

**JIM DOYLE**

**Governor  
State of Wisconsin**

To the Honorable Members of the Assembly:

I have approved Special Session Assembly Bill 1 as 2007 Wisconsin Act 226 and deposited it in the Office of the Secretary of State.

In February 2008, the Legislative Fiscal Bureau issued revisions to the revenue estimates that were used in developing the 2007-09 biennial budget which I signed in October 2007. Those revisions reflected a slowdown in the national economy brought on by a credit crisis in financial markets and higher commodity and fuel prices. The effect of this economic downturn was an estimated \$652 million deficit by the end of the biennium.

My administration took immediate action to reduce this projected deficit by rolling over repayment of short-term borrowing and ordering immediate cuts in cabinet agencies' state operations funding. In early March, as required by law, I introduced Special Session Assembly Bill 1 to bring the state budget back into balance.

I appreciate the Legislature's efforts in responding to the budget deficit. The leaders of both houses did what they could to forge a bipartisan agreement on budget repair legislation. I do not agree with all of those compromises, particularly the continued refusal by Assembly Republicans to secure Wisconsin's fair share of federal Medicaid revenues through a hospital assessment despite the overwhelming support of the state's major business and hospital

associations. This continued shortsightedness reflects a missed opportunity that would have helped the Legislature avoid the accounting tricks I have had to correct through my vetoes.

When I first took office in January 2003, I inherited a \$3.2 billion budget deficit. I closed that deficit by prioritizing spending and protecting the taxpayer. I applied those same principles in the bill I introduced in March and in the vetoes I have made to the final bill.

First and foremost, we cannot solve our problems by not paying our bills. Delaying a school aid payment weakens Wisconsin's financial balance sheet, and more importantly, creates the risk of a significant cut to education in the next biennial budget. I have always been clear that education is my top priority because it is Wisconsin's top priority.

Second, we must look to reduce spending from previously authorized levels in the face of a budget deficit. The Legislature proposed a modest lapse of \$69 million. My budget proposed a \$330 million lapse, offset by \$190 million of GPR-supported general obligation bonds for transportation. Through my vetoes, I will authorize a \$270 million lapse to bring the budget back into balance.

In addition, when facing a budget deficit, it does not make sense to also authorize large spending increases. For example, prior to the budget repair bill, spending for transportation was approximately \$350 million (15 percent) higher in this two-year budget compared with the last biennium. In the budget repair bill, the Legislature spends an additional \$180 million to provide a total increase of approximately \$530 million (22 percent) compared with the previous biennium. After vetoes, the budget repair bill I am signing today retains two of the Legislature's major increases in state spending – \$18.6 million GPR to address caseload increases in the

state's child care subsidy program and \$24.8 million SEG to address higher county highway maintenance costs brought on by one of the worst winters in Wisconsin history. Other spending in the bill and increases provided in 2007 Wisconsin Act 20 will be scaled back in order to protect priorities and meet the \$270 million lapse goal.

Third, we must seek to maximize cost savings in state government. In my 2007-09 budget, I proposed taking advantage of favorable interest rates to refinance tobacco bonds. At that time, this refinancing was estimated to save \$50 million annually to fund increased smoking cessation efforts and to help meet health care costs in the state's Medicaid program. The Legislature included the refinancing plan in Act 20. In the budget repair bill, the Legislature has proposed using state appropriation bonds for this refinancing because this approach will provide even greater interest rate reductions than the Act 20 proposal. I am glad to see that the Legislature agrees with my goal of reducing the cost of the tobacco bonds. However, I do not agree with the Legislature's overreliance on an up-front payment from the refinancing. Therefore, I am directing the Department of Administration secretary to ensure that the tobacco bond refinancing be structured to deliver the greatest economic savings to the state with a more reasonable up-front savings amount.

Finally, I have continually sought to improve the state's long-term financial condition by increasing the state's budget reserves. The Legislature's proposed \$25 million reserve is not prudent under good economic conditions let alone the current national economic uncertainty and is, in fact, lower than amounts kept in reserve after addressing the \$3.2 billion deficit. Through my vetoes, I have restored the \$65 million statutory balance and maintained an overall general fund reserve of approximately \$100 million.

