

Summary of the 2003-2004 Wisconsin Legislative Session

Wisconsin Legislative Reference Bureau

2003 Wisconsin Acts 1 to 319 Table of Contents

	<i>Page</i>
Introduction	ii
Administrative Law	1
Agriculture	1
Beverages	2
Buildings and Safety	2
Business and Consumer Law	3
Children	3
Constitutional Amendments	4
Correctional System	4
Courts and Civil Actions	5
Crime and Criminal Procedure	6
Discrimination	8
Domestic Relations	8
Education	8
Elections	11
Employment	11
Environment	14
Financial Institutions	15
Gambling	17
Health and Social Services	17
Insurance	20
Local Law	21
Natural Resources	22
Occupational Regulation	25
Public Utilities	25
Real Estate	26
State Government	27
Taxation	28
Transportation	29
Trusts and Estates; Probate	33
Veterans and Military Affairs	33
Index by Act Number	35



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Abbreviations

AB	Assembly Bill	DOT	Department of Transportation
AFSCME	American Federation of State, County and Municipal Employees	DPI	Department of Public Instruction
DATCP	Department of Agriculture, Trade and Consumer Protection	DVA	Department of Veterans Affairs
DER	Department of Employment Relations	DWD	Department of Workforce Development
DETF	Department of Employee Trust Funds	JCF	Joint Committee on Finance
DFI	Department of Financial Institutions	OCI	Office of the Commissioner of Insurance
DHFS	Department of Health and Family Services	PSC	Public Service Commission
DMA	Department of Military Affairs	SB	Senate Bill
DNR	Department of Natural Resources	UW	University of Wisconsin
DOA	Department of Administration	WHEDA	Wisconsin Housing and Economic Development Authority
DOC	Department of Corrections	WHEFA	Wisconsin Health and Educational Facilities Authority
DOJ	Department of Justice	WRS	Wisconsin Retirement System
DOR	Department of Revenue	WSEU	Wisconsin State Employees Union
DRL	Department of Regulation and Licensing		

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Introduction

This bulletin provides an overview of the acts and joint resolutions of the 2003-2004 Wisconsin Legislature. Legislation is organized by topic with acts described under the appropriate subject heading or headings. Significant acts and joint resolutions are highlighted by blue shading. The bulletin also includes summaries of enrolled joint resolutions that propose amendments to the Wisconsin Constitution under the heading "Constitutional Amendments."

Administrative Law

Act 118 (AB-655) makes various changes relating to administrative rules. The act:

1. Allows five or more persons, a municipality, or an association that represents a farm, labor, business, or professional group, to petition DOA to require DATCP, DNR, DOT, DWD, or the Department of Commerce, to prepare an economic impact report regarding proposed rules from their agencies.

2. Requires an agency to prepare an economic impact report if a proposed rule will cost \$20 million during the first five years or would adversely affect the economy, productivity, competition, jobs, environment, public health or safety, or government.

3. Requires an economic impact report to include the effect of a proposed rule on businesses and the state economy, an analysis of the problem the proposed rule is intended to solve, and costs and benefits of the proposed rule.

4. Requires DOA to ensure that an economic impact report complies with state law.

5. Requires the analysis of a proposed rule to include a summary and comparison of any federal regulation of the same activity, data and findings used to support the proposed rule, documentation supporting its effect on small businesses, and compliance costs incurred by the private sector.

6. Requires the report that is currently sent to the legislature to include the public comments and the agency's response to those comments.

7. Allows a hearing examiner to award costs and attorney fees if an administrative hearing claim or defense is frivolous.

8. Requires an administrative hearing involving a petitioner who is not a Wisconsin resident to be held in the county where the property involved is located or in the county where the dispute arose.

Act 145 (SB-100) creates the Small Business Regulatory Review Board to review each proposed administrative rule, determine if the agency adequately analyzed the proposed rule, and suggest changes to the rule. The act also allows a small business to avoid being penalized if it acted or failed to act because the regulatory agency did not respond to a specific question or gave inaccurate advice.

Act 277 (SB-113) allows the chairperson or ranking minority member of any legislative standing committee or the assembly or senate leader to refer any legislative proposal or proposed rule that may affect the cost or reliability of transmitting or generating electricity to the PSC for a report on the impact of the proposal.

Agriculture

Act 27 (AB-39) eliminates the June 30, 2003, sunset on legislative membership on the State Fair Park Board.

Act 33 (SB-44) eliminates the requirement that dog and cat breeders and operators of pet stores, kennels, and animal shelters obtain licenses from DATCP. The act also limits the amount of state aid paid for a county fair to the lesser of 50 percent of premiums paid for youth exhibits or \$10,000.

Act 38 (SB-173) makes changes in the Agricultural Producer Security Program, which is designed to pay dairy, grain, and vegetable farmers a portion of their losses when a contractor defaults on payments to the farmers. The act authorizes DATCP to obtain loans to fund the program when defaults on payments to farmers exceed specified amounts. The act also requires some contractors, based on their financial condition, to file security with DATCP to provide an additional source of payment in case of defaults on payments to farmers.

Act 133 (SB-97) provides that if all of the municipalities in Milwaukee County form an intergovernmental commission to provide animal control services, Milwaukee County and the commission may agree to allow the commission to assume the county's responsibilities related to dog licensing.

Act 136 (AB-284) eliminates the requirement that an operator of a fish farm obtain an annual fish health certificate and authorizes DATCP to require fish farm operators to provide other evidence of fish health.

Act 229 (AB-812) requires persons who keep livestock to register with DATCP and requires DATCP to assign an identification code to each place at which livestock are kept to facilitate animal disease control.

Act 235 (AB-868) regulates the siting and expansion of livestock facilities by generally allowing local governments to disapprove a proposal to site or expand a livestock facility only if:

1. The site is zoned and the zoning prohibits the proposed livestock facility.

2. The livestock facility violates one of the standards that DATCP adopts under the act and either will have more than 500 animal units (500 beef cattle or other livestock that produces animal waste approximately equivalent to that produced by 500 beef cattle) or will be of a size for which the local government required a conditional use permit before the act took effect.

3. The livestock facility will have more than 500 animal units or will be of a size requiring a conditional use permit, and the livestock facility will violate a local ordinance that is more stringent than DATCP's standards and that is necessary to protect public health or safety.

The act also prohibits a local government from restricting the size of livestock facilities in an agricultural zoning district unless it also has a zoning district permitting livestock facilities without regard to size and requires a local government to demonstrate that any ban of livestock facilities in an agricultural zoning district is necessary to protect public health or safety.

The act generally requires a political subdivision to approve or disapprove a proposal for siting or expanding a livestock facility within 90 days and creates the Livestock Facility Siting Review Board to review certain decisions on siting or expansion.

Act 238 (SB-455) exempts milk contractors (entities that purchase milk from farmers) from having their annual financial statements independently audited if those contractors are financially ineligible for the Agricultural Producer Security Program, which pays farmers a portion of their losses when eligible contractors default on payments to farmers.

Beverages

Act 124 (SB-211) allows intoxicating liquor franchisees to advertise in the name of the franchisor.

Act 245 (AB-210) requires a municipality to issue a provisional bartender's license to a person who holds a valid bartender's license issued by another municipality if the person applies for a regular bartender's license, pays the requisite fee, and files a certified copy of the bartender's license issued by the other municipality.

Act 246 (AB-286) creates an exception to the general prohibition against underage persons being unaccompanied by a parent, guardian, or spouse at a retailer of alcohol by allowing an underage person to be at a registered recreational fishing facility that has alcohol sales totaling less than 30 percent of gross receipts.

Act 250 (SB-271) allows a person who holds both a retailer's license to sell beer for off-premises consumption and a beer wholesaler's license, both issued before May 5, 1994, to transfer those licenses to a location in another municipality within the same county if the municipality that receives the transferred licenses approves the transfer.

Act 303 (SB-489) provides beer wholesalers with certain protections of distribution rights distinct from those afforded under the Wisconsin Fair Dealership Law. Under the act, if a brewer or out-of-state shipper terminates an agreement to distribute a brand of beer within a territory and chooses to have its brand of beer distributed in the same territory by a different wholesaler, the successor wholesaler must compensate the terminated wholesaler for the fair market value of the distribution rights for the territory. The act also provides procedures for resolving disputes about the amount of compensation owed a terminated wholesaler.

MAJOR PROPOSALS THAT FAILED ENACTMENT OR ADOPTION

Assembly Bill 335 would have allowed an underage person to possess, consume, or be provided alcohol beverages while accompanied by a parent, guardian, or spouse of legal drinking age only if the underage person is at least 18 years of age.

Buildings and Safety

Act 45 (SB-117) prohibits gasoline, other than racing fuel, from containing more than 0.5 percent by volume of the groundwater contaminant methyl tertiary-butyl ether (MTBE).

Act 90 (SB-168) requires the Department of Commerce to enforce the one-family and two-family code in a municipality with a population of 2,500 or less unless the municipality has enacted an ordinance to enforce that code or has requested the county to enforce that code. See also *Act 295*.

Act 169 (AB-125) generally excludes the installation of a holding tank as the least costly method of rehabilitating or replacing a failing private sewage system, for purposes of determining the maximum allowable grant under the Private Sewage System Replacement or Rehabilitation Grant Program.

Act 219 (SB-410) permits a municipality to receive dues assessed on fire insurers and distributed to municipali-

ties for fire protection and prevention services, if the municipality substantially complies with the eligibility criteria to receive those dues.

Act 268 (AB-207) prohibits smoking in or within 25 feet of a UW System residence hall.

Act 269 (SB-474) extends, from January 1, 2006, to January 1, 2008, the date by which Ogg Residence Hall at UW-Madison must be retrofitted with automatic fire sprinkler systems.

Act 295 (AB-925) provides that a municipality with a population of 2,500 or less that adopted a resolution exempting itself from the one-family and two-family dwelling code before the effective date of Act 90 (December 18, 2003) remains exempt until January 1, 2005.

Act 298 (SB-75) exempts a municipality from civil liability for damage caused by fireworks authorized by the municipality.

Business and Consumer Law

ECONOMIC DEVELOPMENT AND INVESTMENT

Act 109 (AB-79) authorizes WHEFA to issue bonds to finance a project undertaken for an educational facility used by a private, tax-exempt institution.

Act 236 (AB-913) modifies the Agricultural Production Loan Guarantee Program so that the total outstanding principal of all guaranteed agricultural production loans to one borrower may not exceed an amount set between \$30,000 and \$100,000. In addition, WHEDA must guarantee repayment of 90 percent of the principal, if less than \$50,000, or 80 percent of the principal, if \$50,000 or more, of any eligible agricultural production loan.

Act 255 (SB-261) authorizes the Department of Commerce to provide grants and loans to businesses for professional services related to obtaining research and development funding from third parties, or developing or marketing a technologically innovative product. See also *Taxation*.

Act 256 (AB-859) authorizes the Department of Commerce to award up to \$1,500,000 in grants each fiscal year to technology-based nonprofit organizations to provide support for a manufacturing extension center.

Act 259 (AB-890) allows members of a nonprofit corporation, under certain circumstances, to hold meetings or vote via electronic communications or electronic ballot.

OTHER BUSINESS AND CONSUMER LAW

Act 41 (AB-34) allows dentists and dental hygienists to form a service corporation.

Act 80 (AB-232) prohibits the theft of fuel from a service station, provides a civil penalty for the offense, and authorizes or (with a fourth or subsequent offense) requires a court to suspend the defendant's driver's license.

Act 159 (AB-570) changes the penalty for theft of a shopping cart from a forfeiture of \$50 to a forfeiture of \$500 for each shopping cart stolen.

MAJOR PROPOSALS THAT FAILED ENACTMENT OR ADOPTION

Assembly Bill 898 and *Senate Bill 486* would have regulated rental-purchase transactions.

Children

Act 65 (AB-52) permits a court to change the name of a child under the age of 14 who has two living parents on the petition of one parent, if the petitioning parent has made a reasonable attempt to notify the nonpetitioning parent and the nonpetitioning parent does not answer the petition.

Act 82 (AB-62) requires a court order for truancy that requires school attendance to specify what constitutes a violation of the order and to direct the school to notify the court of any violation. The act also requires a juvenile court to open its records of a juvenile for inspection by a municipal court or by an attorney for a party and requires a municipal court to open its records of a juvenile for inspection by a juvenile court, a family court, another municipal court, or a party to a proceeding.

Act 279 (SB-207) requires a member of the clergy who has a reasonable belief that a child seen in the course of professional duties has been sexually abused or threatened with sexual abuse or that a member of the clergy has sexually abused a child or threatened a child with sexual abuse to report that abuse, unless the informa-

tion was obtained in a confidential setting. See also *Courts and Civil Actions*.

Constitutional Amendments

Enrolled Joint Resolution 8 (*Assembly Joint Resolution 1*), proposed by the 2003 legislature on second consideration, provides that the people have the right to fish, hunt, trap, and take game subject only to reasonable legal restrictions. It was ratified by the people at the April 2003 spring election.

Enrolled Joint Resolution 12 (*Assembly Joint Resolution 10*), proposed by the 2003 legislature on first consideration, requires counties to elect county clerks and treasurers every four years and changes the terms of office from two to four years for district attorneys, coroners, elected surveyors, registers of deeds, treasurers, county clerks, and clerks of circuit court. To become part of the constitution, it must be concurred in by the 2005 legislature and be ratified by the people.

Enrolled Joint Resolution 29 (*Assembly Joint Resolution 66*), proposed by the 2003 legislature on first consideration, provides that only a marriage between one man and one woman is a valid marriage and that a legal status identical or substantially similar to that of marriage for unmarried persons is not valid. To become part of the constitution, it must be concurred in by the 2005 legislature and be ratified by the people.

MAJOR PROPOSALS THAT FAILED ENACTMENT OR ADOPTION

Assembly Joint Resolution 55 and *Senate Joint Resolution 56* would have required voter approval for certain state and local taxing, spending, and bonding decisions; limited the use of emergency taxes by the state; and required budget reserves, refund of amounts in excess of approved amounts, and the reduction of tax rates to reflect the excess of revenues over expenditures.

Correctional System

ADULT CORRECTIONAL SYSTEM

Act 33 (SB-44) does the following with respect to the adult correctional system:

1. Establishes a program at the Drug Abuse Correctional Center in Winnebago through which certain non-violent offenders are released to extended supervision or parole upon the successful completion of substance abuse treatment.
2. Increases the upper age limit for DOC's boot camp program for adult offenders from 30 to 40.
3. Increases the authorized capacity of and the maximum age for inmates in the Racine Youthful Offender Correctional Facility.
4. Permanently converts the juvenile correctional facility at Prairie du Chien into an adult prison and lifts all restrictions regarding the age and type of prisoners who may be confined there.
5. Allows DOC to create two 25-bed halfway houses for nonviolent state prisoners nearing their release whose halfway house placements have been authorized by the sentencing court.
6. Changes the method of determining the amount of reimbursement that persons provide to DOC if they are on probation, extended supervision, or parole and are subject to low-level supervision so that the method is the same as the one used for persons on medium or maximum supervision.

