxable value is determined as of January 1 of the year the credit is received (which is the year for which the mobile home parking fee is being determined and paid). My partial veto will allow eligibility for the credit for mobile homes and the assessment for mobile homes to be tied to the same date, rather than dates that are one year apart.

**Cited segments of 1999 Senate Bill 114:**

**SECTION 22.** 66.058 (3) (c) 8. of the statutes is amended to read:

66.058 (3) (c) 8. The credit under s. 79.10 (9) (bm), as it applies to the principal dwelling on a parcel of taxable property shall apply to the estimated fair market value of a mobile home that is the principal dwelling of the owner. The owner of the mobile home shall file a claim for the credit with the treasurer of the municipality in which the property is located no later than January 31.

To obtain the credit under s. 79.10 (9) (bm), the owner shall attest on the claim that the mobile home is the owner's principal dwelling, as defined in s. 79.10 (1) (dm). The treasurer shall reduce the owner's parking permit fee by the amount of any allowable credit. The treasurer shall furnish notice of all amounts claims for credits filed under this subdivision to the department of revenue as provided under s. 79.10 (1m).

**Vetoed  
In Part**

**Vetoed  
In Part**

**Item -2. Section 31**

**Governor's written objections**

*Section 31*

Section 31 specifies that if an overpayment or underpayment is made in the amounts paid to counties or the City of Milwaukee to reimburse these local governments for their costs to precertify principal dwellings to receive the credit, a correction can be made. According to this section, the correction shall be included in the next precertification payment. Since precertification payments will be made only once every five years, however, a local government would need to wait that time period to receive a correcting payment. I am partially vetoing this section to remove the restriction that the adjustment is made on the subsequent distribution because it is too restrictive. My partial veto will permit a correction to an underpayment or overpayment to occur without a five-year wait.

**Cited segments of 1999 Senate Bill 114:**

**SECTION 31.** 79.10 (7r) of the statutes is created to read:

**79.10 (7r) LOTTERY AND GAMING CREDIT CERTIFICATION REIMBURSEMENT.**

(c) If the department of revenue determines before August 1 of the year following a distribution under par.

(b) that a county or city received an overpayment or underpayment under par. (b) because of a late application or an erroneous payment, the department of revenue shall correct the overpayment or underpayment by reducing or increasing the subsequent distribution under par. (b). Corrections shall be made without interest.

**Vetoed  
In Part**

**1999 Wisconsin Act 10 (October 1999 Special Session Assembly Bill 1): Tax rebate for individuals**

On November 2, 1999, the assembly passed October 1999 Special Session Assembly Bill 1 [as amended by Assembly Amendments 3, 4, 5, 6 and 7] by a vote of 94 to 3, A.J. 11/02/99, p. 496.

On November 11, 1999, the senate adopted Senate Substitute Amendment 1 [as amended by Senate Amendments 1 and 3] to October 1999 Special Session Assembly Bill 1 by a vote of 29 to 4, S.J. 11/11/99, p. 349, and concurred in October 1999 Special Session Assembly Bill 1 as amended [Senate Substitute Amendment 1 as amended by Senate Amendments 1 and 3] by a vote of 31 to 2, S.J. 11/11/99, p. 349.

On November 11, 1999, the assembly concurred in Senate Substitute Amendment 1 to October 1999 Special Session Assembly Bill 1 by a vote of 96 to 1, A.J. 11/11/99, p. 557.

On November 16, 1999, the governor approved in part and vetoed in part October 1999 Special Session Assembly Bill 1, and the part approved became 1999 Wisconsin Act 10, A.J. 11/16/99, p. 560. The date of enactment is November 16, 1999, and the date of publication is November 18, 1999, and, as provided by section 991.11, Wisconsin Statutes, the effective date of all provisions of the act is November 19, 1999, except those provisions for which the act expressly provides a different date.

**TEXT OF GOVERNOR’S VETO MESSAGE**

November 16, 1999

To the Honorable Members of the Assembly:

I have approved **October 1999 Special Session Assembly Bill 1** as 1999 Wisconsin Act 10 and have deposited it in the Office of the Secretary of State. I have exercised my veto authority in Sections 2m and 6 (2) of the bill.

Sincerely,

TOMMY G. THOMPSON  
Governor

---

**Item -1. Sections 2m and 6 (2)**

**Governor’s written objections**

*Sections 2m and 6 (2)*

Section 2m, as it relates to tax years 1999 and 2000, modifies the property tax/rent credit to be 8.4% of the first \$2,000 of property taxes or rent constituting property taxes for most claimants. I am partially vetoing this section to set the property tax/rent credit at zero for both years and in future years because the Legislature did not provide for any specific expenditure reductions to reflect the \$410 million reduction in revenues that will result from these modifications.

Section 6 (2) requires the Department of Administration to recommend \$410 million in expenditure reductions for review by the Joint Committee on Finance by January 2001. I am vetoing this section because the partial veto of Section 2m eliminates the need to identify \$410 million in expenditure reductions. Additionally, if expenditure reductions of this large magnitude are to be made, they should be reviewed by the Legislature as a whole after going through a complete hearing and debate process, rather than being reviewed by only one committee.

Reductions of this magnitude would require major policy changes with significant impacts on state programs. For example, they would require us to make annual GPR spending reductions of over 40% to the University of Wisconsin System GPR budget or 40% of the Medical Assistance GPR budget. The total amount of \$410 million is the size of the GPR budgets of the Wisconsin Technical College System, the Department of Workforce Development, the Department of Agriculture, Trade and Consumer Protection, the Department of Commerce, and the Department of Tourism combined. Alternatively, we would have to eliminate 25% of the GPR operating budget of every single state agency, or we could reduce school aids by 10% or reduce other local aids, causing major increases in property taxes. Clearly, whatever alternative might be chosen, the impacts on important state programs would be substantial.

I support continuation of the property tax/rent credit if the Legislature is able to provide funding for it, so I have left the general language authorizing the property tax/rent credit in the statutes while setting the amount at zero. If the Legislature wants to make this credit a priority, the legislators can pass legislation to provide funding for it. It is not responsible to enact programs without making the tough decisions about how to pay for them. However, I will sign into law any proposal that the Legislature passes to reinstate funding for the property tax/rent credit that is accompanied by specific and credible spending reductions.

As far as the record on spending control is concerned, it should be noted that in every biennium since I have been Governor I have submitted a budget with a spending level that has been increased by the Legislature, and in every biennium I have used my veto power to reduce the level of spending that has been passed by the Legislature. If my recommendations rather than the Legislature's had been enacted, overall spending would be much lower than it is. It is up to the Legislature to make the difficult decisions necessary to reduce and restrain spending. In the future, as in the past, I will propose balanced budgets that restrain spending, and I hope the Legislature will follow my lead in passing budgets with restrained spending levels.

It should also be noted that the budget as I signed it, along with the sales tax rebate bill, will provide for a total of over \$1 billion in tax reductions for Wisconsin citizens in the 1999-2001 biennium. I am committed to further substantial tax reductions in the future, but I believe they should be enacted in a responsible manner.

**Cited segments of October 1999 Special Session Assembly Bill 1:**

**SECTION 2m.** 71.07 (9) (b) 4. of the statutes is created to read:

71.07 (9) (b) 4. For taxable years beginning after December 31, 1998 and before January 1, 2001, subject to the limitations under this subsection a claimant may claim as a credit against, but not to exceed the amount of, taxes under s. 71.02, 8.4% of the first \$2,000 of property taxes or rent constituting property taxes, or 8.4% of the first \$1,000 of property taxes or rent constituting property taxes of a married person filing separately.

**SECTION 6. Nonstatutory provisions.**

(2) REDUCTIONS OR EXPENDITURE REESTIMATES IN APPROPRIATIONS FOR THE 1999-2001 BIENNIUM.