In previous sessions and in Act 20, the Legislature and I have significantly reduced the number of major nonfiscal policy items in budget bills. Unfortunately, this budget repair bill includes a major policy item related to property tax exemptions for low-income housing. While this legislation has a laudable goal, it demands a full public hearing and legislative debate. I look forward to the Legislature putting a low-income housing bill on my desk that is faithful to the legislative committee and public hearing process.

The following is a brief summary of how this budget repair legislation, including my vetoes, will address some of the key issues facing the citizens of Wisconsin:

- Addresses the \$652 million deficit by scaling back spending increases, reducing the cost of borrowing and avoiding tax increases.
- Protects schools from possible future budget cuts and improves the state's long-term fiscal condition by maintaining the current law school aid payment schedule.
- Restores the \$65 million statutory balance, leaves an overall reserve of \$100 million, and maintains the requirement to transfer unanticipated revenues to the budget stabilization fund.
- Authorizes the Department of Administration secretary to lapse \$270 million over the biennium from state agency appropriations. This amount is in addition to the \$200 million lapse authority included in Act 20.

- Protects transportation-related investments and jobs by appropriating transportation revenue bond proceeds to address the \$27.5 million deficit in the transportation fund, allocating \$77 million in new federal funding for major highway construction and state highway rehabilitation projects, providing \$24.8 million for unforeseen winter maintenance costs, and authorizing \$50 million of GPR-supported general obligation bonds for highway rehabilitation projects to help reduce the impact of state agency lapses on the highway program.
- Funds unanticipated caseload growth in the state's child care subsidy program by providing \$18.6 million GPR in fiscal year 2007-08. In light of this funding increase, the Department of Workforce Development will remove the current emergency rule related to attendance-based reimbursement of providers. However, the department's authority to implement rules to base provider reimbursement on attendance is maintained in order to address any unanticipated caseload growth in fiscal year 2008-09.
- Improves the economic savings associated with the Act 20 tobacco refinancing by authorizing state appropriation bonds to replace bonds sold in 2002 by the Badger Tobacco Asset Securitization Corporation.
- Increases the current law funding of \$15 million annually for smoking cessation by \$250,000 in fiscal year 2008-09.
- Closes an unacceptable tax loophole used by multinational corporations to shift profits out of the state to avoid paying Wisconsin taxes.

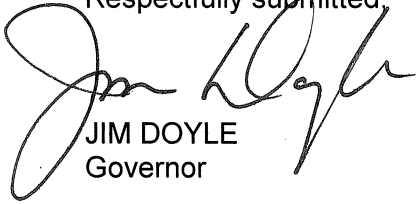
- Maintains funding to implement the federal REAL ID mandate by vetoing the Legislature's transfer of \$20 million in driver license fee revenue from the transportation fund to the general fund.
- Improves consumer protection by expanding the state's No Call List to include cell phones.
- Includes the following provisions: requires school districts that are phasing in 4-year-old kindergarten to offer the program to all eligible pupils by the 2013-14 school year; clarifies utility aid hold harmless payments; authorizes retired public safety officer annuity payments for health and long-term care insurance; defines custody for purposes of penalties related to escape from probation, parole and extended supervision; exempts nonprofit youth camps from certain town assessments; increases fees for nonresident snowmobile trail use stickers; prohibits the transporting of invasive fish species; and clarifies Act 20 provisions related to long-term care insurance agent training.

Regarding a provision associated with interest expense addback requirements for corporations, I concur with the Legislature's intent that this does not apply to legitimate intra-company loans where both entities of the company are subject to Wisconsin income tax. Some concerns have been raised regarding the interpretation of this language and I am requesting the Department of Revenue secretary ensure that companies are not, in effect, taxed twice due to this provision.

I have used my veto authority to craft a final bill that, while not addressing every issue, protects our priorities and improves the state's financial condition.

On Wisconsin.

Respectfully submitted,



JIM DOYLE  
Governor

Date: May 16, 2008

**VETO MESSAGE**

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## **1. General School Aids Payment Delay**

*Sections 1, 3, 4 [as it relates to reductions in school aid; delayed payment and transfers], 5, 6, 7, 22, 104, 107, 108, 109, 110, 9137, 9237 and 9437*

Sections 109, 110, 9137, 9237 and 9437 implement an additional general aid payment delay of \$125 million, from \$75 million under current law to \$200 million, beginning with payments made in July 2008, which are applicable to the 2007-08 school year. In addition, section 108 changes the date of the delayed payments from the fourth to the first Monday in July of the following fiscal year. Finally, sections 1, 3, 4 [as it relates to reductions in school aid; delayed payment and transfers], 5, 6, 7, 22, 104, 107, 108, 109 and 110 create a mechanism to reverse the \$200 million delayed payment, restoring some or all of the delayed payment to the appropriate fiscal year using additional general fund tax revenue realized by the state.