Act 50 (SB-14) allows a court to order a person to register as a sex offender if the person unlawfully installs or uses a peephole or a surveillance device in a private place to observe someone nude or if the person violates one of the act's "peeping tom" prohibitions. See also *Crime and Criminal Procedure – Crime*.

Act 52 (AB-59) makes it a crime for a person who is required to register as a sex offender to change his or her name or use a name other than one by which DOC identifies the person.

Act 53 (AB-60) increases the penalty that applies to first offenses when a person knowingly fails to comply with certain sex offender registration requirements if those requirements are in force because the person committed a felony.

Act 54 (SB-56) allows, in some circumstances, a state prison pharmacy to dispense to patients in the prison unused prescription drugs that are returned to the pharmacy.

Act 81 (AB-252) allows a county jail to house prisoners who are prisoners of a Michigan county that borders Wisconsin. See also *Act 226*.

Act 121 (AB-120) requires DOC to inform each person who is disqualified from voting because of a criminal conviction and who is placed on probation, extended supervision, or parole that he or she may not vote in any election until his or her civil rights are restored. If a person was disqualified from voting because of a result of a conviction, he or she must be informed that his or her right to vote has been restored upon the completion of his or her commitment to DOC (including probation, extended supervision, or parole) or to a county jail or house of correction. See also *Crime and Criminal Procedure – Criminal Procedure*.

Act 141 (AB-352) expands the scope of Wisconsin's Huber law (its work release law) to allow a prisoner to leave a county jail or house of correction to obtain counseling or therapy, attend a mental health assessment, attend parenting classes, or meet with his or her probation, extended supervision, or parole officer.

Act 188 (AB-14) requires DOC to enable law enforcement personnel who use DOC's Internet site for determining the location of registered sex offenders to identify easily changes in an offender's residence, employment, or school attendance.

Act 226 (AB-390) allows a county jail to house prisoners who are prisoners of a county in a state that borders Wisconsin, except prisoners of that county who are sentenced to state prison in that state. See also *Act 81*.

JUVENILE CORRECTIONAL SYSTEM

Act 33 (SB-44) eliminates the Juvenile Boot Camp Program and permits DOC to claim federal reimbursement under the Medical Assistance (MA) Program for case management services provided to an eligible juvenile MA beneficiary who is under the supervision of DOC.

Act 284 (AB-402) requires a juvenile court and district attorney to consult with appropriate tribal officials and the tribal court, when an American Indian juvenile has allegedly committed a delinquent act while physically outside the boundaries of the tribe's reservation as a result of a tribal court order, to determine whether the best interests of the juvenile and of the public would be served by proceeding in tribal court or in juvenile court.

Act 292 (AB-709) permits a law enforcement or social welfare agency to enter into an interagency agreement

with a school or another law enforcement or social welfare agency providing for the routine disclosure of information concerning a juvenile and permits a school to disclose pupil records under an interagency agreement to provide preadjudication services to a pupil. The act also permits a school to disclose pupil records to appropriate parties in connection with an emergency to protect someone's health and safety and permits a law enforcement agency to disclose to a juvenile's school information relating to an alleged illegal act for which the juvenile was taken into custody. Finally, the act generally requires the juvenile court to order a law enforcement agency to disclose information relating to a juvenile to a school that petitions the court if the school's legitimate educational interests in the information outweigh society's interest in protecting its confidentiality.

Courts and Civil Actions

Act 28 (AB-53) allows a city, village, or town to sue for reimbursement from a person for the amount it paid to the county jail to incarcerate the person.

Act 33 (SB-44) increases several court fees and creates a court interpreter certification and training program.

Act 73 (AB-494) requires every tobacco product manufacturer to certify it has escrowed funds in compliance with the national tobacco settlement and requires cigarette distributors to report to DOR the number of cigarettes produced and sold in Wisconsin. DOR must report this information to the attorney general, who may bring action against a distributor who fails to comply with the act.

Act 87 (SB-38) generally prohibits a felon from recovering damages for injury or death from the victim of a felony or a person who assisted the victim if the injury or death occurred during the commission of the felony.

Act 88 (SB-29) changes the definition of solid waste in the law governing immunity from civil damages for use of solid wastes in public works projects.

Act 105 (AB-548) limits the amount of a bond posted during the appeal of a judgment in a civil case by all appellants collectively to \$100,000,000, unless an appellee proves that an appellant is dissipating assets outside the ordinary course of business to avoid payment of a judgment, in which case a court may require the appellant to post a bond in an amount not to exceed the amount of the judgment.

Act 138 (AB-651) changes the laws concerning crimes to which merchants are particularly susceptible, includ-

ing the laws governing garnishment, collection, worthless checks, civil liability for retail theft, and reopening small claims default judgments.

Act 139 (AB-421) changes the name of the additional monetary penalty imposed on a person who is subject to a fine or forfeiture from an assessment, surcharge, or restitution payment to a surcharge and specifies which surcharges are applicable to which type of violation.

Act 140 (AB-365) authorizes a municipal court to contract with a collection agency for the collection of unpaid forfeitures, assessments, and surcharges.

Act 148 (SB-223) prohibits, in any civil action for personal injury or property damage, the introduction of evidence of the use or nonuse of, and prohibits the reduction of recoverable damages based upon the failure to use, a helmet by a motorcycle, all-terrain vehicle, or snowmobile operator or passenger. This prohibition does not apply in cases alleging a defect in the helmet, in cases solely involving injury to a third person, or to a person required to use a helmet (generally, a motorcycle or all-terrain vehicle operator or passenger under age 18).

Act 165 (AB-526) prohibits the clerk of circuit court from collecting a filing fee for an action to revise legal custody or physical placement of a child if the parties have stipulated to the revision.

Act 182 (AB-50) allows a county board to increase sheriff's fees for the seizure of property or evictions up to the actual costs of the seizure or eviction.

Act 199 (AB-273) allows a municipal court to determine if a person properly refused to take a blood alcohol test if the refusal stems from an arrest for a municipal ordinance violation.

Act 227 (AB-533) prohibits a court reporter who is a party to a civil action from recording a deposition in that action and prohibits a court reporter (other than one who records for a public agency) from entering into a contract for court reporting services unless the contract is limited to a particular action.

Act 279 (SB-207):

1. Requires a member of the clergy to report to the proper authorities if he or she reasonably believes that a child seen in the course of professional duties has been sexually abused or threatened with sexual abuse or that another member of the clergy has sexually abused or threatened to sexually abuse a child, unless the information was obtained in a confidential setting. See also *Children*.

2. Allows a person who is injured because of sexual contact with a member of the clergy when the person is less than 18 years of age to bring an action against that

member of the clergy and to bring an action against the religious organization that employed the member of the clergy if the clergy member's supervisor knew or should have known that the member of the clergy previously had sexual contact with a person under the age of 18, failed to report that sexual contact, and failed to exercise ordinary care to prevent similar incidents.

3. Prohibits any settlement of a claim for sexual abuse of a child by a member of the clergy that limits the rights of an injured person to disclose the sexual contact to certain persons, including the district attorney and a therapist.

4. Allows a person to bring an action for damages resulting from sexual contact while the person was under the age of 18 at any time before the injured party reaches the age of 35 years.

Act 309 (SB-17) allows DOJ to use fees awarded to DOJ in actions regarding medical assistance fraud, antitrust, air or water pollution, waste management violations, or metallic mining violations to pay the expenses of these actions.

Crime and Criminal Procedure

CRIMES

Act 36 (AB-288) changes the crime of identity theft by:

1. Making the offense applicable to more types of personal identification documents and personal identifying information.

2. Applying the prohibition on identity theft to documents or information relating to a deceased individual.

3. Expanding the scope of the prohibition to cover harm to the reputation, property, or person of the victim; harm to a deceased person's estate; and efforts to avoid delivery of a court paper or penalty.

4. Allowing the deception element to be proven with evidence that the defendant falsely represented that the document or information involved was his or her own.

5. Treating the unauthorized use of a private or government entity's identifying documents or information the same way as the unauthorized use of an individual's identifying documents or information.

6. Specifying that a person may be prosecuted and punished for identity theft, regardless of where the crime

occurred, if the victim is a Wisconsin resident or is located in Wisconsin, and allowing an identity theft case to be brought in the county in which the victim resides.

7. Making it a crime for a person to engage in certain deceptive activities relating to the person's identity in connection with a transaction with a financial institution.

8. Permitting more frequent use of hearsay and telephonic or televised testimony at preliminary hearings in identity theft cases.

Act 49 (SB-4) increases the penalty that applies to a first offense when a person possesses or attempts to possess the controlled substance methamphetamine.

Act 50 (SB-14) makes it a crime to look, without consent, into certain private places where a person may reasonably be expected to be nude or to look at a person in his or her house if the person has a reasonable expectation of privacy in that part of the house if the person looking has entered the house without permission and if the looking is done for sexual arousal or gratification. The act also requires the court to expunge a delinquency adjudication or conviction based on a "peeping tom" violation if the violation was a first offense, the person was under 18 at the time of the offense, and the person complied with the dispositional order or successfully completed his or her sentence. See also *Corrections – Adult Correctional System*.

Act 51 (AB-51) makes it a crime for a person who works at an adult or juvenile correctional institution to have sexual contact with a person who is confined there or for a probation, extended supervision, or parole agent to have sexual contact with a person who is supervised by the agent.

Act 104 (AB-71) makes it a crime to intentionally threaten to release or disseminate a biological agent, toxic chemical, or radioactive material if the threat induces a reasonable expectation or fear of such release or dissemination. The act further allows courts to charge a person convicted of making such a false threat the cost incurred by emergency medical personnel in responding to the threat, the cost of analyzing the alleged harmful substance, and the cost of providing medical treatment to persons allegedly exposed to the harmful substance.

Act 189 (AB-49) increases the penalty for committing a burglary in a dwelling, a boat with sleeping quarters, or a motor home if another person is lawfully present there.

Act 190 (AB-206) increases the penalty for intentionally pointing a firearm at a law enforcement officer, a firefighter, an emergency medical technician, a first responder, or an ambulance driver and makes it a crime

to throw or expel a bodily substance at any of those persons or a person staffing an ambulance.

Act 222 (AB-738) changes the law of stalking to cover the use of electronic monitoring or recording of a victim, to cover causing a victim to suffer serious emotional distress, and to change what a prosecutor must prove about a defendant's mental state.

Act 223 (AB-265) broadens the definition of "substantial bodily harm" (which is relevant to determining criminal penalties for battery) to include a broken nose or a laceration, if its treatment requires staples or a tissue adhesive.

Act 243 (AB-157) makes it a crime to destroy, damage, or mutilate an American flag, or to cause an American flag to come into contact with certain bodily substances, with the intent to cause imminent violence or a breach of the peace.

Act 252 (SB-416) makes it a crime to intentionally not pay for admission to a theater, ski resort, golf course, amusement park, or other recreational attraction and authorizes a civil cause of action in such cases.

Act 306 (AB-306) increases the time period over which the face value of intentionally written bad checks may be aggregated to determine if a person writing the checks has committed a felony.

CRIMINAL PROCEDURE

Act 121 (AB-120) requires a court, when imposing a sentence or placing a person on probation for a criminal conviction that disqualifies the person from voting, to inform the person of that disqualification. See also *Corrections – Adult Correctional System*.

Act 122 (SB-131) allows a jailer or sheriff to see a report on whether a criminal defendant housed in a jail is competent to proceed to trial.

Act 196 (SB-66) eliminates the time limit for commencing prosecution of second-degree intentional homicide and increases the time limit for commencing prosecution of second-degree reckless homicide to 15 years.

Act 224 (AB-652) adds to the bill of rights for crime victims the right not to be subject to a lie detector test if the victim claims to be the victim of a sexual assault.

OTHER CRIMINAL LAW

Act 33 (SB-44) eliminates a toll-free hotline administered by DOJ for receiving reports about dangerous weapons in public schools, increases certain DOJ and court fees, allows state funds to be used for previously

restricted payments to crime victim awards, and eliminates DOJ's Division of Narcotics and Dangerous Drugs.

MAJOR PROPOSALS THAT FAILED ENACTMENT OR ADOPTION

Assembly Bills 40 and 444 and Senate Bill 214 would have permitted persons to carry concealed weapons under certain circumstances.

Discrimination

Act 23 (SB-24) provides an exception to the public accommodations law to permit a fitness center to limit the use of its facilities and services to persons of the same sex.

MAJOR PROPOSALS THAT FAILED ENACTMENT OR ADOPTION

Assembly Bill 41 and Senate Bill 58 would have permitted an educational agency to refuse to employ or to terminate from employment an unpardoned felon, whether or not the circumstances of the felony substantially relate to the circumstances of the particular job.

Assembly Bill 67 would have expanded the definition of employment discrimination based on creed to include discriminating against an employee for refusing to participate in certain acts, such as sterilizations; abortions; certain procedures involving in vitro human embryos or fetal tissue; withholding or withdrawing nutrition or hydration under specified circumstances; or euthanasia. See also *Occupational Regulation*.

Domestic Relations

Act 33 (SB-44) allocates between the counties and the state the payments received from the federal government based on child support collections (federal child support incentive payments).

Act 130 (AB-279) creates a rebuttable presumption in a custody proceeding against awarding legal custody of a child to a parent who engaged in domestic abuse. This presumption supersedes the presumption that joint legal custody is in the child's best interest. The presump-

tion created by this act may be rebutted only by a preponderance of evidence that the parent has successfully completed a certified treatment program for batterers and that it is in the child's best interest for the parent to be awarded legal custody. If the court awards periods of physical placement with a child to a parent who has engaged in domestic abuse, the court must provide for the safety of the child and the victim of the abuse by imposing specified conditions. The act also requires that a guardian ad litem in a custody proceeding investigate whether either parent engaged in domestic abuse, that any required mediation intake form ask whether either parent engaged in domestic abuse, and that both guardians ad litem and mediators have training on domestic violence.

Act 225 (AB-341) authorizes a county to use marriage license fees for services related to domestic violence.

Act 287 (AB-624) changes the time within which a person may collect delinquent court-ordered child or family support to 20 years after the date on which the youngest child for whom the support was ordered reaches age 18 or, if the child is in high school, age 19.

MAJOR PROPOSALS THAT FAILED ENACTMENT OR ADOPTION

Assembly Bill 475 would have defined marriage as a civil contract between one man and one woman, creating the legal status of husband and wife.

Education

PRIMARY AND SECONDARY EDUCATION

Act 33 (SB-44) makes the following changes to the laws governing primary and secondary education:

1. Eliminates the requirement that the state pay two-thirds of school district costs.
2. Eliminates the requirement that DPI develop, and that school boards and charter schools adopt and administer, a high school graduation test.
3. Increases the low-revenue ceiling to \$7,400 per pupil in the 2003-04 school year and \$7,800 per pupil in any subsequent school year. Any school district with revenues per pupil lower than the ceiling is exempt from the revenue limits, which limit the amount of revenue a school district may receive from general state aid and property taxes.