(a) *Secretary of administration to report proposed reductions or expenditure reestimates in appropriations.* No later than January 1, 2001, the secretary of administration shall propose reductions in sum certain appropriations in any fund or reestimates of expenditures to be made from sum sufficient appropriations from the general fund for the 1999-2001 biennium in an amount equal to \$410,000,000 and shall report these proposed reduc-

tions or reestimates to the joint committee on finance.

(b) *Joint committee on finance passive review.* If the cochairpersons of the joint committee on finance do not notify the secretary of administration that the committee has scheduled a meeting for the purpose of reviewing the proposed reductions or reestimates reported under paragraph (a) within 14 working days after the date of receiving the report, the secretary of administration shall lapse or transfer the amount of the proposed reductions to the general fund or reestimate the expenditures to be made from the sum sufficient appropriations. If, within 14 working days after the date of receiving the report, the cochairpersons of the committee notify the secretary of administration that the committee has scheduled a meeting for the purpose of reviewing the proposed reductions or reestimates reported under paragraph (a), the secretary of administration shall lapse or transfer to the general fund or reestimate the amounts approved by the committee in a total amount equal to the amount specified in paragraph (a) from the appropriations specified by the committee.

**Vetoed  
In Part**

**Vetoed  
In Part**

**Vetoed  
In Part**

**Vetoed  
In Part**

**Vetoed  
In Part**

**1999 Wisconsin Act 109 (Senate Bill 125): Enforcement and prevention of operating a motor vehicle while under the influence of an intoxicant or drug**

On March 14, 2000, the senate adopted Senate Substitute Amendment 1 [as amended by Senate Amendments 1, 2, 3, 4 and 5] to Senate Bill 125 on a voice vote, S.J. 03/14/00, p. 503, and passed Senate Bill 125, as amended, by a vote of 33 to 0, S.J. 03/14/00, p. 503.

On March 29, 2000, the assembly adopted Assembly Amendment 1 to Senate Bill 125 on a voice vote, A.J. 03/29/00, p. 868, and concurred in Senate Bill 125, as amended, by a vote of 95 to 3, A.J. 03/29/00, p. 868.

On March 30, 2000, the senate concurred in Assembly Amendment 1 to Senate Bill 125 on a voice vote, S.J. 03/30/00, p. 575.

On May 3, 2000, the Governor approved in part and vetoed in part Senate Bill 125, and the part approved became 1999 Wisconsin Act 109, S.J. 05/10/00, p. 611. The date of enactment is May 3, 2000, and the date of publication is May 17, 2000, and, as provided by section 991.11, Wisconsin Statutes, the effective date of all provisions of the act is May 18, 2000, except those provisions for which the act expressly provides a different date.

TEXT OF GOVERNOR'S VETO MESSAGE

May 3, 2000

To the Honorable Members of the Senate:

I have approved **Senate Bill 125** as 1999 Wisconsin Act 109 and have deposited it in the Office of the Secretary of State. I have exercised the partial veto in Section 43.

**Senate Bill 125** makes numerous changes to the laws relating to operating a motor vehicle while under the influence (OWI) of an intoxicant or controlled substance. The bill establishes a grant program for OWI prevention, increases penalties for OWI violations and enforces stricter standards for repeat offenders.

I believe that it is important to keep Wisconsin roadways safe by limiting the occurrence of OWI incidents. **Senate Bill 125** launches innovative prevention programs and gives law enforcement the tools to enforce stricter OWI standards.

Sincerely,

TOMMY G. THOMPSON  
Governor

Item -1. Section 43

Governor's written objections

Section 43

Section 43 increases the fines for a second OWI conviction based on the number of prior class B felony (vehicular homicide) OWI convictions in a person's lifetime plus the number of suspensions and revocations within a ten-year period. Section 47 doubles the penalties for persons convicted of having an alcohol concentration of 0.17 to 0.199. I am partially vetoing section 43 to remove the reference to section 47 because section 47 has no impact on the penalties applied in section 43.

Cited segments of 1999 Senate Bill 125:

SECTION 43. 346.65 (2) (b) of the statutes is amended to read:

Vetoed  
In Part

346.65 (2) (b) Except as provided in ~~par. pars. (f) \_\_\_\_\_~~ (g), shall be fined not less than \$300 \$350 nor more than \$1,000 \$1,100 and imprisoned for not less than 5 days nor more than 6 months if the total number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime,

plus the total number of suspensions, revocations and other convictions counted under s. 343.307 (1) within a 10-year period, equals 2 within a 10-year period. ~~Suspensions, except that suspensions,~~ revocations or convictions arising out of the same incident or occurrence shall be counted as one.

1999 Wisconsin Act 113 (Assembly Bill 806): Lead-bearing paint control

On March 9, 2000, the assembly adopted Assembly Substitute Amendment 2 [as amended by Assembly Amendment 1 (as amended by Assembly Amendment 1)] to Assembly Bill 806 on a voice vote, A.J. 03/09/00, p. 732, and passed Assembly Bill 806, as amended, by a vote of 97 to 0, A.J. 03/09/00, p. 732.

On March 29, 2000, the senate adopted Senate Amendment 1 to Assembly Bill 806 on a voice vote, S.J. 03/29/00, p. 561, and concurred in Assembly Bill 806, as amended, by a vote of 33 to 0, S.J. 03/29/00, p. 561.

On March 30, 2000, the assembly concurred in Senate Amendment 1 to Assembly Bill 806 on a voice vote, A.J. 03/30/00, p. 903.

On May 8, 2000, the Governor approved in part and vetoed in part Assembly Bill 806, and the part approved became 1999 Wisconsin Act 113, A.J. 05/09/00, p. 953. The date of enactment is May 8, 2000, and the date of publication is May 22, 2000, and, as provided by section 991.11, Wisconsin Statutes, the effective date of all provisions of the act is May 23, 2000, except those provisions for which the act expressly provides a different date.

TEXT OF GOVERNOR'S VETO MESSAGE

May 8, 2000

To the Honorable Members of the Assembly:

I have approved Assembly Bill 806 as 1999 Wisconsin Act 113 and have deposited it in the Office of the Secretary of State. I have exercised the partial veto in Sections 1 and 29.

AB 806 provides immunity to landlords from liability for claims of lead poisoning or lead exposure if they have had an investigation and receive a certificate from a certified lead assessor who finds that their property is lead-free or lead-safe. This provides a very strong incentive to prop-

erty owners through the granting of immunity to take actions which will reduce the risk to children of lead exposure. The bill also includes many other provisions related to the procedures under which such certificates may be obtained, the rules which the Department of Health and Family Services must develop for the program and funding to support the program.

Sincerely,

TOMMY G. THOMPSON
Governor

Item -1. Sections 1 and 29

Governor's written objections

Sections 1 and 29

I am partially vetoing sections 1 and 29 to clarify that the fees collected from the lead-free and lead-safe certificates can be used to support all of the activities specified in s. 254.179, such as setting the standards for what is considered to be lead-free or lead-safe and setting the period of validity for the certificates. As the language is written, the use of the fees is restricted to issuing the certificates and maintaining the registry for lead-free or lead-safe homes. This technical veto ensures that all specified program activities may be supported by program fees.

Cited segments of 1999 Assembly Bill 806:

SECTION 1. 20.435 (1) (gm) of the statutes, as affected by 1999 Wisconsin Act 9, is amended to read:

20.435 (1) (gm) Licensing, review and certifying activities; fees; supplies and services. The amounts in the schedule for the purposes specified in ss. 146.50 (8), 250.05 (6), 252.23, 252.24, 252.245, 254.176, 254.178, 254.179 (1) (d), 254.20 (5) and (8), 254.31 to 254.39, 254.41, 254.47, 254.61 to 254.89 and 255.08 (2) and ch. 69, for the purchase and distribution of medical supplies and to analyze and provide data under s. 250.04. All moneys received under ss. 146.50 (5) (f), (8) (d), 250.04 (3m), 250.05 (6), 252.23 (4) (a), 252.24 (4) (a), 252.245 (9), 254.176, 254.178, 254.181, 254.20 (5) and (8), 254.31 to

254.39, 254.41, 254.47, 254.61 to 254.89 and 255.08 (2) (b) and ch. 69 and as reimbursement for medical supplies shall be credited to this appropriation account.