I am vetoing these provisions because I object to further exacerbating the state's generally accepted accounting principles deficit and because, more importantly, it creates a risk of future cuts to education in the next biennial budget.

## **2. Tobacco Bond Refinancing**

*Sections 14, 15, 17, 23, 24, 25, 26 and 9255 (2)*

Sections 14, 15, 17, 23, 24, 25 and 26 authorize the issuance of appropriation bonds to refinance tobacco settlement obligations. A cross reference relating to the definition of appropriation obligation under s. 16.527 (2) (am) is missing. Therefore, I am vetoing section 17 and partially vetoing sections 14, 15, 23, 24, 25 and 26 in order to address this technical problem. As a result of this veto, the Department of Administration will also be authorized to refund the tobacco appropriation bonds in the future based on call provisions included in the bond structure.

Section 9255 (2) authorizes the transfer of monies from the permanent endowment fund to the Medical Assistance trust fund in fiscal year 2008-09 if appropriation bonds related to tobacco settlement revenues created under the bill are issued before July 1, 2009.

I am partially vetoing section 9255 (2) to allow the transfer to occur any time during the 2007-09 biennium to provide maximum flexibility in ensuring a balanced budget.

While I agree with the Legislature's goal of reducing the interest cost of the tobacco bonds, I disagree with the amount of the up-front payment. The bill provides the Department of Administration secretary with the authority to structure the tobacco bond refinancing. I am requesting the Department of Administration secretary to structure the refinancing in a way that is most cost-effective for the state, including a lower up-front payment.

### **3. Lapses or Transfers to the General Fund**

#### *Sections 119 and 9201*

Section 119 limits the amount of funds that can be transferred from the Department of Transportation under the provisions of 2007 Wisconsin Act 20 to no more than \$50 million over the 2007-09 biennium and specifies that the transfer must come from the appropriation for state highway rehabilitation.

Section 9201 authorizes the Department of Administration secretary to lapse or transfer to the general fund \$69 million in the 2007-09 biennium and in the 2009-11 biennium from all executive branch agency appropriations, except for appropriations for school aids, SeniorCare, tobacco use control grants, and for the Departments of Revenue and Transportation.

I am vetoing section 119 because I object to the restriction on the amount of funds that can be transferred from the transportation fund to the general fund. Meeting the lapses necessary to address the budget deficit requires flexibility in setting priorities in all programs, including transportation. The Legislature spent an additional \$180 million above the \$350 million transportation spending increase authorized prior to this bill. This represents a 22 percent increase in transportation spending over the previous biennium. This increase can be scaled back and still maintain a very robust increase in highway investments.

I am partially vetoing section 9201 in order to increase the lapse and transfer amount to \$270 million during the 2007-09 biennium in order to balance the budget. This increase will help ensure a responsible balance in the general fund and avoid the need to delay school aid payments. In addition, the partial veto also removes all exemptions in order to provide maximum flexibility in achieving the lapse and transfer amount.

### **4. REAL ID Implementation Funds**

#### *Sections 9148 (1) and 9248 (1)*

Section 9148 (1) prohibits the Joint Committee on Finance from allotting spending authority in its supplemental appropriation to the Department of Transportation for implementing the federal REAL ID Act of 2005. If the Committee does not provide this supplement, the spending authority lapses to the transportation fund. Section 9248 (1) transfers the cash associated with this authority, \$22 million generated by a \$10 federal security verification mandate fee enacted in 2007 Wisconsin Act 20, to the general fund.

I am vetoing section 9148 (1) and partially vetoing section 9248 (1) to transfer only \$2 million of REAL ID implementation funds to the general fund and to allow the Committee to supplement the Department of Transportation during the remainder of the biennium for REAL ID implementation. The \$10 federal security verification mandate fee was enacted for the specific purpose of funding REAL ID compliance activities and

should be used primarily for that purpose. Additionally, the federal Department of Homeland Security recently issued final rules for REAL ID implementation, and the Department of Transportation will need funding during this biennium to begin complying with those rules.