4. Eliminates driver education aid to school districts.

5. Changes the amount the state pays per pupil to private schools in the Milwaukee Parental Choice Program (MPCP), which allows certain low-income pupils to attend participating private schools and to charter schools established by or under contract with the city of Milwaukee, UW-Milwaukee, UW-Parkside, or Milwaukee Area Technical College.

6. Eliminates the requirement that the Milwaukee Public Schools (MPS) contract with private day care centers to provide early childhood education to certain four-year-old and five-year-old residents of the city of Milwaukee.

7. Eliminates Learnfare, which required MPS to contract with private agencies located in MPS to provide alternative education to MPS pupils.

8. Eliminates the American Indian Language and Culture Education Program, designed to make the curriculum of alternative schools with an enrollment of at least 75 percent American Indian more relevant to American Indian pupils.

Act 42 (AB-74) provides \$25 tuition vouchers for use at the UW System or at a technical college for students who sound “Taps” on a bugle, cornet, or trumpet during a military honors funeral held for a veteran in Wisconsin.

Act 43 (SB-77) authorizes the redevelopment authority of a 1st class city to issue up to \$200,000,000 in bonds for the board of school directors to finance unfunded prior service liability contributions under the WRS.

Act 55 (SB-25) allows a school board to establish a waiting list of nonresident pupils who wish to attend public school in the school district under the Open Enrollment Program.

Act 131 (AB-183) allows a school board to limit the number of postsecondary credits for which it will pay to 18 per pupil under the Youth Options Program, which allows a high school pupil to attend a UW institution or technical college under certain circumstances. The act also requires the pupil or the pupil’s parent or guardian to reimburse the school board if the pupil fails a course under the program.

Act 132 (AB-202) provides that, if a school board contracts with a person to provide photographs of 12th grade pupils for a school yearbook, the contract may not prohibit a pupil from supplying his or her own photograph for the yearbook.

Act 155 (AB-847) requires each private school participating in the MPCP to submit to DPI evidence of sound fiscal practices and of financial viability, a copy of the school’s certificate of occupancy, and proof that the pri-

vate school’s administrator has participated in a fiscal management training program. The act also authorizes DPI to bar a private school from continuing to participate in the program if the school misrepresents required information, violates various notice requirements, fails to refund overpayments to the state, or fails to meet certain standards. DPI may also ban participation if it finds that conditions at the school present an imminent threat to the health or safety of pupils.

Act 156 (AB-747) allows a pupil to attend Woodlands School, a charter school located in the city of Milwaukee, even if he or she is not a resident of the city, if the pupil attended the school in the 2003-04 school year and, beginning in the 2005-06 school year, in the previous school year; or a member of the pupil’s family who lives in the same household attended the school in the 2003-04 school year.

Act 180 (AB-619) requires that if the special education program operated by the Racine County Children with Disabilities Education Board is dissolved, Racine County continues paying the postretirement health benefits of, and the unfunded prior service liability incurred under the WRS for, former employees of the board.

Act 207 (AB-169) requires a public library, upon request, to disclose to the custodial parent or guardian of a child under the age of 16 all library records relating to the child’s use of the library’s materials or services.

Act 254 (SB-60) eliminates the 15-year limit on the term of a lease of school district property.

Act 280 (SB-350) requires a school board to disclose the name of each school bus driver who transports a pupil upon the request of the pupil’s parent or guardian, requires criminal background checks of school bus drivers, and prohibits a person who has been convicted of certain offenses from being employed as a school bus driver. See also *Transportation — Motor Vehicles*.

Act 305 (SB-526) designates March 17 as a special observance day in schools for “The Great Hunger” in Ireland from 1845 to 1850.

TECHNICAL COLLEGE SYSTEM

Act 33 (SB-44) eliminates the grants to technical college district boards to develop or expand programs in occupational areas of high demand. The act also establishes a grant program to expand course capacity and access to health care education and to increase minority and male enrollment in health care occupations.

Act 62 (AB-204) exempts from the referendum requirement a capital expenditure made by a technical college district board for an applied technology center if the

expenditure is made by July 1, 2006. Previously, the deadline was July 1, 2003. The act also requires, as a condition for the exemption, that the district board retire an equivalent amount of debt.

UNIVERSITY OF WISCONSIN SYSTEM

Act 33 (SB-44) generally restricts the Board of Regents of the UW System (Board) during the 2003-04 and 2004-05 academic years from increasing resident undergraduate tuition for UW-Madison and UW-Milwaukee by more than \$350 a semester over tuition charged in the prior academic year and for other UW institutions by more than \$250.

Act 149 (SB-247) requires the Board to incorporate in its orientation program for students electronic information, in addition to required oral and written information, on sexual assault and sexual harassment.

OTHER EDUCATION

Act 33 (SB-44) eliminates the Technology for Educational Achievement in Wisconsin (TEACH) Board and certain grants and loans administered by the TEACH Board and transfers the remaining duties of the TEACH Board to DOA; increases the maximum Wisconsin Higher Education Grant that the Higher Educational Aids Board (HEAB) may award to a resident student enrolled in a public institution of higher education or a tribal college; decreases the amount that HEAB is required to disburse for each Wisconsin resident enrolled in the Marquette University School of Dentistry and the Medical College of Wisconsin; eliminates the limit on tuition that the Medical College may charge a Wisconsin resident; and eliminates a requirement that the Arts Board provides grants, from Indian gaming receipts, to American Indians.

Act 61 (AB-344) requires every Wisconsin college and university annually to provide detailed information to enrolled students on meningococcal disease and hepatitis B and vaccines against the diseases. The act also requires each student who lives in a dormitory to affirm that he or she received this information, to affirm whether he or she has received the vaccination against either disease, and to provide the dates of the vaccinations.

Act 91 (AB-328) permits the State Historical Society (SHS) to organize for each historic site it operates a non-profit, tax-exempt corporation for fund raising, providing goods or services, and supporting the historic site and requires any money raised by the corporation to be used exclusively for the historic site for which the corporation was organized. The act also permits the SHS

to employ outside the classified service sales and development professionals and to compensate those professionals through commissions and bonuses; permits the SHS and the Department of Tourism to enter into a memorandum of understanding for the marketing of historic sites; permits DOA to survey the condition of the facilities and infrastructure of historic sites and to prepare a needs assessment and master plan for those sites; and creates a History Preservation Partnership Initiative to attract private and federal funds for historic sites and the SHS.

Act 146 (AB-757) increases the bonding authority of the UW Hospitals and Clinics Authority from \$175,000,000 to \$235,000,000.

Act 282 (AB-84) prohibits a private institution of higher education from assigning to any student an identification number that incorporates the student's social security number.

MAJOR PROPOSALS THAT FAILED ENACTMENT OR ADOPTION

Assembly Bill 126 would have directed the Legislative Audit Bureau to study the Milwaukee Parental Choice Program.

Assembly Bills 259, 260, and 472 and *Senate Bills 219 and 221* would have extended the Milwaukee Parental Choice Program to additional pupils or private schools.

Assembly Bills 261, 503, and 746 and *Senate Bills 220, 253, and 382* would have expanded eligibility to attend independent charter schools or authorized additional independent charter schools.

Assembly Bills 836 and 847 and *Senate Bills 363 and 406* would have required criminal background checks of persons employed by private schools participating in the Milwaukee Parental Choice Program.

Assembly Bill 466 would have established levy limits for technical college districts.

Assembly Bill 830 would have authorized funds for engineering instruction at the University of Wisconsin-Rock County campus.

Elections

Act 24 (AB-112) changes the date of the presidential preference primary to the third Tuesday in February.

Act 35 (AB-123) appropriates federal moneys received by Wisconsin for election administration purposes.

Act 98 (AB-121) directs the Elections Board to submit recommendations to the legislature concerning recruitment, training, certification, and compensation of election officials.

Act 143 (AB-518) eliminates a requirement that chief inspectors (supervising poll workers) take a certification examination.

Act 265 (AB-600) changes laws governing election administration, voter registration, and voting requirements and procedures.

Act 266 (AB-601) appropriates money to JCF to be used to meet certain federal election requirements.

Act 296 (AB-932) directs the Elections Board and DOA to request JCF to transfer certain state moneys to enable Wisconsin to receive federal election administration aid.

MAJOR PROPOSALS THAT FAILED ENACTMENT OR ADOPTION

Assembly Bill 111 would have required most voters to provide identification to vote in elections.

Senate Bill 12 would have made extensive changes to campaign finance and related laws.

Employment

CIVIL SERVICE

Act 3 (SB-139) ratifies the collective bargaining agreement for the 2001-03 biennium between the state and the Wisconsin State Employees Union, AFSCME Council 24, and its appropriate affiliated locals, AFL-CIO, as representative of the employees in the blue collar and nonbuilding trades collective bargaining unit.

Act 4 (SB-138) ratifies the collective bargaining agreement for the 2001-03 biennium between the state and

the Wisconsin State Employees Union, AFSCME Council 24, and its appropriate affiliated locals, AFL-CIO, as representative of the employees in the administrative support collective bargaining unit.

Act 5 (SB-137) ratifies the collective bargaining agreement for the 2001-03 biennium between the state and the Wisconsin State Employees Union, AFSCME Council 24, and its appropriate affiliated locals, AFL-CIO, as representative of the employees in the technical collective bargaining unit.

Act 6 (SB-136) ratifies the collective bargaining agreement for the 2001-03 biennium between the state and the Wisconsin State Employees Union, AFSCME Council 24, and its appropriate affiliated locals, AFL-CIO, as representative of the employees in the security and public safety collective bargaining unit.

Act 7 (SB-135) ratifies the collective bargaining agreement for the 2001-03 biennium between the state and the Wisconsin State Employees Union, AFSCME Council 24, and its appropriate affiliated locals, AFL-CIO, as representative of the employees in the professional social services collective bargaining unit.

Act 8 (SB-134) ratifies the collective bargaining agreement for the 2001-03 biennium between the state and the Wisconsin State Employees Union, AFSCME Council 24, and its appropriate affiliated locals, AFL-CIO, as representative of the employees in the law enforcement collective bargaining unit.

Act 9 (SB-142) ratifies the collective bargaining agreement for the 2001-03 biennium between the state and the Wisconsin Professional Employees Council, WFT/AFT, AFL-CIO, as representative of the employees in the professional fiscal and staff services collective bargaining unit.

Act 10 (SB-145) ratifies the collective bargaining agreement for the 2001-03 biennium between the state and the Wisconsin Science Professionals, AFT, Local 3732, as representative of the employees in the professional science collective bargaining unit.

Act 11 (SB-148) ratifies the collective bargaining agreement for the 2001-03 biennium between the state and the Professional Employees in Research, Statistics, and Analysis, WFT/AFT, AFL-CIO, as representative of the employees in the professional research, statistics, and analysis collective bargaining unit.

Act 12 (SB-146) ratifies the collective bargaining agreement for the 2001-03 biennium between the state and the Wisconsin State Public Defenders Association, WFT/AFT, Local 4822, AFL-CIO, as representative of the employees in the public defenders collective bargaining unit.

Act 13 (SB-133) ratifies the collective bargaining agreement for the 2001-03 biennium between the state and the Wisconsin Physicians and Dentists Association, as representative of the employees in the professional patient treatment collective bargaining unit.

Act 14 (SB-147) ratifies the collective bargaining agreement for the 2001-03 biennium between the state and the Teaching Assistants' Association, AFT, Local 3220, AFL-CIO, as representative of the employees in the program, project, and teaching assistants of the UW-Madison and UW-Extension collective bargaining unit.

Act 15 (SB-150) ratifies the collective bargaining agreement for the 2001-03 biennium between the state and the Milwaukee Graduate Assistants Association, AFT/WFT, Local 2169, AFL-CIO, as representative of the employees in the program, project, and teaching assistants of the UW-Milwaukee collective bargaining unit.

Act 16 (SB-144) ratifies the collective bargaining agreement for the 2001-03 biennium between the state and the Wisconsin Education Association Council, as representative of the employees in the professional education collective bargaining unit.

Act 17 (SB-149) ratifies the collective bargaining agreement for the 2001-03 biennium between the state and the District 1199W/United Professionals for Quality Health Care, SEIU, AFL-CIO, as representative of the employees in the professional patient care collective bargaining unit.

Act 18 (SB-143) ratifies the collective bargaining agreement for the 2001-03 biennium between the state and the Association of State Prosecutors, as representative of the employees in the assistant district attorneys collective bargaining unit.

Act 19 (SB-140) ratifies the collective bargaining agreement for the 2001-03 biennium between the state and the Wisconsin State Attorneys Association, Inc., as representative of the employees in the professional legal collective bargaining unit.

Act 20 (SB-141) ratifies the collective bargaining agreement for the 2001-03 biennium between the state and the State Engineering Association, as representative of the employees in the professional engineering collective bargaining unit.

Act 21 (SB-151) ratifies the collective bargaining agreement for the 2001-03 biennium between the state and the Wisconsin State Building Trades Negotiating Committee, AFL-CIO, and its appropriate affiliated locals, as representative of the employees in the building trades crafts collective bargaining unit.

Act 22 (SB-152) provides an additional week of paid vacation to nonrepresented state employees who are

exempt from the minimum wage and overtime requirements of the federal Fair Labor Standards Act. These employees generally include those holding executive, administrative, or professional positions.

Act 33 (SB-44) abolishes DER and transfers its civil service functions to a newly created Office of State Employment Relations in DOA. The act also abolishes the Personnel Commission and transfers its authority to hear appeals of state employee position classification decisions, examination scores, appointment decisions, and disciplinary actions to WERC and transfers its authority to investigate complaints by state employees for discriminatory or retaliatory actions under the Fair Employment Act, public employee safety and health protections, the state's whistle-blower law, the Family and Medical Leave Act, elder abuse reporting contact protections, and health care worker reporting protections to the Division of Equal Rights in DWD.

Act 47 (AB-196) requires notice to the subjects of certain employment-related public records prior to release of the records, and closes access to other employment-related public records.

Act 107 (AB-656) ratifies the collective bargaining agreement for the 2003-05 biennium between the state and the District 1199W/United Professionals for Quality Health Care, SEIU, AFL-CIO, as representative of the employees in the professional patient care collective bargaining unit.

Act 108 (AB-657) ratifies the collective bargaining agreement for the 2003-05 biennium between the state and the Wisconsin Science Professionals, AFT, Local 3732, as representative of the employees in the professional science collective bargaining unit.

Act 112 (SB-357) ratifies the collective bargaining agreement for the 2003-05 biennium between the state and the Wisconsin Physicians and Dentists Association, as representative of the employees in the professional patient treatment collective bargaining unit.

Act 113 (SB-358) ratifies the collective bargaining agreement for the 2003-05 biennium between the state and the Wisconsin Professional Employees Council, WFT/AFT, AFL-CIO, as representative of the employees in the professional fiscal and staff services collective bargaining unit.

Act 114 (SB-359) ratifies the collective bargaining agreement for the 2003-05 biennium between the state and the Association of State Prosecutors, as representative of the employees in the assistant district attorneys collective bargaining unit.