SECTION 29. 254.181 of the statutes is created to read:

254.181 Certificate of lead-free status and certificate of lead-safe status; fees and notification. (1) The department may impose a fee of \$50 for issuance of a certificate of lead-free status and a fee of \$25 for issuance of a certificate of lead-safe status. Fees under this section may not exceed actual costs of issuance and of maintaining the registry under s. 254.179 (1) (d). The department shall review the fees every 2 years and adjust the fees to reflect the actual costs.

Vetoed
In Part

Vetoed
In Part

1999 Wisconsin Act 136 (Assembly Bill 582): Military honors funerals for veterans

On February 8, 2000, the assembly passed Assembly Bill 582 [as amended by Assembly Amendment 1] by a vote of 95 to 1, A.J. 02/08/00, p. 649.

On March 7, 2000, the senate concurred in Assembly Bill 582 by a vote of 33 to 0, S.J. 03/07/00, p. 475.

On May 9, 2000, the Governor approved in part and vetoed in part Assembly Bill 582, and the part approved became 1999 Wisconsin Act 136, A.J. 05/11/00, p. 956. The date of enactment is May 9, 2000, and the date of publication is

May 23, 2000, and, as provided by section 991.11, Wisconsin Statutes, the effective date of all provisions of the act is May 24, 2000, except those provisions for which the act expressly provides a different date.

**TEXT OF GOVERNOR’S VETO MESSAGE**

May 9, 2000

To the Honorable Members of the Assembly:

I have approved **Assembly Bill 582** as 1999 Act 136 and have deposited it in the Office of the Secretary of State. I have exercised the partial veto in Section 4.

**AB 582** allows the Department of Veterans Affairs to administer a program to coordinate military honors funerals for deceased veterans by local units of member organizations of the council of veterans programs and by members of the Wisconsin National Guard. This provi-

sion also allows the department to reimburse a local unit of a member organization of the council of veterans programs for the costs of providing military honors to a deceased veteran whose family has insufficient resources to pay those costs.

Sincerely,

**TOMMY G. THOMPSON**  
Governor

---

**Item -1. Section 4**

**Governor’s written objections**

*Section 4*

I am partially vetoing section 4 to eliminate wording suggesting that a deceased veteran’s family is required to pay for military funeral honors.

**Cited segments of 1999 Assembly Bill 582:**

**SECTION 4.** 45.19 of the statutes is created to read:  
**45.19 Military honors funerals.** The department of veterans affairs shall administer a program to coordinate the provision of military honors funerals to deceased veterans by local units of member organizations of the council on veterans programs and by members of the Wisconsin national guard activated under s. 21.11 (3). From the

appropriation under s. 20.485 (2) (q), the department shall reimburse a local unit of a member organization of the council on veterans programs for the costs of providing a military honors funeral to a deceased veteran whose family has insufficient resources to pay those costs. The reimbursement may not exceed \$50 for each military honors funeral.

**Vetoed  
In Part**

---

**1999 Wisconsin Act 167 (Assembly Bill 892): Local professional football stadium district**

On March 24, 2000, the assembly adopted Assembly Substitute Amendment 4 [as amended by Assembly Amendments 4, 6, 7 (as amended by Assembly Amendment 1), 8 (as amended by Assembly Amendments 1 and 2), 11, 16, 18, 20, 21, 22 and 23] to Assembly Bill 892 by a vote of 79 to 16, A.J. 03/24/00, p. 838, and passed Assembly Bill 892, as amended, by a vote of 73 to 22, Paired 2, A.J. 03/24/00, p. 839.

On March 30, 2000, the senate adopted Senate Substitute Amendment 1 [as amended by Senate Amendment 1] to Assembly Bill 892 by voice vote, S.J. 03/30/00, p. 575, and concurred in Assembly Bill 892 as amended [Senate Substitute Amendment 1 as amended by Senate Amendment 1] by a vote of 28 to 5, S.J. 03/30/00, p. 575.

On May 2, 2000, the assembly concurred in Senate Substitute Amendment 1 to Assembly Bill 892 by a vote of 80 to 19, A.J. 05/02/00, p. 936.

On May 13, 2000, the Governor approved in part and vetoed in part Assembly Bill 892, and the part approved became 1999 Wisconsin Act 167, A.J. 05/16/00, p. 958. The date of enactment is May 13, 2000, and the date of publication is May 26, 2000, and, as provided by section 991.11, Wisconsin Statutes, the effective date of all provisions of the act is May 27, 2000, except those provisions for which the act expressly provides a different date.

TEXT OF GOVERNOR'S VETO MESSAGE

May 13, 2000

To the Honorable Members of the Assembly:

I have approved **Assembly Bill 892** as 1999 Wisconsin Act 167 and have deposited it in the Office of the Secretary of State. I have exercised the partial veto in Sections 10, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26 and 62.

**Assembly Bill 892** creates a professional football stadium district governed by a district board. Upon approval of a referendum by voters, the district is authorized to levy a 0.5% sales tax for the purpose of repaying up to \$160 million in revenue bonds issued to finance construction and renovation of professional football stadiums. Bonds issued by a district created under the bill may include a moral obligation of the Legislature to make an appropriation to meet debt repayment requirements.

Revenues from the 0.5% sales tax may also be used to finance up to \$2.9 million of stadium operating and maintenance costs and up to \$750,000 of district administrative costs. The bill also authorizes a commemorative motor vehicle license plate associated with a professional football team and voluntary donations in support of a professional football team through the income tax form. Revenues from these sources and from the sale of engraved bricks and tiles are to be deposited into a fund to pay stadium operating and maintenance costs.

The bill also includes provisions to ensure prevailing wages are paid for construction work performed under the jurisdiction of a professional football stadium district.

Minority group and women employment and contracting goals of 15 percent and 5 percent, respectively, are included in the bill. A construction reserve fund of \$10 million is established under the bill, funded by fees charged for the right to purchase admission to events at the professional football stadium within the district. This fund will either be used to meet final costs to complete the football stadium facilities or for early retirement of bonds.

This legislation will contribute to the economic viability of professional football teams in Wisconsin, which are an important state tourism and business attraction. Currently, our only year-round National Football League team is the Green Bay Packers. The Packers are one of the key generators of economic activity in the city of Green Bay, Brown County and Wisconsin. The stadium renovation and expansion project that will hopefully result from this legislation will create significant numbers of job opportunities for a broad spectrum of Wisconsin citizens. Most importantly, **Assembly Bill 892** gives the tools to assist the Packers directly to the taxpayers of Brown County. This legislation is an important first step toward ensuring a constructive dialogue on the economic realities facing the team and the improvements necessary to ensure its continued success in Green Bay and Brown County.

Sincerely,

TOMMY G. THOMPSON  
Governor

**Item -1. Sections 10, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25 and 26**

**Governor's written objections**

*Sections 10, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25 and 26*

Sections 10, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25 and 26 allow the Board of Commissioners of Public Lands (BCPL) to delegate all investment responsibility to State of Wisconsin Investment Board (SWIB) so that a broader array of investments can be pursued with the assets included in the common school, normal school, university and agricultural college funds. I am vetoing this provision because it may compromise the fiduciary responsibilities of the board and because the provisions were not adequately debated by the Legislature. While I may support some revisions to the investment authority of BCPL and SWIB, I believe this issue should be considered as separate legislation.

**Cited segments of 1999 Assembly Bill 892:**

**Vetoed  
In Part**

**SECTION 10.** 20.536 (1) (k) of the statutes, as affected by 1999 Wisconsin Act 9, is amended to read:  
20.536 (1) (k) *General program operations.* All moneys received from assessments made under s. 25.187

(2) and from charges made under ss. 24.62 (1), 25.16 (8) and 25.17 (9) for the purpose of conducting general program operations.