## **5. Required General Fund Balance**

### *Sections 19 and 20*

These sections reduce the required ending balance in the general fund for fiscal years 2007-08 and 2008-09 from \$65 million to \$25 million.

With a slowing economy, it is more important than ever that the state has a substantial ending balance in the general fund. I am vetoing these sections to return the required general fund balance to the current law level of \$65 million in each fiscal year because it is fiscally prudent. The bill I am signing, with vetoes, will leave a total estimated general fund balance of approximately \$100 million on June 30, 2009.

## **6. Authorization for Child Care Payments**

### *Section 43*

This section prescribes a specific methodology for reimbursing child care providers under the Wisconsin Shares child care subsidy program. Wisconsin Shares recipients are generally authorized for a set number of hours of child care per week. With limited exceptions, this section would require that licensed providers be reimbursed for all authorized hours of care, whether or not a Wisconsin Shares recipient actually uses these hours. Under current law, the Department of Workforce Development has the authority to implement administrative rules that establish an "attendance-based" reimbursement methodology, which reimburses providers for the number of hours of care a Wisconsin Shares recipient actually uses. To address a projected Wisconsin Shares funding shortfall in fiscal year 2007-08, the Department of Workforce Development recently published an emergency rule that reimburses child care providers on a per hour basis if a Wisconsin Shares recipient attended less than 50 percent of his or her authorized hours of care.

I am vetoing this section because it will prohibit the use of this methodology in virtually any situation. Recognizing that the bill provides \$18.6 million to address the fiscal year 2007-08 Wisconsin Shares funding shortfall, I am directing the Department of Workforce Development to suspend the current attendance-based rule for the remainder of fiscal year 2007-08. However, the Department of Children and Families (which will operate the Wisconsin Shares program effective July 1, 2008) needs to retain the authority to implement the rule in fiscal year 2008-09 given the possibility of a funding shortfall next year.

I remain committed to retaining Wisconsin's tradition of broadly accessible, high-quality child care, and I look forward to working with the Legislature to ensure adequate funding for these programs.

## **7. Property Tax Exemption for Low-Income Housing**

*Sections 49, 50, 51, 52, 9141 (2) and 9341 (2)*

These provisions allow educational, religious and benevolent institutions, and other specified charitable organizations to use a portion of rent income from low-income housing for certain purposes related to other commonly-owned low-income housing without losing entitlement to a property tax exemption for the income-producing project.

Additionally, the provisions increase the acreage limit for low-income housing owned by churches or religious or benevolent associations from 10 acres to 30 acres, with a 10 acre limit within any one municipality. The provisions would apply initially to property tax assessments as of January 1, 2009. However, property omitted from the property tax rolls during the years prior to 2009 will not be subject to retroactive tax liability under the new provisions.

I am vetoing these provisions because they are major nonfiscal policy and should not be included in this bill. These provisions implement a substantial change in the treatment of certain low-income housing projects for property tax purposes that necessitates full public discussion. I support tax relief for organizations that offer housing to Wisconsin's low-income population; however, historically, this issue has been the subject of intense debate and myriad solutions have been considered and discarded, which demonstrates the need for public hearings on this issue.

## **8. Payments to Related Entities – Australian Unit Trusts**

*Section 66*

Section 66 provides a definition for "qualified real estate investment trust," an entity that is not subject to the rental and interest expense addback requirements created in the bill. Among other requirements, a qualified real estate investment trust cannot be owned by a single entity that is taxable as a corporation. The section further identifies certain entities that, for purposes of the addback requirements, are not considered taxable as a corporation. This includes tax exempt entities, Australian unit trusts and foreign entities that are similar to U.S. real estate investment trusts.

I am partially vetoing this section to remove the provision that specifically identifies Australian unit trusts as entities not considered taxable as a corporation because it is redundant and unnecessary. The section contains other provisions that generally address foreign entities with qualities similar to those of an Australian unit trust. Further, should any Australian unit trust business structure not fall under these provisions, a taxpayer may request that the Department of Revenue determine it is not subject to the addback requirements upon proving that the structure is for legitimate business purposes and not tax avoidance.