Act 115 (SB-360) ratifies the collective bargaining agreement for the 2003-05 biennium between the state and the Milwaukee Graduate Assistants Association, AFT/WFT, Local 2169, AFL-CIO, as representative of the employees in the program, project, and teaching assistants of the University of Wisconsin-Milwaukee collective bargaining unit.

Act 116 (SB-361) ratifies the collective bargaining agreement for the 2003-05 biennium between the state and the Wisconsin State Building Trades Negotiating Committee, AFL-CIO, and its appropriate affiliated locals, as representative of the employees in the building trades crafts collective bargaining unit.

Act 117 (SB-362) makes minor revisions to state civil service laws governing state employee travel expenses and reimbursements.

Act 162 (AB-418) requires that any state employee who must serve in the military be paid his or her state salary, less any military pay and housing allowances, for up to 179 days of military service, unless extended by gubernatorial executive order to two years.

Act 319 (SB-565) ratifies the collective bargaining agreement for the 2003-05 biennium between the state and the Wisconsin State Employees Union, AFSCME Council 24, and its appropriate affiliated locals, AFL-CIO, as representative of the employees in the professional social services collective bargaining unit.

FRINGE BENEFITS OF PUBLIC EMPLOYEES

Act 33 (SB-44) makes the following changes in law relating to fringe benefits provided to public employees:

1. Requires that the Group Insurance Board (GIB) place each health insurance plan offered to state employees into one of three tiers, according to the employee's share of premium costs. The act also requires the state to pay, on behalf of any full-time eligible employee, at least 80 percent (as opposed to 105 percent under prior law) of the average premium cost of plans offered in the tier with the lowest employee premium cost, except as otherwise provided in an applicable collective bargaining agreement.

2. Requires that the GIB establish a purchasing pool for pharmacy benefits for the state.

3. Bases the valuation of a state employee's accumulated unused sick leave credits on the person's highest hourly pay rate while employed by the state. These sick leave credits are used to purchase health insurance after state employment. Previously, the valuation was based on a person's final hourly pay rate immediately before termination of state employment. The act also provides that any state employee who has 20 years of

service under the Wisconsin Retirement System (WRS) and terminates state employment retains his or her sick leave credits, without being immediately eligible for a WRS annuity, as opposed to being immediately eligible for a WRS annuity, as under prior law.

4. Permits WRS participants to use moneys in tax-sheltered annuity and deferred compensation plans to purchase forfeited years of WRS service.

Act 153 (SB-344) changes the requirement under the WRS that no fixed annuity increase in any year may be granted to annuitants if the increase will not result in at least a two percent increase in the amount of annuities then in force by reducing the percentage threshold to 0.5 percent.

Act 160 (AB-642) allows assets in a deferred compensation plan administered by the Deferred Compensation Board to be divided pursuant to a domestic relations court order for any marriage that terminated after January 1, 2002.

OTHER EMPLOYMENT

Act 33 (SB-44) makes the following changes in the laws relating to employment:

1. Eliminates the Wisconsin Conservation Corps, which employed young adults to work on conservation and human services activities statewide, and the Wisconsin Service Corps, which employed young adults to work on community services in Milwaukee County.

2. Limits the amount of a local youth apprenticeship grant to \$900 per apprentice, requires the recipient of such a grant to provide matching funds equal to 50 percent of the grant, and requires certain outcomes.

3. Eliminates from the Employment Transit Assistance Program, which funds projects to improve access to jobs in outlying suburban and sparsely populated areas, certain requirements relating to pay for jobs made accessible by the program, maximum fares, and employer copayment of fares.

4. Eliminates the Trade Masters Pilot Program, which recognized advanced training and achievement in the industrial, construction, and service sectors of the economy.

Act 63 (AB-2) grants a wage claim lien (which gives an employee to whom unpaid wages are owed, or DWD on behalf of the employee, a claim on the employer's property for those unpaid wages) priority over a prior lien of a commercial lending institution as to the first \$3,000 of unpaid wages covered under the lien that were earned within the six months preceding the date on which the employee filed the wage claim. The act also excludes from coverage under the wage claim lien law

independent contractors; managerial, executive, and commissioned sales employees; and employees who are privy to confidential matters involving the employer-employee relationship. See also *Financial Institutions*.

Act 144 (AB-669) makes various changes in the laws relating to worker's compensation, including the changes to the procedures governing fee and necessity of treatment disputes; increasing supplemental benefits for certain injured employees; increasing to \$10,000 the amount that an employer must pay into the Work Injury Supplemental Benefit Fund for death or certain injuries; and allowing examination and treatment of an injured employee by a physician assistant or advanced practice nurse prescriber.

Act 197 (SB-340) makes numerous changes in unemployment insurance laws.

MAJOR PROPOSALS THAT FAILED ENACTMENT OR ADOPTION

Assembly Bill 633 would have prohibited a county, city, village, or town from enacting a local minimum wage ordinance that does not strictly conform to the state minimum wage law.

Environment

Act 33 (SB-44) exempts materials that are contaminated with polychlorinated biphenyls (PCBs) and are removed from the bed of a lake or river as part of an environmental cleanup from the \$3 per ton recycling fee normally charged for materials disposed of in a landfill. The act also increases the fees that DNR may charge for inspecting nonresidential asbestos removal projects.

Act 96 (SB-121) requires the Secretary of Commerce to establish a committee to study the recycling of used oil filters and other oil-absorbent materials, establish goals for recycling used oil filters and other oil-absorbent materials, and suggest measures to be taken if the goals are not met.

Act 106 (AB-187) sets the minimum percentage of recycled content that must be contained in newsprint used in a newspaper for the publisher to avoid paying a newspaper recycling fee at 33 percent.

Act 118 (AB-655) makes the following changes in the laws related to air quality management:

1. Requires DNR, before DNR may adopt an emission standard for a hazardous air contaminant, to find

that residents are exposed to unsafe levels of the contaminant or will be so exposed unless an emission standard is adopted and that DNR's proposed method for compliance with the emission standard is the most cost-effective method practicable.

2. Provides for legislative committee review of proposed federal Clean Air Act implementation plans and designations of areas that do not comply with federal air quality requirements.

3. Requires DNR to adopt administrative requirements that are consistent with federal Environmental Protection Agency (EPA) administrative requirements when EPA adopts a new source performance standard or an emission standard for a hazardous air contaminant.

4. Requires DNR to simplify and expedite the process under which it authorizes the construction, operation, or both, of sources of air pollution with low emissions of air pollutants.

5. Requires DNR to authorize the start of construction of a source of air pollution before issuance of a construction permit to avoid undue hardship.

6. Requires DNR to exempt minor sources of air pollution from the requirement to obtain air pollution permits if emissions from the sources do not present a significant hazard to public health, safety, or welfare or to the environment.

7. Limits the time within which DNR must act on applications for air pollution permits, requires DNR to refund application fees when its action is not timely, and requires reports concerning the reasons for delays in issuing permits and how future delays will be avoided.

Act 276 (SB-61) establishes the Environmental Results Program (ERP, also referred to as the green tier program), a voluntary program to enhance the environment that is administered by DNR. A participant in ERP must, among other things, submit a plan for enhancing the environment and, in return, receives incentives from DNR. A participant in ERP must also report to DNR any violations of environmental laws that are revealed by audits of its facilities or activities. If a participant corrects a violation within ERP timelines, the state may generally not sue to recover civil monetary penalties for the violation.

Act 276 also creates the Environmental Improvement Program (EIP) under which regulated entities audit compliance with environmental regulations and correct any violations reported in the audits. If an EIP participant corrects a reported violation within EIP timelines, the maximum forfeiture is \$500, regardless of the usual

maximum forfeiture for the violation and of the number of days that the violation continued.

Act 308 (AB-732) provides that if a city, village, or town requires an operator of a mine that extracts nonmetallic materials (such as gravel) to provide financial assurance for the reclamation of the mine, the county must credit the value of that financial assurance toward the amount of financial assurance that the county requires.

Act 310 (AB-926) increases the regulation of high capacity wells, which are wells that have the capacity to withdraw more than 100,000 gallons each day. Under the act, DNR may only grant permits for certain high capacity wells if the permits contain conditions to ensure that the wells will not cause significant environmental impacts. Wells that are subject to this provision are those located near trout streams and wild and scenic rivers, those that may have a significant impact on a spring that usually has a flow of at least one cubic foot per second, and those with a water loss of more than 95 percent. The act also requires DNR to administer a program to mitigate the effects of preexisting wells that are located near trout streams and wild and scenic rivers.

Under Act 310, DNR must designate two groundwater management areas, one in and around Brown County and one in and around Waukesha County, where groundwater levels in wells have been reduced by 150 feet or more. The act requires DNR to assist local governments in groundwater management areas by providing advice, incentives, and funding for research and planning related to groundwater management.

Act 312 (SB-324) changes eligibility for the Dry Cleaner Environmental Response Program (DERP), which provides reimbursement for a portion of the costs of responding to discharges of dry cleaning products. Under the act, if a person who operated a dry cleaning facility that has closed does not own the property on which the facility is located, that person is eligible for DERP as long as the facility was licensed before it closed. A person who owns property on which a closed dry cleaning facility is located but who did not operate the facility is ineligible for DERP unless the person owned the property while the facility operated. The act also makes DERP available to an owner or operator who submits notice of a potential claim to DNR by August 30, 2008.

Act 314 (SB-471) authorizes DNR to make an agreement with the EPA under which DNR would receive federal funding to make loans and, in some cases, grants for the cleanup of environmentally contaminated properties.

Act 315 (SB-472) authorizes DNR, in cooperation with DOA, to help make private insurance available to fa-

ilitate the cleanup and redevelopment of contaminated property.

Act 316 (AB-396) requires DNR and DOA to restructure the financial hardship assistance provided to the Elcho Sanitary District under the Clean Water Fund Program to reduce the costs of wastewater treatment to the district's customers. Under the Clean Water Fund Program, Wisconsin provides financial assistance for projects for controlling water pollution.

Financial Institutions

Act 33 (SB-44) replaces the Division of Savings Institutions in DFI (which regulated savings banks and savings and loan associations) with the Division of Banking in DFI. The act also replaces the Savings Bank Review Board and Savings and Loan Review Board (which oversaw certain activities of savings banks and savings and loan associations) with the Savings Institutions Review Board.

Act 63 (AB-2) relaxes eligibility requirements for membership in a credit union; expands the ability of credit unions to invest in credit union service organizations; expands a credit union's authority to act as a trustee, custodian, or depository of funds; permits credit unions to sell insurance products; expands the authority of a Wisconsin credit union to establish branch offices inside or outside of Wisconsin and of a non-Wisconsin credit union to establish branch offices in Wisconsin; removes certain limitations on mergers and acquisitions of credit unions; includes confidentiality requirements for certain regulators of credit unions; authorizes certain actions by credit union boards of directors without a meeting; changes certain requirements relating to credit union reserve accounts and credit union examinations; and exempts credit unions from certain statutory provisions from which other financial institutions are exempt.

The act also allows a state savings bank, state savings and loan association, or state bank to become certified by DFI as a universal bank. A universal bank retains its status as a savings and loan association, savings bank, or state bank and generally remains subject to existing regulatory and supervisory requirements, but has additional powers as a universal bank. The act allows a universal bank to engage in any activity authorized for any state savings bank, state savings and loan association, or state bank. The act also generally permits a universal bank to exercise all powers that may be exercised directly by certain federal financial institutions; to exercise lending powers similar to those of state

banks; to purchase, sell, and underwrite certain investment securities and equity securities and to invest in certain properties and projects; to pledge its assets as security for deposits; to exercise the same trust powers that trust company banks may exercise; to securitize its assets for sale to the public; to exercise all powers necessary or convenient to effect the purposes for which the universal bank is organized or to further the businesses in which the universal bank is lawfully engaged; and to engage in activities that are reasonably related to the purposes of the universal bank.

Finally, the act provides that subordinate liens held by a state or local government unit (such as tax liens) no longer have priority over other subordinate security interests and liens and may be discharged by the disposition of the collateral to the same extent as other subordinate liens. See also *Employment — Other Employment*.

Act 86 (SB-53) creates additional warranties under the Uniform Commercial Code concerning an account holder's authentication of a demand draft, which is like a check created by a third party.

Act 120 (AB-459) fills in the box on the standardized financing statement to perfect certain types of security interests (which contains a space for the debtor's social security number or employer identification number) with a statement that Wisconsin does not require social security and employer identification numbers.

Act 206 (AB-591) makes certain changes to the requirements that apply to registers of deeds and DFI with respect to the recording and filing of documents relating to security interests, financing statements, and federal tax liens and certain other documents.

Act 257 (AB-792) regulates the making of a covered loan, which is a loan for nonbusiness purposes that is secured by a mortgage in the borrower's principal dwelling. The act prohibits a lender from doing such things as accelerating loan payments, increasing principal balances or interest rates, or knowingly making false or misleading statements relating to covered loans.

Act 260 (SB-279) establishes competency examination and continuing education requirements for loan originators. The act also requires every loan application to be signed by a registered loan originator; a criminal history search to be run for initial issuance, or in some cases renewal, of registration as loan originators; a brokerage agreement between mortgage brokers and consumers to be in writing; and disclosures to be made by mortgage brokers to consumers.

Act 262 (SB-326) generally prohibits a person from using an actual or similar name, logo, or symbol of a state banking institution in any marketing material or solicitation to deceive a reasonable person about the origin

or endorsement of, or responsibility for, the marketing material or solicitation.

Act 263 (SB-381) allows DFI to accept a regulatory examination of a state savings and loan association or savings bank by an appropriate federal agency or agency of another state instead of DFI conducting its own examination.

Act 293 (AB-730) establishes the same requirements for out-of-state banks as for out-of-state bank holding companies concerning acquisition of an in-state bank or in-state bank holding company.

Act 294 (AB-755) enacts the Uniform Electronic Transactions Act (UETA) in Wisconsin. Generally, UETA facilitates certain electronic transactions by validating the provision and use of electronic records and electronic signatures. Under former law, a combination of state and federal laws (most significantly, the federal law commonly known as "E-Sign") governed the use of electronic records, transactions, and signatures in Wisconsin. The act:

1. Specifies that if the parties to a transaction agree to conduct the transaction electronically a document or signature may not be denied legal effect solely because it is electronic.

2. Provides that if the parties to a transaction agree to conduct the transaction electronically and if a law requires a party to provide information in writing to another person, a party may generally satisfy the requirement by providing the information in an electronic document.

3. Permits electronic notarization or verification of a signature or document relating to a transaction if the notary's or verifier's electronic signature is accompanied by all other information required by law.

4. Validates contracts formed in automated transactions by the interaction of automated agents of the parties or by the interaction of one party's automated agent and an individual.

5. Generally permits a person to satisfy any law that requires retention of a document by retaining an electronic document, if the retained information satisfies certain requirements relating to accuracy and accessibility.

6. For any document that is required by law to be submitted in writing to a governmental unit and that requires a written signature, permits a person to submit it in an electronic format if the governmental unit consents.