**Vetoed  
In Part**

**Vetoed  
In Part**

**SECTION 15.** 24.61 (2) (a) (title) of the statutes is amended to read:

24.61 (2) (a) (title) *Authorized investments by board.*

**SECTION 16.** 24.61 (2) (a) 3. of the statutes is amended to read:

24.61 (2) (a) 3. Bonds and notes of this state.

**SECTION 18.** 24.61 (2) (b) of the statutes is amended to read:

24.61 (2) (b) *Deposited with state treasurer.* All bonds, notes and other securities so purchased under par. (a) shall be deposited with the state treasurer.

**SECTION 19.** 24.61 (2) (c) of the statutes is created to read:

24.61 (2) (c) *Delegation of investment authority to investment board.* The board of commissioners of public lands may delegate to the investment board the authority to invest part or all of the moneys belonging to the trust funds. If the board of commissioners of public lands delegates the authority, the investment board may invest the moneys belonging to the trust funds in any manner authorized for the investment of any funds specified in s. 25.17 (1).

**SECTION 20.** 24.62 (1) of the statutes is amended to read:

24.62 (1) Except as authorized in sub. (2), the board shall deduct its expenses incurred in administering investments and loans under s. 24.61 from the gross receipts of the fund to which the interest and income of the investment or loan will be added. If the board of commissioners of public lands delegates to the investment board the authority to invest part or all of the moneys belonging to the trust funds, the investment board shall deduct its expenses incurred in administering investments under s. 24.61 from the gross receipts of the fund to which the interest and income of the investment will be added.

**SECTION 21.** 25.16 (8) of the statutes is created to read:

**Vetoed  
In Part**

25.16 (8) The executive director shall assign an investment professional to assist the board of commissioners of public lands in establishing and maintaining investment objectives with respect to the investment of the assets of the agricultural college fund, the common school fund, the normal school fund and the university fund. An amount equal to the cost of any services rendered to the board of commissioners of public lands under this subsection shall be deducted from the gross receipts of the fund to which the moneys invested belong and shall be credited to the appropriation account under s. 20.536 (1) (k).

**SECTION 22.** 25.17 (1) (ah) of the statutes is created to read:

25.17 (1) (ah) Agricultural college fund (s. 24.82), but subject to the terms of delegation under s. 24.61 (2) (c);

**SECTION 23.** 25.17 (1) (ax) of the statutes is created to read:

25.17 (1) (ax) Common school fund (s. 24.76), but subject to the terms of delegation under s. 24.61 (2) (c);

**SECTION 24.** 25.17 (1) (kd) of the statutes is created to read:

25.17 (1) (kd) Normal school fund (s. 24.80), but subject to the terms of delegation under s. 24.61 (2) (c);

**SECTION 25.** 25.17 (1) (xLm) of the statutes is created to read:

25.17 (1) (xLm) University fund (s. 24.81), but subject to the terms of delegation under s. 24.61 (2) (c);

**SECTION 26.** 25.17 (1) (zm) of the statutes is amended to read:

25.17 (1) (zm) All other funds of the state or of any state department or institution, except funds which under article X of the constitution are controlled and invested by the board of commissioners of public lands, funds which are required by specific provision of law to be controlled and invested by any other authority, and moneys in the University of Wisconsin trust funds, and in the trust funds of the state universities.

---

**Item -2. Section 62**

---

**Governor's written objections**

*Section 62*

Section 62 includes a provision that prohibits the district from levying any taxes until agreements are reached between the county, city and the professional football team concerning the funding of maintenance of the football stadium facili-

ties and the distribution of proceeds from the sale of naming rights related to these facilities. I am partially vetoing this provision to remove involvement by the county because it is unreasonable that a city must seek approval from a county for maintenance or naming issues on city property. As part of the local and legislative process, agreements were reached that call for the city to have responsibility over maintenance. Regarding naming rights, the bill specifies that the city must approve not only the distribution of naming rights proceeds, if any, but the sale itself. This veto does not alter agreements reached either in the local or legislative process. These vetoes are merely jurisdictional clarifications. Local control and taxpayer accountability is protected by preserving the City of Green Bay's historic responsibility for Lambeau Field.

**Cited segments of 1999 Assembly Bill 892:**

**SECTION 62.** Subchapter IV of chapter 229 [precedes 229.820] of the statutes is created to read:

**229.824 Powers of a district.**

(15) Impose, by the adoption of a resolution, the taxes under subch. V of ch. 77, except that the taxes imposed by the resolution may not take effect until the resolution is approved by a majority of the electors in the district's jurisdiction voting on the resolution at a referendum, to be held at the first spring primary or September primary following by at least 45 days the date of adoption of the resolution. Two questions shall appear on the ballot. The first question shall be: "Shall a sales tax and a use tax be imposed at the rate of 0.5% in .... County for purposes related to football stadium facilities in the .... Professional Football Stadium District?" The 2nd question shall be: "Shall excess revenues from the 0.5% sales tax and use tax be permitted to be used for property tax relief purposes in .... County?" Approval of the first question constitutes approval of the resolution of the district board. Approval of the 2nd question is not effective unless the first question is approved. The clerk of the district shall publish the notices required under s. 10.06 (4) (c), (f) and (i) for any referendum held under this subsec-

tion. Notwithstanding s. 10.06 (4) (c), the type A notice under s. 10.01 (2) (a) relating to the referendum is valid even if given and published late as long as it is given and published prior to the election as early as practicable. A district may not levy any taxes that are not expressly authorized under subch. V of ch. 77. The district may not levy any taxes until the professional football team, the county board and the governing body of the municipality in which the football stadium facilities are located agree on how to fund the maintenance of the football stadium facilities. The district may not levy any taxes until the professional football team, the county board and the governing body of the municipality in which the football stadium facilities are located agree on how to distribute the proceeds, if any, from the sale of naming rights related to the football stadium facilities. If a district board adopts a resolution that imposes taxes and the resolution is approved by the electors, the district shall deliver a certified copy of the resolution to the secretary of revenue at least 30 days before its effective date. If a district board adopts a resolution that imposes taxes and the resolution is not approved by the electors, the district is dissolved.

**Vetoed  
In Part**

**Vetoed  
In Part**

**1999 Wisconsin Act 177 (Assembly Bill 471): Grants to small businesses for training employees**

On March 29, 2000, the assembly adopted Assembly Substitute Amendment 1 to Assembly Bill 471 on a voice vote, A.J. 03/29/00, p. 889, and passed Assembly Bill 471, as amended, by a vote of 92 to 4, A.J. 03/29/00, p. 889.

On March 30, 2000, the senate concurred in Assembly Bill 471 by a vote of 33 to 0, S.J. 03/30/00, p. 571.

On May 17, 2000, the Governor approved in part and vetoed in part Assembly Bill 471, and the part approved became 1999 Wisconsin Act 177, A.J. 05/18/00, p. 916. The date of enactment is May 17, 2000, and the date of publication is June 1, 2000, and, as provided by section 991.11, Wisconsin Statutes, the effective date of all provisions of the act is June 2, 2000, except those provisions for which the act expressly provides a different date.

TEXT OF GOVERNOR'S VETO MESSAGE

May 17, 2000

To the Honorable Members of the Assembly:

I have approved Assembly Bill 471 as 1999 Wisconsin Act 177 and have deposited it in the Office of the Secretary of State. I have exercised the partial veto in Sections 1 and 2.

Sincerely,

TOMMY G. THOMPSON
Governor

Item -1. Sections 1 and 2

Governor's written objections

Sections 1 and 2

AB 471 creates a small business employe training grant program within the Department of Commerce. An applicant under the program may receive up to \$10,000 in grants. Grant proceeds may be used for employe skills training and other education related to the needs of the business.

Sections 1 and 2 authorize the payment of small business employe training grants from the existing Wisconsin Development Fund appropriation. That appropriation currently funds nearly a dozen state economic development grant and loan programs. I am vetoing Section 1 and partially vetoing Section 2 to remove the reference to the Wisconsin Development Fund appropriation because adding a program of this magnitude will unacceptably dilute funding available for economic development and job creation in Wisconsin.

I remain steadfast in my support for small business growth and development and request the Department of Commerce to identify other potential sources of funding for this program. I am also committed to carefully reviewing a permanent source of funding for the program in my 2001-03 biennial budget. Through training, tax relief, venture capital, and technical assistance programs, small businesses and the Wisconsin economy will continue to thrive.

Cited segments of 1999 Assembly Bill 471:

Vetoed In Part

SECTION 1. 20.143 (1) (c) of the statutes, as affected by 1999 Wisconsin Act 9, is amended to read:

20.143 (1) (c) Wisconsin development fund; grants, loans, reimbursements and assistance. Biennially, the amounts in the schedule for grants under ss. 560.145, 560.155, 560.16, 560.175, 560.26; for grants and loans under ss. 560.62, 560.63 and 560.66; for loans under s. 560.147; for reimbursements under s. 560.167; for providing assistance under s. 560.06; for the costs specified in s. 560.607; for the loan under 1999 Wisconsin Act 9, section 9110 (4); and for the grants under 1995 Wisconsin Act 27, section 9116 (7gg), 1995 Wisconsin Act 119, section 2 (1), 1997 Wisconsin Act 27, section 9110 (6g), and

1999 Wisconsin Act 9, section 9110 (5). Of the amounts in the schedule, \$50,000 shall be allocated in each of fiscal years 1997-98 and 1998-99 for providing the assistance under s. 560.06 (1). Notwithstanding s. 560.607, of the amounts in the schedule, \$125,000 shall be allocated in each of 4 consecutive fiscal years, beginning with fiscal year 1998-99, for grants and loans under s. 560.62 (1) (a).

Vetoed In Part

SECTION 2. 560.155 of the statutes is created to read: 560.155 Business employes' skills training grant program. (1) Subject to sub. (2), from the appropriation under s. 20.143 (1) (c), the department may award a grant to a business if all of the following apply:

Vetoed In Part

### 1999 Wisconsin Act 187 (Assembly Bill 942): Personal care services and workers

On March 29, 2000, the assembly passed Assembly Bill 942 by a vote of 61 to 35, A.J. 03/29/00, p. 882.

On March 30, 2000, the senate adopted Senate Substitute Amendment 1 to Assembly Bill 942 on a voice vote, S.J. 03/30/00, p. 573, and concurred in Assembly Bill 942 as amended [Senate Substitute Amendment 1] by a vote of 33 to 0, S.J. 03/30/00, p. 573.

On May 2, 2000, the assembly concurred in Senate Substitute Amendment 1 to Assembly Bill 942 by a vote of 99 to 0, A.J. 05/02/00, p. 937.

On May 17, 2000, the Governor approved in part and vetoed in part Assembly Bill 942, and the part approved became 1999 Wisconsin Act 187, A.J. 05/18/00, p. 960. The date of enactment is May 17, 2000, and the date of publication is June 1, 2000, and, as provided by section 991.11, Wisconsin Statutes, the effective date of all provisions of the act is June 2, 2000, except those provisions for which the act expressly provides a different date.

#### TEXT OF GOVERNOR'S VETO MESSAGE

May 17, 2000

To the Honorable Members of the Assembly:

I have approved **Assembly Bill 942** as 1999 Wisconsin Act 187 and have deposited it in the Office of the Secretary of State. I have exercised the partial veto in Sections 1, 2, 3, 4, 5, and 6 (1).

**Assembly Bill 942** contains three main provisions aimed at providing increased reimbursement to personal care agencies and counties for personal care services provided under Medical Assistance (MA). Specifically, **Assembly Bill 942** increases the MA reimbursement rate for personal care services by \$3.25 per hour, to \$15.50 per hour; directs the Department of Health and Family Services (DHFS) to establish criteria to identify personal care shortage areas in the state and directs DHFS to provide enhanced reimbursement to personal care agencies in those counties; and directs DHFS to use base GPR to supplement Community Services Deficit Reduction Benefit (CSDRB) payments to counties. The bill also contains an obsolete provision to delay the effective date of Assembly Bill 456 from January 1, 2000 to January 1, 2001.

I am supportive of the rate increase, because it will help to ensure access to personal care, which has steadily grown in MA, and will become increasingly important as the population ages and as Family Care is implemented. The partial vetoes in this bill are meant to eliminate provisions for which no appropriation has been made and to eliminate the obsolete reference to Assembly Bill 456.

Sections 1 and 2 direct DHFS to use GPR to supplement federal reimbursement passed through to counties under the Community Services Deficit Reduction Benefit (CSDRB) program. Under this program, the state uses county expenditures to claim federal CSDRB payments at the MA federal match rate. The state passes the full amount of federal reimbursement for county expenditures in this program back to the counties. That reimbursement covers 60 percent of county expenditures.

Sections 1 and 2 require DHFS to use GPR to increase the amount of expenditures covered to 75 percent. I am vetoing these sections because a 100 percent GPR enhancement of the CSDRB is excessive and does not allow the state to maximize federal reimbursement under MA. While DHFS can claim federal reimbursement for GPR used to increase personal care rates, federal regulations will not allow DHFS to claim MA federal reimbursement for GPR used to supplement CSDRB payments. Furthermore, personal care is just one of several services eligible for reimbursement under the CSDRB program. Providing a GPR supplement only for personal care services introduces an inconsistency in the CSDRB program and sets a costly precedent.

Sections 3 and 5 direct DHFS to submit rules that would establish criteria to identify "personal care shortage areas" and increase reimbursement for personal care services provided in those areas to 125 percent of the regular personal care reimbursement rate. While shortage areas for physicians and other licensed health care practitioners have proven to be an important tool in improving access to health care, I am skeptical of the feasibility of establishing shortage areas specific to personal care. Because many agencies serve multiple counties and experience frequent turnover among personal care workers and agencies, it will be very difficult to institute criteria based on the number of personal care workers in a given area. In addition, I am concerned that increased reimbursement in certain areas might create a perverse incentive for agencies to manipulate the size of their workforce to maintain shortage area status in order to be eligible for enhanced reimbursement. I am vetoing these sections to remove this requirement. Finally, section 6 establishes the appropriation changes for both the rate increase and personal care shortage areas. I am vetoing section 6 (1) to remove the appropriation for personal care shortage areas, since no funds have actually been appropriated for this purpose.

Section 4 delays the effective date of Assembly Bill 456 from January 1, 2000 to January 1, 2001. Assembly Bill 456 created an individual income tax deduction for certain health insurance premiums. Because Assembly Bill 456 passed in the Assembly but did not pass in the Senate, this provision is obsolete. Therefore, I am vetoing this section.

**Assembly Bill 942** as vetoed will still provide a significant rate increase for personal care services provided to MA recipients in Wisconsin. A strong network of personal care agencies and workers is critical to the success of the state's new Family Care initiative and other efforts aimed at encouraging less costly community-based care. DHFS should monitor the effectiveness of the rate

increase in creating stability in the personal care industry such that MA recipients have access to high quality care and interruptions in service, due to agency turnover, are limited. I strongly encourage personal care agencies to pass this rate increase on to their workers. A consistently cited problem in the industry is high turnover among personal care workers due to low wages. It is my hope that this rate increase will reduce that turnover and adequately compensate personal care workers for the difficult and very important service they provide to MA recipients in Wisconsin.

Sincerely,

TOMMY G. THOMPSON  
Governor

**Item -1. Sections 1, 2, 3, 4, 5 and 6 (1)**

**Cited segments of 1999 Assembly Bill 942:**

**Vetoed  
In Part**

**SECTION 1.** 49.45 (6t) of the statutes, as affected by 1999 Wisconsin Act 9, is renumbered 49.45 (6t) (a), and 49.45 (6t) (a) 2. (intro.), 3. and 4., as renumbered, are amended to read:

49.45 (6t) (a) 2. (intro.) Based on the amount estimated to be available under ~~par. (a) subd. 1.~~, develop a method, which need not be promulgated as rules under ch. 227, to distribute this allocation to the individual county departments under s. 46.215, 46.22, 46.23 or 51.42 or to local health departments that have incurred operating deficits that shall include all of the following:

3. Except as provided in ~~par. (d) subd. 4.~~, distribute the allocation under the distribution method that is developed.