7. Provides that a document or signature may not be excluded as evidence solely because it is in electronic form.

The act does not cover certain types of electronic transactions, records, and notices, such as those relating to wills and trusts, cancellation of health insurance, product recalls, and hazardous material transportation.

Gambling

MAJOR PROPOSALS THAT FAILED ENACTMENT OR ADOPTION

Assembly Bill 144 and *Senate Bill 41* would have limited the governor's power to enter into Indian gaming compacts without legislative approval.

Health and Social Services

HEALTH

Act 29 (SB-115) eliminates termination of the Trauma Advisory Council.

Act 33 (SB-44) makes the following changes to the health laws:

1. Transfers from DHFS to a contracted entity responsibilities for hospital and ambulatory surgery center data collection and dissemination and eliminates the authority of DHFS to assess hospitals and ambulatory surgery centers for health care data collection costs after June 30, 2004.

2. Eliminates the Tobacco Control Board, the tobacco control fund, and the earmarking of grant funding for tobacco use control programs.

3. Eliminates Wisconcare, the program under which primary health care services are provided to individuals without health insurance whose incomes are at or below 150 percent of the federal poverty level and who are employed for fewer than 25 hours per week.

4. Eliminates the Adolescent Pregnancy Prevention and Pregnancy Services Board.

5. Eliminates a limitation on eligibility of persons with developmental disabilities for benefits under Family Care (a program that provides long-term care) and extends to January 1, 2006, the date after which individuals who are not eligible for MA but meet Family

Care's functional eligibility requirements would be entitled to receive the Family Care benefit.

6. Increases the annual enrollment fee for Senior Care and increases the deductible for enrollees whose household income exceeds 200 percent of the federal poverty line.

Act 92 (SB-243) authorizes dentists and dental hygienists to provide their services to MA recipients under the Volunteer Health Care Provider Program, under which health care providers provide health care services without charge to indigent persons.

Act 110 (AB-372) requires that statutes or rules that refer to a live birth or to being born alive be construed to provide the same legal status to a human being who undergoes live birth as the result of an abortion as those of a human being who undergoes live birth as the result of labor or a cesarean section.

Act 158 (SB-287) authorizes cities to establish joint city-city local health departments and cities and villages in Milwaukee County to establish multiple municipal local health departments in that county.

Act 175 (AB-845) establishes a program in DHFS under which donated drugs or supplies used to treat cancer or its side effects may be accepted by a medical facility or pharmacy and dispensed primarily to uninsured or indigent persons.

Act 176 (AB-351) creates a breast cancer research program, under which the Medical College of Wisconsin, Inc., and the University of Wisconsin Comprehensive Cancer Center must use for breast cancer research projects moneys received as the result of an individual income tax checkoff for this purpose. See also *Taxation*.

Act 271 (SB-230) authorizes an employee of a school district, cooperative educational service agency, charter school, private school, the Wisconsin Educational Services Program for the Deaf and Hard of Hearing, or the Wisconsin Center for the Blind and Visually Impaired, or a social worker, to test for HIV the blood of a person with whom the employee or social worker had a contact.

Act 272 (AB-560) prohibits requiring the inclusion of the prescriber's federal registration number on a prescription that is not for a controlled substance, prohibits disclosure of the number without consent, and prohibits use of the number to identify certain prescribing practices.

Act 273 (SB-196) authorizes a hospice nurse to pronounce the death of a hospice patient.

Act 281 (SB-372) exempts from restrictions on release of patient health care records releases for health care operations.

Act 290 (AB-554) makes valid in Wisconsin a power of attorney for health care document that was validly executed in another state to the extent that the document authorizes decisions that may be made under Wisconsin law.

MEDICAL ASSISTANCE

Act 33 (SB-44) makes numerous changes to the laws relating to MA. The Act:

1. Changes the state's method of claiming federal MA matching funds, under intergovernmental transfers, for the costs of MA home and community-based services and for county-provided MA noninstitutional services.

2. Eliminates authority for counties and local health departments to claim federal MA matching funds to cover unreimbursed costs for providing MA services but makes payments to these entities to cover the lost federal funds. See also *Acts 100* and *318*.

3. Authorizes DHFS to make supplementary MA payments to school districts or cooperative educational service agencies to provide MA school medical services.

4. Authorizes DHFS to enter into multistate purchasing agreements for prescription drugs and to establish preferred drug lists, supplemental rebate agreements with drug manufacturers, and fraud and abuse controls.

5. Changes the MA nursing home reimbursement method so as to require flat-rate, rather than cost-based, reimbursement for supplies, nonprescription drugs, and support services.

6. Establishes copayments for persons covered under MA or the Badger Care Health Care Program (Badger Care) for prescription drugs and increases the maximum liability per month for prescription drugs of a person covered under MA who designates a pharmacy or pharmacist as his or her sole provider of prescription drugs.

7. Makes eligible for MA women under age 65 who are not otherwise eligible for MA or for other health care benefits and who require treatment for a precancerous condition of the breast or cervix.

8. Increases the maximum amount that a family or child may be required to contribute toward the cost of coverage under Badger Care.

9. Requires an insurer to permit a person to enroll in a group health benefit plan if the person is eligible for coverage under the plan and for coverage under MA or Badger Care and DHFS's payment of the premium for which the person is responsible will not be more costly than providing the coverage under MA or Badger Care.

10. Eliminates the requirement that DHFS make incentive payments to counties for identifying MA applicants and recipients who have other health insurance coverage.

Act 100 (AB-592) requires DHFS to distribute supplementary MA payments to nursing homes operated by counties, cities, villages, or towns from federal MA moneys received as the result of intergovernmental transfers and not budgeted as revenue under 2003 Wisconsin Act 33. See also *Acts 33* and *318*.

Act 318 (SB-567) authorizes DHFS to adjust payments to county departments and local health departments beginning January 1, 2003, for services provided to recipients of MA from moneys for the Community Aids Program, and to decrease each county's Community Aids allocation by the amount of any adjustment made to the county under MA. The act also eliminates MA payments (but provides Community Aids payments for fiscal year 2004-05) to counties and local health departments to compensate them for the loss of their authority to claim federal MA matching funds to cover unreimbursed costs for providing MA services and restores this authority as of January 1, 2006. The act is void if the federal Centers for Medicare and Medicaid Services disapproves or, by July 1, 2005, fails to approve an amendment to the state MA plan to implement the act. See also *Acts 33* and *100*.

MENTAL HEALTH

Act 33 (SB-44) makes the following changes to the mental health laws:

1. Eliminates long-term care services at Northern Center for the Developmentally Disabled and directs DHFS to sell surplus land at the Center.

2. Prohibits, beginning January 1, 2005, placement or admission of a person with developmental disabilities in an intermediate care facility for the mentally retarded unless a court finds that placement under a plan for home or community-based care is not the most integrated setting appropriate for the individual's needs. The act also limits placement in or admission to a nursing home of persons who require active treatment for developmental disabilities and requires courts to notify appropriate county departments to develop home or community care plans for persons who may be protectively placed.

3. Eliminates the 50-person limitation for the provision of intensive treatment services at the state centers for the developmentally disabled, establishes conditions for placement at a center for intensive treatment services, authorizes DHFS to assess counties a surcharge for individuals who remain at the centers beyond an

agreed-upon discharge date, and authorizes placement of persons under age 22 for intensive treatment at any center, rather than only the Central Center for the Developmentally Disabled.

4. Authorizes DHFS to contract with counties to establish up to six demonstration projects to provide mental health and substance abuse services under managed care programs.

5. Authorizes a county that provides service coordination for a child with a severe emotional disorder to qualify for inpatient and community mental health care and treatment funding and removes the limitation on the amount of these funds that DHFS may distribute to an individual county.

Act 187 (SB-441) changes the definition of a sexually violent person in part to mean a person who is more likely than not to commit an act of sexual violence. The act also changes the standard for supervised release or discharge. Under former law, to oppose the release or discharge of a sexually violent person, the state had to prove it was substantially probable that the person would engage in acts of sexual violence if not in institutional care. Under this act, the state either has to prove it is more likely than not that the person will engage in acts of sexual violence if not in institutional care or has to prove the person has not shown significant progress in treatment or has refused treatment.

PUBLIC ASSISTANCE

Act 33 (SB-44) makes the following changes in the laws relating to public assistance:

1. Requires Wisconsin Works (W-2) agencies to assess the educational needs of every person who applies for a W-2 employment position and to include education or training activities in any person's employability plan if it would benefit him or her and if he or she is eligible for a trial job, community service job, or transitional placement. Under former law, an assessment was conducted only upon determining that the most appropriate placement for the person was in unsubsidized employment or a trial job.

2. Requires DWD to continue the creation and implementation of a subsidized work program under W-2.

3. Allows DWD to collect, as a setoff of an income tax refund, delinquent repayments of job access loans made to a person under W-2.

4. Requires a person applying for benefits under the Disease Aids Program (Disease Aids), which provides financial assistance for medical treatment for chronic kidney disease, cystic fibrosis, and hemophilia, to ap-

ply first for coverage under other DHFS-approved health care coverage programs. See also *Act 198*.

5. Requires a person who is eligible for Disease Aids and whose family income is at least 200 percent of the poverty line to pay a specified percentage of his or her income for the cost of medical treatment before any of the cost is paid under the program.

6. Requires a person receiving benefits under Disease Aids to pay a copayment for each drug prescribed for treatment covered under the program if the pharmacy directly bills DHFS.

Act 173 (SB-284) requires DWD to establish a grievance procedure for resolving a complaint about a person whose occupation of a W-2 employment position effectively terminates or reduces the hours of a regular employee or fills the position of an employee who is laid off, on strike, or in a labor dispute.

Act 198 (SB-435) allows DHFS to waive, for religious reasons, the requirement that a person applying for benefits for hemophilia treatment under Disease Aids must first apply for coverage under other health care coverage programs.

PUBLIC HEALTH

Act 33 (SB-44) transfers the milk certification program from DHFS to DATCP and authorizes funding for rural dental health clinics in the cities of Ladysmith, Menomonie, and Appleton.

Act 186 (SB-120) creates a Public Health Council in DHFS to advise on DHFS's progress in implementing a ten-year public health plan and coordinating responses to public health emergencies. The act also requires the state to reimburse local health departments for costs incurred in quarantining persons outside their homes during public health emergency. See also *Veterans and Military Affairs*.

OTHER HEALTH AND SOCIAL SERVICES

Act 33 (SB-44) directs DHFS to expend certain federal funds received as a result of income augmentation activities to comply with the federal Health Insurance Portability and Accountability Act; reduce benefit payment errors under the Food Stamp Program; fund county human services activities; and provide child welfare services in Milwaukee County.

Act 33 also makes the following changes to the state Health Insurance Risk-Sharing Plan (HIRSP), which generally provides health care coverage for persons who have been refused private health insurance coverage

and persons who are covered under Medicare because they are disabled:

1. Eliminates general purpose revenue funding for the program, leaving only premiums paid by covered persons, insurer assessments, and provider rate discounts to cover the costs of HIRSP.

2. Authorizes DHFS to provide subsidies to covered persons with household incomes below \$25,000 for prescription drug copayments.

3. Eliminates the requirement that the HIRSP administrator must be the fiscal agent that administers MA and authorizes DHFS to select the HIRSP administrator in a competitive bidding process.

Act 300 (SB-399) creates a certificate of birth resulting in stillbirth, similar to a birth certificate, which is prepared and filed with the state registrar at the option of the parent of a stillborn child.

Insurance

Act 44 (SB-116) specifies the conditions under which payments made directly to an insured or other creditor by a reinsurer of an insurer in liquidation reduce the amount that the liquidator may recover from the reinsurer.

Act 60 (AB-329) changes, from at least monthly to at least once every three months, the frequency with which local lodges of a fraternal benefit society must hold meetings. Under current law, meeting frequency is one criterion for determining the existence of a true lodge system, which makes a corporation subject to the insurance regulations that apply to fraternal.

Act 78 (SB-176) authorizes municipal insurance mutuals to provide property insurance for their members. Under prior law, municipal insurance mutuals could provide only worker's compensation insurance, liability insurance, and risk management services.

Act 101 (SB-204) authorizes one cooperative to be organized in each of five geographic areas of Wisconsin to purchase health care insurance for the members of the cooperative as a single pool. The term of the contract between each cooperative and its health insurer must be three years, and each cooperative must report to the legislature annually on its progress and, after the end of the project, on its effect on the number of uninsured in the geographic area, its effect on health care insurance premiums in the geographic area, and the degree to which health care consumers were involved

in the development and implementation of the health benefit purchasing arrangement.

Act 111 (AB-487) changes the name of the patients compensation fund, which pays damages that exceed the limits of the medical malpractice insurance carried by certain health care providers, to the injured patients and families compensation fund and provides that the fund may be used only to benefit participating health care providers and proper claimants.

Act 167 (AB-326) requires DHFS to prescribe an affidavit that may be used, instead of a certified copy of a death certificate, for releasing trust funds to pay for funeral or burial merchandise or services or for establishing proof of death for life insurance policies, the proceeds of which are used to pay for the merchandise or services.

Act 178 (SB-71) requires the amount that a group health insurance policy must cover for the treatment of nervous and mental disorders or alcoholism or other drug abuse problems to apply to the amount paid by the insurer rather than to the amount charged by the provider. The act also prohibits any amount paid by the insurer for prescription drugs or diagnostic testing from being included in the treatment coverage amount.

Act 261 (SB-320) makes various changes in the laws related to insurance. The act:

1. Prohibits an insurance agent from recommending to a person who is 65 years old or older the purchase or exchange of an annuity unless certain criteria are fulfilled and requires insurers to supervise annuity transaction recommendations.

2. Changes the interest rate used to calculate the minimum nonforfeiture amount under an annuity contract from three percent to an indexed rate.

3. Makes the law governing the insurance security fund, out of which claims on behalf of insolvent insurers are paid, more uniform with the insurance guaranty fund laws of other states.

4. Authorizes the corporation that survives a merger of a town mutual with a domestic mutual to be a domestic mutual or, if the merging domestic mutual is assessable, a town mutual. Under former law, the surviving corporation had to be a domestic mutual.

5. Prohibits more than one director of a town mutual from being an employee or representative of the town mutual if the town mutual has fewer than nine directors.

6. Limits the amount that an insurance corporation may invest in a subsidiary.

Act 302 (SB-446) requires any person who sells a vehicle protection product that includes a warranty to reg-

ister with the Office of the Commissioner of Insurance, to demonstrate financial responsibility through net worth or an insurance policy that meets several conditions, to provide specific disclosures, and to maintain accurate records of transactions.

Local Law

Act 31 (AB-378) modifies public utility aid payments so that, for production plants that begin operation after December 31, 2003, counties and municipalities receive public utility aid payments based on the megawatt capacity of the production plants located in the county or municipality, rather than on the production plant's net book value, as determined by the PSC.

Act 32 (AB-18) permits the Milwaukee County Board of Supervisors to reduce its size once before November 15, 2010.