4. If the federal department of health and human services approves for state expenditure in a fiscal year amounts under s. 20.435 (4) (o) that result in a lesser allocation amount than that allocated under this subsection or disallows use of the allocation of federal medicaid funds under ~~par. (e) subd. 3.~~, reduce allocations under this subsection and distribute on a prorated basis, as determined by the department.

**SECTION 2.** 49.45 (6t) (b) of the statutes is created to read:

49.45 (6t) (b) From the appropriation under s. 20.435 (4) (b), the department shall annually distribute moneys for reduction of operating deficits, as determined under criteria developed under par. (a) 2. a., incurred by a county department under s. 46.215, 46.22, 46.23 or 51.42 or by a local health department, as defined in s. 250.01 (4), for services provided under s. 49.46 (2) (b) 6. j. The department shall distribute the moneys specified in this paragraph as a supplement of 15% to each distribution made under the method specified under par. (a) 2., for ser-

vices provided under s. 49.46 (2) (b) 6. j. after December 31, 1999.

**SECTION 3.** 49.45 (24p) of the statutes is created to read:

49.45 (24p) **PERSONAL CARE SHORTAGE AREAS.** (a) The department shall designate as a personal care shortage area any area that meets criteria that the department specifies by rule. From the appropriation under s. 20.435 (4) (b), the department shall reimburse providers of personal care services under s. 49.46 (2) (b) 6. j. in personal care shortage areas at 125% of the reimbursement for the provision of personal care services in areas of the state that are not designated as personal care shortage areas.

(b) The department shall by rule specify criteria for the designation of an area as a personal care shortage area, including a criterion concerning the maximum number of personal care workers per area population.

(c) If an area designated as a personal care shortage area under par. (a) no longer meets criteria specified under par. (b), the department shall dissolve the designation.

**SECTION 4.** 1999 Wisconsin Act ... (Assembly Bill 456), section 4 (1) is amended to read:

[1999 Wisconsin Act ... (Assembly Bill 456)] Section 4 (1) This act first applies to taxable years beginning on January 1, 2000 ~~2001~~.

**SECTION 5. Nonstatutory provisions.**

(1) **PERSONAL CARE SHORTAGE AREAS; RULES.**

(a) The department of health and family services shall submit in proposed form the rules required under section 49.45 (24p) (b) of the statutes, as created by this act, to the legislative council staff under section 227.15 (1) of the statutes no later than the first day of the 4th

**Vetoed  
In Part**

**Vetoed In Part** month beginning after the effective date of this paragraph.

(b) Using the procedure under section 227.24 of the statutes, the department of health and family services may promulgate rules required under section 49.45 (24p) (b) of the statutes, as created by this act, for the period before the effective date of the rules submitted under paragraph (a), but not to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b) and (3) of the statutes, the department is not required to provide evidence that promulgating a rule under this paragraph as an emergency rule is necessary for the preservation of the public peace, health, safety or welfare and is not required

to provide a finding of emergency for a rule promulgated under this paragraph.

**Vetoed In Part**

**SECTION 6. Appropriation changes.**

(1) PERSONAL CARE SHORTAGE AREAS. In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of health and family services under section 20.435 (4) (b) of the statutes, as affected by the acts of 1999, the dollar amount is increased by \$-0- for fiscal year 1999-00 and the dollar amount is increased by \$-0- for fiscal year 2000-01 to provide increased medical assistance reimbursement for the provision of personal care services in personal care shortage areas.

**Vetoed In Part**

**1999 Wisconsin Act 197 (Assembly Bill 796): State fair park**

On March 15, 2000, the assembly adopted Assembly Substitute Amendment 1 [as amended by Assembly Amendments 1 and 2] to Assembly Bill 796 on a voice vote, A.J. 03/15/00, p. 762, and passed Assembly Bill 796, as amended, by a vote of 97 to 1, A.J. 03/15/00, p. 762.

On March 29, 2000, the senate adopted Senate Amendments 1, 2 and 4 to Assembly Bill 796 on a voice vote, S.J. 03/29/00, p. 560, and concurred in Assembly Bill 796, as amended, by a vote of 33 to 0, S.J. 03/29/00, p. 560.

On March 30, 2000, the assembly concurred in Senate Amendments 1, 2 and 4 to Assembly Bill 796 on a voice vote, A.J. 03/30/00, p. 908.

On May 18, 2000, the Governor approved in part and vetoed in part Assembly Bill 796, and the part approved became 1999 Wisconsin Act 197, A.J. 05/18/00, p. 960. The date of enactment is May 18, 2000, and the date of publication is June 2, 2000, and, as provided by section 991.11, Wisconsin Statutes, the effective date of all provisions of the act is June 3, 2000, except those provisions for which the act expressly provides a different date.

**TEXT OF GOVERNOR'S VETO MESSAGE**

May 18, 2000

To the Honorable Members of the Assembly:

I have approved **Assembly Bill 796** as 1999 Wisconsin Act 197 and have deposited it in the Office of the Secretary of State. I have exercised the partial veto in Sections 4m, 10e, 10s, 13d, 13h, 13p, 13t, 21, 25g, 25r and 26m.

**Assembly Bill 796** makes various changes to the governance of the State Fair Park and expands the board to 13 members, including 4 legislators. The bill also exempts the State Fair Park from various requirements associated with building program oversight and approval by the Governor, Legislature, State Building Commission and Department of Administration. **Assembly Bill 796** authorizes the State Fair Park Board to establish a non-profit corporation to raise funds and operate the fairgrounds under contract with the board. The bill also includes minority group and women hiring and contracting goals associated with State Fair Park construction and renovation projects.

These changes anticipate the fundamental restructuring I and others envision for the State Fair Park. My administration is continuing to revise the State Fair Park's master plan to help fully realize the State Fair Park's potential. Redevelopment of the fairgrounds is not a discrete construction project. Implementation of this plan is expected to take several years and consist of multiple construction and renovation projects of various size and scope. That's why, the State Fair Park needs maximum flexibility in implementing the ultimate vision included in these redevelopment plans.

Section 10e establishes new membership for the State Fair Park Board. I am partially vetoing the requirement that a member be recommended by the Mayor of West Allis because it unnecessarily narrows the field of potential board members. However, as I review appointments to the board, I will consult with the Mayor of West Allis. The Mayor will have significant input on this appointment.

Sections 4m, 10s, 13d, 13h, 13t and 26m direct the Department of Administration, in consultation with the State Fair Park Board, to ensure that contractors, as a condition of receiving a contract, seek to achieve a project employment goal of 25 percent minority group members and 5 percent women. Identical numerical goals are set for the aggregate value of contracts awarded to minority and women-owned businesses for construction, professional services related to construction and facility development work. This section also requires that an independent person be hired by the Department of Administration to monitor compliance with, and efforts toward reaching, these goals.

I am vetoing sections 4m, 13d and 13t and partially vetoing sections 10s, 13h and 26m to remove requirements associated with goals for awarding the aggregate value of contracts to minority and women-owned businesses and for the hiring of an independent monitor because they unreasonably limit the ability of the department and the State Fair Park to initiate and complete various construction projects in a timely manner.

Sections 21 and 26m authorize the State Fair Park Board to permit a private person to construct a building, structure or facility in the State Fair Park under a lease agreement with the board. The board is required to develop policies that encourage that these private persons have a 25 percent employment and contracting goal for minority group members and businesses and a 5 percent employment and contracting goal for women and women-owned businesses. The board is also required to apply these contracting goals to contracts made under individual lease agreements and to the aggregate value of all contracts made by private persons in lease agreements with the board. I am partially vetoing these sections to remove the contracting goals for private persons because it sets a poor precedent for regulating actions by private business. While I concur that hiring goals are desirable for these lease agreements, additional restrictions are unreasonable and place unnecessary limits on private business actions.

Sections 13p and 26m extend minority and women hiring and contracting goals included in the bill to projects below \$100,000. I am vetoing this provision because it unnecessarily increases administrative burdens associ-

ated with small construction and renovation projects. This veto will make minority and women hiring for State Fair Park consistent with state policy. From a legal perspective, State Fair Park is owned by the State and should be treated like any other State property. Under current law the Department of Administration must attempt to ensure that 5 percent of the total amount expended annually for State construction contracts be awarded to minority business. However, I request that the Department of Administration and the State Fair Park implement processes to ensure that there is maximum participation by minority and women employees and businesses in small construction projects.

Under current law, the Department of Administration must attempt to ensure that 5 percent of the total amount expended annually for state construction contracts be awarded to minority businesses. I request that the department and the State Fair Park make every effort to move beyond that goal in ensuring maximum participation in construction and related contracts by minority and women-owned businesses. While my vetoes retain a requirement that the Department of Administration report on the state's progress toward reaching the minority and women hiring goals in the bill, I also request that both agencies make complete and regular reports related to minority and women contracting associated with State Fair Park projects.

Sections 25g, 25r and 26m cross-reference the minority contracting requirements in the bill with Department of Commerce requirements associated with certifying and listing minority businesses. I am vetoing this provision because my partial vetoes in sections 13h and 21 make this cross-reference unnecessary.

**Assembly Bill 796** increases the autonomy of the State Fair Park Board in response to recommendations of the State Fair Park Strategic Development Commission. These changes are aimed at assisting the State Fair Park with increasing private participation in redeveloping the park to better showcase Wisconsin agriculture and enhance the Park as a recreation and entertainment destination.

Sincerely,  
TOMMY G. THOMPSON  
Governor

---

**Item -1. Sections 4m, 10e, 10s, 13d, 13h, 13p, 13t, 21, 25g, 25r and 26m**

---

**Cited segments of 1999 Assembly Bill 796:**

**Vetoed  
In Part**

**SECTION 4m.** 13.48 (29) of the statutes is amended to read:

13.48 (29) SMALL PROJECTS. Except as otherwise required under s. 16.855 (10m) and (10n), the building

**Vetoed  
In Part**

**Vetoed In Part** commission may prescribe simplified policies and procedures to be used in lieu of the procedures provided in s. 16.855 for any project the estimated construction cost of which does not exceed \$100,000.

**SECTION 10e.** 15.445 (4) of the statutes is repealed and recreated to read:

15.445 (4) STATE FAIR PARK BOARD. (a)

**Vetoed In Part** 4. One resident of the city of West Allis, recommended by the mayor of West Allis.

**Vetoed In Part** **SECTION 10s.** 16.75 (3m) (c) 4. and 5. of the statutes are amended to read:

16.75 (3m) (c) 4. The department shall annually prepare and submit a report to the governor and to the chief clerk of each house of the legislature, for distribution to the appropriate standing committees under s. 13.172 (3), on the total amount of money paid to and of indebtedness or other obligations underwritten by minority businesses, minority financial advisers and minority investment firms under the requirements of this subsection and ss. 16.855 (10m) and (10n), 16.87 (2), 25.185, 84.075 and 565.25 (2) (a) 3. and on this state's progress toward achieving compliance with par. (b) and ss. 16.855 (10m) (a) and (10n), 16.87 (2), 25.185 and 84.075 (1).

**Vetoed In Part**

**Vetoed In Part** 5. In determining whether a purchase, contract or subcontract complies with the goal established under par. (b) or s. 16.855 (10m) and (10n), 16.87 (2) or 25.185 the department shall include only amounts paid to minority businesses, minority financial advisers and minority investment firms certified by the department of commerce under s. 560.036 (2).

**SECTION 13d.** 16.855 (10m) (a) and (c) of the statutes are amended to read:

16.855 (10m) (a) ~~In~~ Except as provided in sub. (10n), in awarding construction contracts the department shall attempt to ensure that 5% of the total amount expended in each fiscal year is awarded to contractors and subcontractors which are minority businesses, as defined under s. 16.75 (3m) (a). The department may award any contract to a minority business that submits a qualified responsible bid that is no more than 5% higher than the apparent low bid.

(c) The department shall maintain and annually publish data on contracts awarded to minority businesses under this subsection and sub. (10n) and ss. 16.87 and 84.075.

**SECTION 13h.** 16.855 (10n) of the statutes is created to read:

16.855 (10n) (a)

**Vetoed In Part** 1. "Minority business" has the meaning given in s. 560.036 (1) (e).

3. "Women's business" means a sole proprietorship, partnership, joint venture or corporation that is at least 51% owned, controlled and actively managed by women.

(c) It shall be a goal of the department, in coordination with the state fair park board, to ensure that at least 25% of the aggregate dollar value of contracts awarded

by the department in the following areas shall be awarded to minority businesses and at least 5% of the aggregate dollar value of contracts awarded by the department in the following areas shall be awarded to women's businesses:

**Vetoed In Part**

1. Contracts for the construction of state fair park facilities.

2. Contracts for professional services related to the construction of state fair park facilities.

3. Contracts for the development of state fair park facilities.

(d) It shall be a goal of the department, in coordination with the state fair park board, with regard to each of the contracts described under par. (c) 1. to 3., to award at least 25% of the dollar value of such contracts to minority businesses and at least 5% of the dollar value of such contracts to women's businesses.

(e) 1. Pursuant to the memorandum of understanding under par. (b), the department shall hire an independent person to monitor the compliance of the department and state fair park board with minority contracting goals under pars. (b) to (d). The person hired shall have previous experience working with minority group members. The memorandum of understanding shall include a mechanism for receiving regular reports from the person hired with respect to the results of the person's studies of compliance with minority contracting goals.

2. If the department or a contractor is unable to meet the goals under par. (b), (c) or (d), the person hired under subd. 1. shall assess whether the department or contractor made a good faith effort to reach the goals. In determining whether a good faith effort was made to meet the goals, the person hired shall consider all of the following:

a. The supply of eligible minority businesses and women's businesses that have the financial capacity, technical capacity and previous experience in the areas in which contracts were awarded.

b. The competing demands for the services provided by eligible minority businesses and women's businesses, as described in subd. 2. a., in areas in which contracts were awarded.

c. The extent to which the department or contractor advertised for and aggressively solicited bids from eligible minority businesses and women's businesses, as described in subd. 2. a., and the extent to which eligible minority businesses and women's businesses submitted bids.

**SECTION 13p.** 16.855 (22) of the statutes is amended to read:

16.855 (22) The provisions of this section, except sub. subs. (10m) and (10n), do not apply to construction work for any project the estimated construction cost of which does not exceed \$100,000 if the project is constructed in accordance with policies and procedures prescribed by the building commission under s. 13.48 (29). If the estimated construction cost of any project is

**Vetoed  
In Part**

at least \$30,000, and the building commission elects to utilize the procedures prescribed under s. 13.48 (29) to construct the project, the department shall provide adequate public notice of the project and the procedures to be utilized to construct the project on a publicly accessible computer site.

**SECTION 13t.** 16.87 (2) of the statutes is amended to read:

16.87 (2) A contract for engineering services or architectural services or a contract involving an expenditure of \$2,500 or more for construction work, or \$20,000 or more for limited trades work, to be done for or furnished to the state or a department, board, commission or officer of the state is exempt from the requirements of ss. 16.705 and 16.75. ~~The Except as provided in s. 16.855 (10n), the department shall attempt to ensure that 5% of the total amount expended under this section for these purposes in each fiscal year is paid to minority businesses, as defined under s. 16.75 (3m) (a).~~

**SECTION 21.** 42.09 (3) of the statutes is created to read:

42.09 (3)

**Vetoed  
In Part**

(c) It shall be a goal of the board to ensure that at least 25% of the aggregate dollar value of contracts awarded by private persons entering into agreements with the board under this subsection in the following areas shall be awarded to minority businesses, as defined in s. 560.036 (1) (e), and at least 5% of the aggregate dollar value of contracts awarded by private persons entering into agreements with the board under this subsection in the following areas shall be awarded to women’s businesses, as defined in s. 16.855 (10n) (a):

1. Contracts for the construction of state fair park facilities.
2. Contracts for professional services related to the construction of state fair park facilities.
3. Contracts for the development of state fair park facilities.