Act 33 (SB-44) makes the following changes related to local law:

1. Increases the per capita reduction to 2004 municipal aid payments. See also *Act 164*.

2. Modifies the eligibility requirements for payments in 2003 under the small municipalities shared revenue program so that if the full value of property in a municipality is less than \$10,000,000, the municipality is eligible for a payment if the municipality's property tax rate is at least 0.85 mill, rather than one mill, per dollar of full value.

3. Eliminates incentive payments to counties and municipalities that consolidate services with another county or municipality.

Act 34 (SB-188) extends the expenditure period and the life of certain tax incremental districts (TIDs) created by Kenosha.

Act 46 (SB-167) extends the expenditure period and the life of a TID created by Sheboygan.

Act 79 (AB-141) expands the eligibility of an employee of a city, village, town, or county to be a candidate for elective public office.

Act 89 (SB-300) modifies public utility aid payments based on megawatt capacity so that if a production plant is located in more than one municipality or county, the payment amount is divided among the municipalities or counties based on the net book value of that portion of the plant located in each municipality or county. See also *Act 33*.

Act 93 (AB-130) creates a new method for a town to consolidate with a contiguous city or village that does not require circuit court and DOA review, and specifies that a town consolidation under former law requires such review only if a town proposes to consolidate with a city or village.

Act 126 (SB-305) makes changes to the tax incremental financing (TIF) law, including the following (see also *Acts 127* and *194*):

1. Requires a city or village to provide DOR with a final accounting of a TID's expenditures, costs, and tax increments received.

2. Authorizes a city or village to create a "mixed-use development" TID that contains industrial, commercial, and residential uses.

3. Allows a TID to make expenditures for project costs for up to five years before the TID must terminate.

4. Extends or reduces the maximum life and tax increment allocation period of some TIDs.

5. Increases the number of times a TID's project plan may be amended.

6. Requires a city or village to pay a negotiated amount to a town if the city or village annexes territory from a town that is using an environmental remediation TID to remediate pollution on all or part of the annexed territory.

Act 127 (SB-306) authorizes DOR to impose a fee to determine or redetermine the tax incremental base of a TID and requires DOR to prepare a TIF manual. See also *Acts 126* and *194*.

Act 134 (SB-375) requires that a fee imposed by a city, village, town, or county must bear a reasonable relationship to the service for which it is imposed.

Act 157 (AB-417) reduces from 10 percent to not more than 5 percent the amount that the state or local governmental unit may retain on public construction contracts.

Act 164 (AB-924) increases municipal aid payments in 2004 to any municipality that received a public utility aid payment in 2001 that was less than 25 percent of the municipality's total shared revenue payments in 2001, if the municipality's public utility aid payment in 2004 is more than 75 percent of the municipality's total municipal aid and public utility aid payments in 2004. See also *Act 33*.

Act 171 (SB-323) changes the procedures for the incorporation of cities and villages, subjects certain annexation procedures to incorporation petitions, and creates an Incorporation Review Board to review the petitions.

Act 191 (AB-556) prohibits any city, village, town, or county, and the Board of Regents of the UW System, from prohibiting the resale of tickets to entertainment or sporting events for an amount that is equal to or less than face value.

Act 193 (AB-715) allows a county with a population of 500,000 or more (currently only Milwaukee County) to prohibit by ordinance the possession, manufacture, or delivery of most drug paraphernalia by persons 17 years of age and older. Act 193 also provides that a county ordinance prohibiting the possession of marijuana applies in all municipalities located within that county.

Act 194 (SB-428) extends the maximum life and tax increment allocation period of certain TIDs. See also *Acts 126 and 127*.

Act 204 (AB-263) changes the bonding requirements for city, village, and county officers by authorizing 2nd, 3rd, and 4th class cities, and villages and counties, to provide a schedule or blanket bond for the officers.

Act 205 (AB-471) changes the procedure that towns and certain cities and villages must follow to be reimbursed for fire calls on highways.

Act 231 (AB-437) grants towns the authority to create TIF districts for projects limited to tourism, agriculture, manufacturing, or forestry.

Act 233 (AB-608) changes the comprehensive planning statute known as Smart Growth by reducing the number of land use programs or actions with which a political subdivision's comprehensive plan must be consistent.

Act 307 (AB-728) changes Smart Growth's procedures and notification requirements relating to property owners and to certain persons who have a leasehold or other interest in nonmetallic mineral resources.

Act 317 (SB-87) limits the authority of a city or village to annex town territory across county borders and limits city or village annexation authority unless the city or village makes certain payments to the town from which the territory is annexed or unless the city or village, and the town enter into a boundary agreement.

MAJOR PROPOSALS THAT FAILED ENACTMENT OR ADOPTION

Assembly Bill 466 would have created levy limits that applied to cities, villages, towns, and counties. See also *Education — Technical College System*.

Natural Resources

CONSERVATION AND FORESTRY

Act 33 (SB-44) repeals the authorization of the Joint Committee on Finance to review acquisitions or projects under the Warren Knowles-Gaylord Nelson Stewardship 2000 Program that cost more than \$250,000.

Act 57 (AB-9) provides that if DNR establishes a program for the suppression of gypsy moths that includes the awarding of federal cost-sharing funds for aerial insecticide treatment, DNR must promulgate certain rules to implement the program.

Act 66 (AB-12) requires every person hired as a field forester by DNR to satisfy education requirements and requires that any tree marked for cutting in a state forest be marked by a DNR-employed or approved forester.

Act 228 (AB-323) makes various changes to the Managed Forest Land Program, administered by DNR, under which an owner of land designated by DNR as managed forest land (MFL) makes an annual acreage share payment that is lower than the property taxes that normally would be paid, in exchange for observing certain forestry practices and keeping part of the land open to the public for recreational activities. These changes include increasing certain MFL fees; increasing acreage payments and closed acreage fees; allowing city land in the MFL Program; increasing the maximum acreage that may be designated as closed to public use with certain restrictions; establishing a noncompliance penalty; exempting new MFL owners from the first five years of an annual yield tax on merchantable timber; creating a fee for withdrawing land before an MFL order expires; distributing 80 percent of collected yield and withdrawal taxes to the MFL's town, village, or city and 20 percent of these taxes to the MFL's county; and allowing an MFL owner to change designation of closed and open areas two times during the term of the MFL order.

Act 242 (AB-13) authorizes DNR to sell timber from all land under its jurisdiction that is damaged by insects, disease, snow, hail, or ice without following certain advertising and sales procedures. Prior law limited this exemption to timber in state parks and state forests that was damaged by fire. The act also creates a similar exemption for the sale of damaged timber by counties from county forests. Prior law regarding private or public sales of timber from county forests applied to both damaged and undamaged timber.

NAVIGABLE WATERS

Act 89 (SB-300) streamlines the permit procedure for placing certain utility structures in navigable waters. Under previous law, the utility was generally required to file a separate application for each permit. The new procedure requires the permit applicant to notify DNR of its intention to file an application for DNR permits at the same time that it applies to the PSC for a certificate of public convenience and necessity. The procedure requires DNR to confer with the applicant and, in cooperation with the PSC, to make certain assessments and analyses concerning the project. DNR must grant the application for the permits within a specified deadline if DNR finds, among other things, that the proposal complies with applicable environmental statutes. DNR and the PSC must also cooperate in proceedings relating to the utility facility's application for a certificate of public convenience and necessity. See also *Public Utilities*.

Act 118 (AB-655) makes the following changes to the laws under which DNR regulates navigable waters such as the placement of piers and bridges and the removal of material from river and lake beds. The act:

1. Requires DNR to issue statewide general permits as legislative rules for certain structures and activities that required individual permits under prior law. An individual permit is one that authorizes one specific structure or activity and every application for such a permit is subject to the public notice and hearing requirements described below. A general permit is one that applies to a class of structures or activities but a person seeking to act under a general permit must notify DNR. The general permitting process is exempt from the notice and hearing requirements.

2. Restricts the types of conditions that DNR may impose on general permits to construction and design requirements, location requirements to ensure that navigation is not interfered with and riparian rights of adjacent riparian owners are not adversely affected, and restrictions to protect areas that have special natural resource interest. Under prior law, DNR could impose conditions that were reasonably necessary to prevent pollution or to protect public or riparian rights in navigable waters.

3. Exempts certain structures and activities from the permitting process.

4. Allows persons to seek a determination from DNR as to whether a proposed structure or activity is exempt. If DNR does not act within 15 days of the request for the determination, the structure or activity is generally exempt from the permitting process.

5. Allows DNR to require compliance with individual or general permitting requirements for a structure or activity that would otherwise be exempt if the structure or activity will cause pollution, will adversely impact public rights and interests, or will cause material injury to riparian rights.

6. Gives DNR specific inspection authority for exemption determinations and approvals to proceed under general permits.

7. Requires DNR to issue a statewide general permit for the grading and removal of topsoil from areas of less than 10,000 square feet from a bank of a navigable water. Under prior law, an individual permit was required.

8. Expands the types of structures and activities in navigable waters that the legislature may directly authorize. If not directly authorized by the legislature, a person must comply with the DNR permitting process.

9. Revises the application, public notice, and hearing procedures for obtaining an individual permit from DNR and the procedure for obtaining administrative review of permit decisions issued by DNR.

10. Expands the exemption for placement of boat-houses to include certain boathouses that are used exclusively for commercial purposes.

Act 275 (SB-440) requires the district board of commissioners of a public inland lake protection and rehabilitation district (district) to schedule the annual meeting and prepare an annual budget; requires the secretary of the district to send notices required for any district meeting; prohibits the use of absentee ballots or proxies at any meeting; specifies what must be included in the notice of the annual meeting; allows the members of the district to vote on amendments to the budget before voting on the budget; and limits the special charges that may be imposed in the annual budget to \$2.50 per \$1,000 of assessed valuation. The act allows DNR to award contracts for the creation of a statewide lake monitoring network.

PARKS AND RECREATION

Act 166 (AB-630) Requires any person operating a snowmobile on or adjacent to any roadway to observe the applicable roadway speed limit. Under prior law, this requirement applied only to persons who were using snowmobiles to get to or from their residences or lodging. The act also exempts snowmobile operators involved in accidents at club or government-sponsored snowmobile races or derbies from the duty to render aid and to report the accident and expands the prohibition against tampering with odometers and hour meters

to include snowmobiles, all-terrain vehicles (ATVs), and boats.

Act 248 (AB-530) prohibits DNR from prohibiting ATVs from crossing a wild river on an ATV trail or snowmobiles from crossing a wild river on a snowmobile trail if that trail is constructed along the Nicolet State Trail over the Pine River and the Popple River or along CTH "N" where the trail crosses the Pine River in Florence County.

Act 251 (SB-277) increases the registration fees for ATVs; requires, and establishes a fee for, a trail pass for use of most ATVs that are exempt from state registration; requires a person who is at least 12 years old and who is born on or after January 1, 1988, to have a valid safety certificate issued by DNR, a state, or a Canadian province to operate an ATV; increases the penalties imposed on a person operating an ATV while under the influence of an intoxicant or controlled substance if the person's alcohol level is above a given level; prohibits the manufacturing, sale, rental, or operation of an ATV if the noise from the vehicle exceeds a certain decibel level; and increases funding for ATV trails, safety education, and law enforcement.

Act 253 (SB-434) requires a person under 16 years old taking the snowmobile safety course administered by DNR to receive six hours of classroom instruction and allows the instructor to provide up to two additional hours of hands-on instruction on a snowmobile. Anyone who is born on or after January 1, 1985, must receive this snowmobile safety instruction and be issued a snowmobile safety certificate by DNR.

WILD ANIMALS AND PLANTS

Act 33 (SB-44) increases fees for hunting and fishing licenses and stamps and reduces the fee for conservation patron licenses and sports licenses issued to persons who are least 12 years old but less than 18 years old.

Act 59 (AB-106) allows a person who is issued a Class A bear hunting license to transfer that license to a person who is 12 to 17 years old. A Class A license is issued under a system where higher priority is given to license applicants who have unsuccessfully applied for the license in previous years.

Act 67 (AB-27) eliminates a requirement that a person must agree to allow other persons to hunt wild turkey on his or her land to receive first preference, under DNR's preference system, in obtaining a wild turkey hunting license.

Act 75 (SB-122) expands the exceptions that apply to the general prohibitions against using a light to shine wild animals while hunting and authorizes a visually

handicapped person to use a laser sighting device while hunting with a firearm, bow and arrow, or crossbow.

Act 179 (SB-503) authorizes the holder of a wild animal rehabilitation license (licensee) to keep certain white-tailed deer in Walworth County instead of releasing them into the wild as required under the license and exempts the licensee from the registration requirements for farm-raised deer that are imposed by DATCP. The act imposes fencing, tagging, and disease-reporting requirements on the licensee. If any of the deer dies, the licensee must have the carcass tested for CWD, and if the test is positive, the licensee must have all of the deer destroyed.

Act 239 (AB-197) adds foxes, coyotes, and bobcats to the list of live captive animals that a person with a hound dog training license may use to train hound dogs to track game.

Act 240 (AB-519) regulates the feeding of deer by:

1. Prohibiting the feeding of deer in a county if any of the county is a chronic wasting disease control zone, if a positive test for chronic wasting disease or bovine tuberculosis has been confirmed after December 31, 1997, in the county, or if a portion of the county is within a ten-mile radius of a location of an animal that was positive for chronic wasting disease or bovine tuberculosis.

2. Allowing a person to feed deer for viewing purposes in other counties if the feeding site is within 50 yards of the person's home or public business, is not closer than 100 yards to a roadway with a speed limit of 45 miles per hour or more, contains no more than two gallons of material, and if the feeding material does not contain animal parts or by-products.

3. Allowing a person to feed deer for hunting during any deer hunting season in counties other than those under Item 1. if no more than two gallons of material are at a site, sites are at least 100 yards apart, no more than two gallons of material are placed in any area comprising 40 acres or less, and the feeding material does not contain animal parts or by-products.

Act 244 (AB-200) prevents DNR from prohibiting a person from sighting a firearm on land owned or leased by that person or a member of that person's immediate family during the 24-hour period before the opening of the season for hunting deer with guns.

Act 247 (AB-424) prohibits a person from possessing deer or elk antlers in the velvet or a deer or elk skin in the spotted coat without DNR authorization.

Act 249 (AB-623) requires DNR to authorize and regulate fishing tournaments. The act also establishes a Bass

Fishing Tournament Pilot Program under which DNR must issue a specified number of permits per year authorizing participants to fish for bass and, under certain circumstances, to cull bass and to take bass in excess of the daily bag limit.

Act 274 (SB-391) corrects a paradox in prior law that allowed anyone 14 or 15 years old to be issued a sturgeon spearing license without having another fish license and requiring persons who are 16 years old or more to have a sports license (a license that authorizes small game and deer hunting and regular fishing). The act allows anyone who is at least 14 years old to be issued a spearing license regardless of whether he or she has any other type of fishing license. Persons under 14 years old remain ineligible for the license.

Act 313 (SB-407) removes the prohibition against DNR's issuing a license for the hunting of deer with firearms during the open deer hunting season.

Occupational Regulation

Act 103 (AB-165) generally requires veterinarians to complete 30 hours and veterinary technicians to complete 15 hours of continuing education in veterinary medicine every two years. Former law required the Veterinary Examining Board to promulgate rules on continuing education, but did not specify the number of hours, and limited continuing education to the use and disposal of pesticides.

Act 150 (AB-403) adopts the Uniform Athlete Agents Act, which requires agents for student athletes to register with DRL and regulates contracts and other aspects of the relationship between agents and student athletes. The act also allows a civil action against an agent who damages the educational institution when violating the act.

Act 151 (SB-103) requires DRL to promulgate rules that DRL must generally follow when investigating whether an applicant for a credential has a relevant arrest or conviction record.

Act 154 (SB-470) allows a physical therapist assistant to assist a physical therapist only under the physical therapist's supervision.

Act 168 (SB-369) allows DRL, in consultation with the Real Estate Board, to enter into reciprocal real estate agent licensing agreements with other states.

Act 181 (SB-426) allows a person who has completed two years of education at an accredited school of phar-

macy to administer a vaccine to an adult or instruct a person how to self-administer a drug, under the supervision of a licensed pharmacist.

Act 270 (AB-841) allows the Hearing and Speech Examining Board to discipline speech-language pathologists and audiologists for unprofessional conduct; allows a person to qualify for a speech-language pathologist license if he or she has completed training that is substantially equivalent to a clinical fellowship; exempts from licensure by the board persons licensed as audiologists by DPI; and exempts licensees from continuing education requirements during the two-year period after initial issuance of the license.

Act 285 (AB-426) exempts amateur boxing contests from DRL regulation and allows a person to conduct an amateur boxing contest if the contest is sanctioned by the national governing body for amateur boxing.

Act 301 (SB-401) allows an applicant for a clinical social worker license to complete certain education and training during post-graduate studies instead of during a graduate degree program and allows an applicant to substitute work experience for the training requirement.

MAJOR PROPOSALS THAT FAILED ENACTMENT OR ADOPTION

Assembly Bill 67 would have prohibited the Board of Nursing, the Medical Examining Board, and the Pharmacy Examining Board from disciplining health care practitioners for refusing to participate in certain acts, such as sterilizations; abortions; certain procedures involving in vitro human embryos or fetal tissue; withholding or withdrawing nutrition or hydration or euthanasia. The bill also would have created immunity from civil liability for damages caused by such refusals. See also *Discrimination*.

Assembly Bill 559 would have created requirements for the cremation and disposal of human remains.

Public Utilities

Act 36 (AB-288) prohibits a public utility from denying service to an individual because he or she has been a victim of identity theft. See also *Crime and Criminal Procedure – Crime and Transportation – Driving Privileges*.

Act 40 (SB-194) allows the American Transmission Company (a company that operates the electric transmission system in the eastern half of the state) to withdraw as a member of a regional group that operates the transmission system in the midwestern United States if the PSC determines that the withdrawal is in the public interest.

Act 48 (AB-61) requires the PSC to reimburse wireless telecommunications providers and local governments for certain costs related to providing wireless 911 telephone service. The reimbursements, which are funded by a surcharge paid by wireless customers, are limited to reimbursing wireless providers for costs incurred in complying with Federal Communications Commission orders that require wireless providers to identify the location of callers who make wireless 911 calls. Only one wireless 911 emergency system in each county may be reimbursed.

Act 89 (SB-300) changes the requirements for approving proposals for electric transmission lines, electric generating facilities, and natural gas pipelines by, among other things, creating procedures for the PSC and DNR to coordinate review of such proposals; simplifying the procedure for the PSC to review proposed electric transmission lines that use existing transmission corridors; requiring the PSC, DNR, and DOT to rank the types of transmission corridors that may be used for siting new electric transmission lines; requiring the PSC to consider whether a proposal will use abandoned, idle, or underused commercial or industrial sites; and allowing local governments that receive distributions funded by environmental impact fees for new electric transmission lines to use the distributions for any purpose approved by the PSC. See also *Local Law and Natural Resource — Navigable Waters*.

Act 125 (AB-729) allows telecommunications providers to petition the PSC to determine costs of unbundled network or service elements, which are the portions of a telecommunications provider's system that other telecommunications providers may use to provide service.

Act 152 (AB-843) allows natural gas and electric utilities to finance pollution control costs for existing facilities by issuing bonds that will be repaid from customers' utility fees. The utility may assign the right to collect the fees to a third party, which would repay the bonds so that the debt associated with bonds is not the debt of the utility. The act protects the third party's interest in the fees if the utility becomes bankrupt or insolvent.

Act 278 (SB-272) generally restricts a municipality that offers cable television, telecommunications, or broadband Internet service from offering the service unless it performs a cost-benefit analysis and holds a public hearing on the ordinance or resolution authorizing the ser-

vice. These requirements do not apply to certain municipalities that the PSC previously has certified as alternative telecommunications utilities. Such municipalities may offer the service if the voters of the municipality approve an advisory referendum that supports the service. In addition, the requirements do not apply to a municipality that was providing cable television service on March 1, 2004. Also, the requirements do not apply to the following: 1) broadband Internet service offered in an area if the municipality determines that the area has no current or planned broadband Internet service available; and 2) wholesale broadband Internet service if the municipality does not compete with more than one other provider of such service. Finally, the act generally prohibits municipalities that provide cable television service from requiring nonsubscribers to pay for the service, and the act generally requires municipal telecommunications utilities to set rates based on certain costs that apply to private sector telecommunications utilities.

MAJOR PROPOSALS THAT FAILED ENACTMENT OR ADOPTION

Senate Bill 8 would have created an exception to the open records law to allow security system plans of public utilities to be withheld from public inspection.

Senate Bill 302 would have exempted broadband Internet service from PSC and local government regulation.

Assembly Bill 529 would have created remedies for persons damaged by electric current caused by electric utilities and cooperatives.

Assembly Bill 555 would have subjected nuclear power plants to the same requirements for PSC approval that apply to other types of power plants.

Assembly Bill 958 would have prohibited former PSC commissioners from utility-related employment for a period of time after they served as commissioners.

Real Estate

Act 161 (AB-354) prohibits a condominium association from forbidding condominium owners to display the United States flag.

Act 283 (AB-254) requires the highlighting of important disclosure items by the seller of a condominium;

the establishment of a statutory reserve account to fund repair of common elements in most residential condominiums; and compliance by unit owners and renters with applicable condominium statutes, declarations, bylaws, and association rules. The act also allows a lien to be placed on a condominium unit for failure to pay noncompliance fees or assessments for common expenses.

Act 286 (AB-433) permits a county to vacate land platted as public park or playground if the land has never been used as such.

State Government

CLAIMS AGAINST THE STATE

Act 232 (AB-485) pays a claim against the state by Mullins Cheese, Inc.

STATE BUILDING PROGRAM

Act 33 (SB-44) and **Act 269** (SB-474) authorize \$709,542,800 in new or expanded state building projects, excluding highway projects, and authorize \$537,079,300 in new general obligation bonding authority for the state building program and capital equipment for buildings.

Act 157 (AB-417) decreases the amount withheld from payment on state construction projects until 50 percent of the work is completed to not more than 5 percent of the value of the work performed.

STATE FINANCE

Act 1 (January 2003 Special Session SB-1) makes various appropriation reductions, lapses to the general fund, and increases funding for certain purposes.

Act 33 (SB-44) authorizes the Building Commission to contract up to \$1,350,000,000 in certain obligations to pay the state's unfunded liability under the WRS and the accumulated unused sick leave credit program for state employees.

Act 84 (AB-611) increases the amount of obligations that may be contracted to pay the state's unfunded liability under the WRS and the accumulated unused sick leave credit program for state employees from \$1,350,000,000 to \$1,500,000,000.

Act 129 (AB-909) authorizes the Building Commission to contract an additional \$175,000,000 in public debt to refund other public debt that was used to finance tax-supported or self-amortizing facilities. The act also transfers \$123,500,000 from the general fund to the Medical Assistance trust fund if the Building Commission contracts the additional debt before June 30, 2004.

Act 299 (SB-380) authorizes the Investment Board to contract with outside investment advisors to invest assets managed by the Investment Board in any debt. Under former law, the Investment Board could enter into such contracts to invest in debt of foreign corporations and governments.

OTHER STATE GOVERNMENT

Act 2 (SB-1) permits the appointment of a former legislator as a commissioner on uniform state laws if no members of the appointing caucus are attorneys.

Act 33 (SB-44) abolishes the Department of Electronic Government and transfers its functions to DOA.

Act 39 (AB-1) prohibits official action or withholding action, or offering to act or withhold action, by state and local officials and candidates for state and local office in return for providing or withholding political contributions, services, or other things of value.

Act 56 (AB-31) designates Fire Prevention Week and Wisconsin Firefighters Memorial Day.

Act 137 (AB-345) directs the governor annually to proclaim the first full weekend in March as Aldo Leopold Weekend.

Act 147 (AB-771) directs the governor annually to proclaim February as African American History and Cultural Heritage Month.

Act 172 (SB-291) eliminates the requirement that the Joint Legislative Council staff director attend certain meetings of the National Conference of Commissioners on Uniform State Laws.

Act 174 (AB-679) designates the cranberry as the Wisconsin state fruit.

Act 311 (SB-155) requires state employees to use certain hybrid-electric vehicles or vehicles that operate on gasohol or alternative fuel for the operation of all state-owned or state-leased vehicles whenever feasible.

Taxation

Act 33 (SB-44) makes the following changes in the laws related to taxation:

1. Prohibits the state from entering into a contract to purchase tangible personal property or services with a person whose sales of such property or services are subject to state sales and use taxes, but who either is not registered with DOR to collect and remit such taxes or, if registered, does not collect and remit such taxes.

2. Generally adopts, for income and franchise tax purposes the provisions of the Internal Revenue Code in effect on December 31, 2002.

3. Imposes a fee on each municipality in which manufacturing property is located to pay for 50 percent of the costs to DOR in each fiscal year to assess the manufacturing property. See also *Act 170*.

4. Modifies the certification of the lottery and gaming property tax credit so that, rather than being valid for five years, a claim for the credit is valid for as long as the property is eligible. The act also eliminates reimbursing the local governments for certifying claims for the credit.

5. Provides that productive forest land that is contiguous with parcels of agricultural land is assessed at 50 percent of its full value, if the same person owns the productive forest land and the agricultural land.

6. Provides that undeveloped land, which under former law was classified as swamp or waste, is assessed at 50 percent of its full value.

7. Authorizes a county to sell any revenue from a tax certificate issued on tax delinquent real property.

Act 37 (SB-197) requires a corporation that does business both inside and outside Wisconsin to apportion its income, for income tax and franchise tax purposes, using an apportionment fraction composed of a single sales factor, rather than an apportionment fraction composed of a sales factor representing 50 percent of the fraction and a property factor and payroll factor each representing 25 percent of the fraction.

Act 72 (AB-520) modifies the technology zone tax credit so that, instead of claiming a portion of the property taxes, income and franchise taxes, and sales and use taxes paid by the taxpayer, a taxpayer may claim 10 percent of the taxpayer's capital investments in a technology zone and 15 percent of the first 12 months of wages for each job the taxpayer creates in a technology zone.

Act 85 (AB-98) creates an individual and corporate income tax exemption for interest on bonds or notes issued by WHEDA for multifamily or elderly housing projects.

Act 94 (AB-251) authorizes the taxation district treasurer or county treasurer to designate public depositories to which taxpayers may pay property taxes.

Act 95 (AB-48) requires that property tax bills be mailed to taxpayers no later than the 3rd Monday in December.

Act 99 (AB-507) replaces the income and franchise tax credit for sales and use taxes paid on fuel and electricity consumed in manufacturing with a sales and use tax credit.

Act 119 (AB-477) creates an individual income tax subtract modification for certain expenses incurred by an individual who donates or whose dependent donates a human organ.

Act 123 (AB-54) allows a county to sell tax delinquent real property, on a second attempt, for less than the property's appraised value or less than the highest bid, if the county board approves such a sale.

Act 128 (SB-6) creates a sales and use tax exemption for the sale of live game birds and clay pigeons to licensed bird hunting preserves.

Act 135 (AB-283) provides an income and franchise tax credit for expenses related to a dairy farm.

Act 170 (AB-900) authorizes DOR to deduct from a municipality's July shared revenue and municipal aid payments the amount of any unpaid fee imposed on the municipality for assessing manufacturing property. See also *Act 33*.

Act 176 (AB-351) creates an individual income tax checkoff for a breast cancer research program. See also *Health and Social Services — Health*.

Act 177 (AB-613) allows a county or municipality to certify any debt that is at least \$20, other than property tax-related debt, to DOR so that DOR may collect the debt by subtracting it from the debtor's tax refund.

Act 183 (AB-155) creates an individual income tax exemption for military pay received by a member of a reserve component of the U.S. armed forces who is called into active federal service or special state service. An individual who claims this exemption may not claim the armed forces member tax credit.

Act 195 (SB-512) provides that property that is exempt from the property tax and leased as residential housing is still tax-exempt if it is leased to someone who would not qualify for a property tax exemption if he or she owned the property.

Act 203 (AB-488) requires DOR to inform each local exposition district of the local exposition district taxes that each taxpayer in the district reports.

Act 230 (AB-650) defines agricultural forest land, for property tax purposes, to include not only productive forest land that is contiguous with agricultural land, but also productive forest land that is located on a parcel that contains land that is classified as agricultural land in the property tax assessment on January 1, 2004, and productive forest land that is located on a parcel at least 50 percent of which, by acreage, was converted to land that is classified as agricultural land in the property tax assessment on January 1, 2005, or thereafter. See also *Act 33*.

Act 255 (SB-261) creates income and franchise tax credits for investments in businesses that have their headquarters and the majority of their employees in Wisconsin, that have been operating for fewer than seven years, and that are engaged in manufacturing, agriculture, or processing products or developing new products or processes. See also *Business and Consumer Law – Economic Development and Investment*.

Act 258 (AB-793) provides that the estate tax is not imposed on the transfer of a nonresident decedent's intangible personal property, if the state in which the property is located does not impose a tax either on the transfer of a nonresident decedent's intangible personal property or on the transfer of any decedent's intangible personal property.

Act 267 (AB-508) modifies the income and franchise tax credit for sales and use taxes paid for fuel and electricity used in manufacturing so that a taxpayer may claim the unused credits for 20 years rather than 15 years. See also *Act 99*.

Act 288 (AB-195) provides that a lien on property, related to unpaid income or franchise taxes, remains in effect for 20 years, subject to renewal by DOR, or until the owner of the property pays the unpaid tax, whichever comes first.

Act 289 (AB-209) creates an individual income tax deduction for certain amounts that a great-grandparent, aunt, or uncle contributes to a college savings account or a college tuition and expenses program.