(d) It shall be a goal of the board, with regard to each of the contracts described under par. (c) 1. to 3., to ensure that at least 25% of the dollar value of such contracts are awarded by private persons entering into agreements with the board under this subsection to minority businesses, as defined in s. 560.036 (1) (e), and at least 5% of the dollar value of such contracts are awarded by private persons entering into agreements with the board under this subsection to women’s businesses, as defined in s. 16.855 (10n) (a).

**Vetoed  
In Part**

**SECTION 25g.** 560.036 (2) (a) of the statutes is amended to read:

560.036 (2) (a) For the purposes of ss. 16.75 (3m), 16.855 (10m) and (10n), 16.87 (2), 18.16, 18.64, 18.77, 25.185, 42.09 (3), 66.911, 119.495 (2), 231.27 and 234.35, the department shall establish and periodically update a list of certified minority businesses, minority financial advisers and minority investment firms. Any business, financial adviser or investment firm may apply to the department for certification. For purposes of this paragraph, unless the context otherwise requires, a “business” includes a financial adviser or investment firm.

**SECTION 25r.** 560.036 (2) (d) 1. b. of the statutes is amended to read:

560.036 (2) (d) 1. b. The department determines that, with respect to a specified type of supply, material, equipment or service, there are not enough certified minority business suppliers in this state to enable this state to achieve compliance with ss. 16.75 (3m), 16.855 (10m) and (10n), 16.87 (2) and 25.185 and 42.09 (3).

**SECTION 26m. Initial applicability.**

(1q) The treatment of sections 13.48 (29), 16.75 (3m) (c) 4. and 5., 16.855 (10m) (a) and (c), (10n) and (22), 16.87 (2), 42.09 (3) (b) to (d) and 560.036 (2) (a) and (d) 1. b. of the statutes first applies with respect to contracts for which bids or competitive sealed proposals are solicited on the effective date of this subsection.

**Vetoed  
In Part**

[ATTACHMENT A]

FOLEY &amp; LARDNER

## MEMORANDUM

CLIENT-MATTER NUMBER  
015438-0101

**TO:** Frank R. Hoadley  
Capital Finance Office  
State of Wisconsin

**FROM:** Reed Groethe  
Foley & Lardner

**DATE:** May 16, 2000

**RE:** Constitutional Analysis of 1999 Assembly Bill 690

---

1999 Assembly Bill 690 provides that the State may issue general obligations, first, to finance grants to be awarded to state agencies, local governmental units, and nonprofit organizations and applied to rehabilitation of historical properties, and, second, to fund an endowment of the Wisconsin Trust for Historical Preservation. At your request, we have considered whether a bond opinion could be issued for bonds authorized by 1999 Assembly Bill 690. We conclude it could not.

Standard for Bond Opinion

Securities industry rules provide that good delivery of municipal securities requires an accompanying legal opinion, Muni. Secs. Rulemaking Board rule G-12(e)(xi), and it is customary for the issuer to provide an unqualified opinion of nationally recognized bond counsel. The applicable professional standard provides that bond counsel should not render an unqualified opinion unless it has concluded that it would be unreasonable for a court to hold to the contrary. National Association of Bond Lawyers, *Model Bond Opinion Project* at 7 (1997). We are analyzing 1999 Assembly Bill 690 in light of this high standard.

Constitutional Issues

Borrowing Purposes. Article VIII, Section 7 of the Wisconsin Constitution limits the purposes for which the State may issue its general obligation bonds.

- They may be issued to repel invasion, suppress insurrection, or defend the State in time of war.

- They may be issued to make funds available for veterans' housing loans.
- They may be issued to acquire, construct, develop, extend, enlarge, or improve land, waters, property, highways, railways, buildings, equipment, or facilities for public purposes.

The first two purposes obviously do not apply to this situation. The third purpose arguably does but on closer inspection proves to be problematic because there will be no governmental use or ownership of the property to which some of the grants will be applied.

It is important to understand that 1999 Assembly Bill 690 authorizes grants, not the acquisition of property. Only some of the grants will result in governmental use or ownership, since the bill expressly permits grants to nongovernmental entities.

It would be reasonable for a court to interpret the constitutional borrowing purposes in light of their history. The Attorney General has noted, "The legislative history behind the enactment of the constitutional amendment allowing state debt shows that it was the intent to restrict debt financing to capital expenditures or in other words, to have the state assume the capital funding operations of the building commission." 62 Wis. Att'y Gen'l 43 (1973).

It would also be reasonable for a court to consider generally accepted principles of finance and accounting, which associate the issuance of long-term bonds as liabilities with the accompanying concept of acquisition of a corresponding fixed asset. Under those principles, grants are not regarded as capital expenditures because there is no corresponding fixed asset.

Finally, it would be reasonable for a court to generalize that, as a matter of fairness and fiscal prudence, taxpayers should not be burdened with a repayment obligation for a period of years unless the corresponding public benefit will also be realized for a period of years.

There are some situations where bond proceeds have been applied to property that is not governmentally owned. Each is distinguishable from these grants.

First, bonds have been issued to finance grants for the improvement of privately owned property to prevent water pollution, 74 Wis. Att'y Gen'l 25 (1985), and remediation of leaking underground storage tanks, 81 Wis. Att'y Gen'l 114 (1994). In each case, the bonds financed grants to improve water. The constitutional borrowing purpose expressly contemplates the improvement of water, and under the public trust doctrine, water belongs to the State. See Wis. Const. Art. IX, § 1; *State ex rel. La Follette v. Reuters*, 33 Wis. 2d 384 (1967).

Second, bonds have been issued for veterans' housing loans. The bond issuance proceeds from a separate, specific constitutional bond authorization. Without the specific authorization, bonds issued for that purpose would not be valid. That is, they do not fall

within the general constitutional borrowing purpose. By contrast, the Wisconsin Supreme Court has held that bonds may not be validly issued to finance loans to developers of privately owned housing. *State ex rel. Dept. of Development v. Building Commission*, 139 Wis. 2d 1 (1987).

Third, bonds have been issued to finance grants to nongovernmental entities for railway improvement. The general constitutional borrowing purpose was amended to permit issuance for the purpose of railways, and the legislative history indicates an expectation that some railways would be privately owned. In addition, the Department of Transportation has agreed to administer railway grants so that the State obtains a long-term contractual right to the continued operation of the railway.

On the other hand, other proposed borrowings have been determined to be invalid when there was no governmental use or ownership of the bond-financed property. For example, the Attorney General has concluded that bonds may not be issued for disaster relief grants, 64 Wis. Att'y Gen'l 39 (1975), or for a grant to the Great Lakes Protection Fund, 78 Wis. Att'y Gen'l 100 (1989).

Internal Improvements. We also caution that 1999 Assembly Bill 690 may not provide a sufficient basis for bond counsel to be confident how a court would evaluate whether these grants violate the prohibition against internal improvements. Wis. Const. art. VIII, § 10. The Wisconsin Supreme Court uses a two-part analysis: Does the improvement serve a dominant governmental function, and is private capital inadequate to satisfy the need? *State ex rel. Warren v. Nusbaum*, 59 Wis. 2d 391 (1973); *Libertarian Party v. State*, 199 Wis. 2d 790 (1996). 1999 Assembly Bill 690 does state that the grants serve the governmental purpose of preserving historical property, and any private benefit (for example, to nongovernmental owners of historical property) should be regarded as incidental to that purpose. It is also likely that a court would take judicial notice that historical preservation is, in most cases, not economic and thus requires subsidization; however, it would be appropriate for the legislature to make explicit findings to inform the court of the inadequacy of private capital to accomplish the governmental purpose.