Act 291 (AB-628) creates a property tax exemption for an outdoor performing arts theater owned and operated by a nonprofit organization, if the theater has a total seating capacity of at least 400 persons and if the Internal Revenue Service confirms the organization's federal income tax-exempt status no later than July 31, 1969.

MAJOR PROPOSALS THAT FAILED ENACTMENT OR ADOPTION

Assembly Bill 547 and *Senate Bill 267* would have changed state and local sales and use taxes to conform to the multistate streamlined sales and use tax agreement.

Transportation

DRIVING PRIVILEGES

Act 33 (SB-44) implements parts of the federal USA Patriot Act of 2001 by imposing certain requirements on DOT's issuance of commercial driver license (CDL) "H" endorsements, which authorize the operation of vehicles transporting hazardous materials for which federal law requires placarding or any quantity of a material listed as a select agent or toxin under federal law. Under the act, DOT may not issue or renew an "H" endorsement unless the applicant has submitted documentary proof of the applicant's U.S. citizenship or legal presence in the U.S. and the federal Transportation Security Administration (TSA) in the Department of Homeland Security has notified DOT that the applicant does not pose a security threat. An "H" endorsement is valid for four years, after which it may be renewed if the licensee passes a security threat screening by the TSA. DOT must obtain certain information on the application form for an "H" endorsement, including the applicant's criminal history, and forward it to the TSA. A licensee holding an "H" endorsement must notify DOT within 24 hours if he or she is convicted of certain criminal offenses.

Act 33 also changes the classified driver license system to incorporate the requirements of the Federal Motor Carrier Safety Improvement Act of 1999, including the following:

1. Prohibiting the issuance of an occupational or other special license authorizing the operation of a commercial motor vehicle (CMV).
2. Requiring DOT, before issuing or renewing a CDL, to obtain the driving record of the applicant from each state that has issued him or her any operator's license during the prior ten years, and to provide such information in response to another state's request.
3. Requiring DOT to notify within ten days the commercial driver license information system and a CMV operator's state of licensure, if other than Wisconsin, of

any disqualification of operating privileges for at least 60 days.

4. Creating two new major offenses and three new serious traffic violations related to disqualification of CDL privileges and requiring disqualification of CDL privileges for certain major disqualifying offenses and certain serious traffic violations.

5. Requiring DOT to maintain detailed records of actions taken against persons holding CDLs and persons operating CMVs without a CDL, and of convictions of such persons for offenses committed in both CMVs and non-CMVs.

Act 36 (AB-288) allows DOT to provide a copy of a photograph to any state or federal law enforcement agency if the agency requests a copy in writing and limits the agency's use of the photograph. See also *Crime and Criminal Procedure – Crime and Public Utilities*.

Act 200 (SB-105) allows the suspension of a person's driver's license for two years if he or she is convicted of making a bomb scare or carrying a firearm in a school zone.

Act 221 (SB-448) requires that, if DOT issues a Wisconsin driver's license to a person licensed in another state, DOT must destroy the out-of-state driver's license and report to the state that issued it that the person is now licensed in Wisconsin.

Act 280 (SB-350) requires DOT to conduct a background investigation, including a criminal history search, of each applicant for issuance or renewal of a school bus endorsement to a driver's license and to record the date on which DOT finished the investigation. DOT must also make a good-faith effort to obtain out-of-state criminal history information for an applicant who has not resided in Wisconsin within the past two years. The act expands the list of crimes that disqualify a person from obtaining or renewing a school bus endorsement, changes disqualification periods, and allows disqualification for adjudication of delinquency as well as conviction. The act also authorizes DOT to specify additional disqualifying crimes and offenses and the time period during which the disqualification applies. Under the act, DOT also may not issue or renew a school bus endorsement to someone who identifies himself or herself as a person listed on the abuse registry maintained by DHFS. Although a school bus endorsement continues to be renewed every eight years, DOT must conduct a criminal history search every four years and, if appropriate, cancel the endorsement. The act also requires similar criminal background checks of residents of Iowa, Illinois, Michigan, or Minnesota who are licensed to drive a school bus in those states if they drive a school bus in Wisconsin without DOT's issuing them

a school bus endorsement. See also *Education – Primary and Secondary Education*.

HIGHWAYS AND LOCAL ASSISTANCE

Act 33 (SB-44) allows DOT to use general obligation bonds to finance certain highway projects. Under former law, major highway projects, southeast Wisconsin freeway rehabilitation projects, and state highway rehabilitation projects could be funded with general obligation bond proceeds only if DOT's estimates of federal highway funding were at least 5 percent below the anticipated levels and JCF approved a DOT plan for using the proceeds. The act allows general obligation bond proceeds to be used to fund, and allocates general obligation bond proceeds for expenditure obligations for, southeast Wisconsin freeway rehabilitation projects and state highway rehabilitation projects, without regard to federal funding levels. The act also increases from \$140,000,000 to \$1,000,000,000 the amount of general obligation bond debt that may be incurred to fund these highway projects. See also *Act 64*.

Act 33 also changes state highway and local assistance programs by:

1. Increasing the authorized limit on revenue bonds that may be issued for major highway projects and other transportation facilities by 19.5 percent, from \$1,753,067,500 to \$2,095,583,900, excluding certain defeased obligations.
2. Maintaining the existing level of aid for mass transit systems that have annual operating expenses of at least \$20,000,000, and increasing aid for urban mass transit systems.
3. Maintaining the existing rate and level of general transportation aids to counties and municipalities.
4. Funding the extension of West Canal Street to USH 41 at Miller Park.

Act 64 (AB-602) decreases the authorized limit on general obligation bonds that may be issued for major highway projects, southeast Wisconsin freeway rehabilitation projects, and state highway rehabilitation projects from \$1,000,000,000 to \$565,480,400. The act also requires that, beginning on July 1, 2005, debt service on these bonds be paid from the general fund rather than the transportation fund. See also *Act 33*.

Act 68 (AB-388) directs DOT, upon receipt of sufficient contributions, to mark the bridge on STH 13 across the south fork of the Flambeau River in the town of Fifield as Freedoms Bridge in honor of veterans of the Korean War.

Act 214 (AB-678) reorganizes, modernizes, and modifies the statutory chapters formerly titled “Laying Highways” and “Town Highways” and consolidates them, in part, into a new statutory chapter.

Act 217 (AB-893) prohibits the Transportation Projects Commission (TPC) from recommending approval of any major highway project before federal approval of a final environmental impact statement or environmental assessment for the project. The act also prohibits the legislature from approving any major highway project unless the TPC has recommended its approval. The act requires DOT to oversee major highway projects and requires DOT to report to the TPC all actual and estimated project costs.

Act 218 (SB-46) directs DOT upon receipt of sufficient contributions, to mark all of the following: the entire route of STH 27 as the Citizen Soldier Heritage Highway; the entire route of USH 151 as the Wisconsin Law Enforcement Officers Highway; the eastbound lanes of any bridge on STH 29 crossing the Chippewa River in Chippewa County as the Wisconsin Law Enforcement/Citizen Soldier Bridge, and the westbound lanes of any bridge on STH 29 crossing the Chippewa River in Chippewa County as the Wisconsin Fire Fighters-EMT/Citizen Soldier Bridge; the entire route of STH 54 as the Wisconsin Fire Fighters and Emergency Medical Technicians Highway; and the entire route of USH 2 as the Major Richard I. Bong Memorial Highway.

MOTOR VEHICLES

Act 71 (SB-109) requires DOT to mail a registration plate decal that contains the words “combat-wounded veteran” to each person who has a specialized vehicle registration plate that identifies him or her as a recipient of a Purple Heart medal military honor.

Act 184 (SB-420) eliminates certain requirements related to DOT’s issuance of certificates of title to vehicles last registered in another state, so that these vehicles are issued certificates of title in the same manner as other vehicles and are no longer issued distinctive certificates of title. Act 184 also expands the types of vehicles for which an active or retired member of the national guard may obtain special “Wisconsin guard member” license plates to include motor homes, light farm trucks, light dual purpose motor homes, and light dual purpose farm trucks. Act 184 also eliminates specified wording that DOT must include as notice on a replacement certificate of title and allows DOT to determine the precise wording of the notice. Act 184 also allows DOT to check the records of stolen vehicles, in connection with an application for a certificate of title, through any database chosen by DOT, not just through the DOJ database.

Act 192 (AB-573) permits the operation of off-road utility vehicles on roadways that have a speed limit of 35 miles per hour or less, but only if the state or local government is using the off-road utility vehicle to collect solid waste, landscape, or perform incidental street maintenance and is operating the vehicle on a road for a distance of not more than one-half mile. The act prohibits the operation of off-road utility vehicles on any roadway that has a speed limit of more than 35 miles per hour. The act also exempts off-road utility vehicles from vehicle registration by DOT; requires off-road utility vehicle operators to have a valid driver’s license or instruction permit; requires off-road utility vehicle operators to observe the rules of the road; and exempts off-road utility vehicles from motor vehicle emission limitations and testing.

Act 201 (AB-419) allows DOT to suspend the registration of a vehicle or to refuse to register a vehicle owned by a person who owes towing and storage charges associated with a parking ticket.

Act 210 (AB-274) provides that the third vehicle in a three-vehicle combination operated on a highway under a DOT permit may be any trailer for a personal recreational vehicle (rather than certain listed trailers) and that a three-vehicle combination may not be operated on a highway under certain weather or highway conditions.

Act 213 (AB-501) allows a person to operate, without a permit, a motor home that has a body width not exceeding eight feet six inches and certain motor homes or recreational vehicles used only as temporary or recreational dwellings. The act also increases the maximum length limit for motor homes operated without a permit from 40 feet to 45 feet.

Act 220 (SB-436) provides for required initial motor vehicle emission inspections during the fourth year, rather than the second year, after a nonexempt vehicle’s model year. The act also requires DOT to provide grants for oxidation catalyst mufflers for school buses in counties where inspections are required.

Act 234 (AB-695) allows a two-vehicle combination to operate on a highway without a permit if the vehicle combination is transporting livestock and does not exceed 75 feet in length.

Act 237 (SB-414) exempts from vehicle registration farm truck tractors that are not commercial carriers and that are operated solely in intrastate transportation for certain agricultural purposes.

Act 241 (SB-423) allows a vehicle or combination of vehicles transporting exclusively forest products cut crosswise to operate under a permit anywhere upon

USH 2 in Ashland County or Iron County if the vehicle or combination is traveling between Wisconsin and Michigan and does not violate Michigan's length or weight limitations.

Act 297 (SB-3) prohibits a nonvolunteer from operating a vehicle used to transport elderly or disabled persons in connection with a transportation assistance program, unless he or she has a valid driver's license that contains a school bus endorsement issued or renewed within the past four years or he or she meets the criminal background requirements for school bus operators, and has been trained in the proper use of passenger restraint systems. The act also generally requires counties that receive state aid to provide this transportation of the elderly or disabled to employ as operators only persons for whom a criminal background check has been run and a driving record obtained.

MOTOR VEHICLE DEALERS

Act 76 (SB-234) defines a motor vehicle distributor as a person who sells or distributes only new vehicles to a motor vehicle dealer or who maintains distributor representatives and defines a motor vehicle wholesaler as a person who is not a licensed motor vehicle dealer or a licensed motor vehicle auction dealer and who conducts certain transactions involving used motor vehicles. The act also increases the minimum bond or irrevocable letter of credit that a motor vehicle dealer must maintain and requires a motor vehicle wholesaler to maintain a minimum bond or irrevocable letter of credit.

Act 77 (SB-235) voids and prohibits any agreement between a motor vehicle manufacturer, importer, or distributor and a motor vehicle dealer that waives a dealer's or distributor's right to a jury trial. The act also voids and prohibits any agreement that permits a manufacturer, importer, or distributor to compel a dealer to transfer assets or an ownership interest in the dealership to the manufacturer, importer, or distributor. The act allows an agreement to provide a right of first refusal to a manufacturer, importer, or distributor if an asset or ownership is transferred by a dealer. The act also allows DOT to revoke the license of the manufacturer, importer, or distributor if the manufacturer, importer, or distributor fails to offer for sale all models manufactured or distributed for a line make to any of its dealers that hold a franchise to sell that line or performs certain repair or delivery work on a vehicle that the manufacturer, importer, or distributor does not own or permits a person other than a franchised dealer to perform such work.

Act 215 (AB-777) changes the penalties associated with a motor vehicle dealer, salesperson, distributor, manufacturer, finance company, or transporter who is not

properly licensed or who fails to file appropriate documents regarding a change of status.

Act 216 (AB-821) defines a motor vehicle buyer and establishes criteria for purchasing a motor vehicle at an auction.

TRAFFIC AND PARKING REGULATION

Act 26 (AB-37) allows the operator of a school bus registered in another state to enter and operate within this state while towing a trailer or semitrailer if the other state allows operation of the school bus while towing the trailer or semitrailer.

Act 142 (AB-758) generally requires a law enforcement officer who causes the removal of an unregistered, abandoned, or illegally parked vehicle by a towing service to, within 24 hours of ordering the removal, notify the towing service of the name and last-known address of the registered owner and all lienholders of record of the vehicle. This requirement does not apply if the officer is employed by a municipality or county that has entered into a towing services agreement that requires the municipality or county to provide notice of the towing to such owner and lienholders or if an illegally parked vehicle is removed to a public highway within one mile from the location where the vehicle was illegally parked.

OTHER TRANSPORTATION

Act 30 (AB-88) changes the prohibited alcohol concentration for a person who operates a motor vehicle, all-terrain vehicle, snowmobile, or a boat, from 0.1 to 0.08. A first-time violator who has an alcohol concentration between 0.08 and 0.1 does not have to pay certain court costs or submit to an alcohol assessment and may have his or her record purged of the conviction after 10 years, if he or she does not reoffend within that time.

Act 33 (SB-44) transfers \$175,000,000 from the transportation fund to the general fund.

Act 33 also allows DOT to award grants to municipalities, counties, transit commissions, or regional transportation authorities for the development or extension of commuter rail transit systems.

Act 74 (AB-375) increases the penalty for a person who leaves the scene of an accident that causes great bodily harm. Under former law the violation was a Class I felony, which subjects a person to a fine of no more than \$10,000, imprisonment for no more than three years and six months, or both; this act classifies the violation as a Class E felony, which subjects a person to a fine of no more than \$50,000, imprisonment for no more than 15 years, or both. The act also increases the penalty for a

person who leaves the scene of an accident that causes death. Under former law the violation was a Class H felony, which subjects a person to a fine of no more than \$10,000, imprisonment for no more than six years, or both; this act classifies the violation as a Class D felony, which subjects a person to a fine of no more than \$100,000, imprisonment for no more than 25 years, or both.

Act 97 (AB-458) prohibits a person from operating a motor vehicle or using a firearm if he or she has a detectable amount of a restricted controlled substance in his or her blood. Penalties for a person who violates one of these prohibitions are the same as those that would apply if the person had a prohibited alcohol concentration or had been under the influence of an intoxicant. The bill allows a defense if the person can prove that he or she had a valid prescription for the restricted controlled substance at the time of the alleged violation.

Act 202 (AB-467) increases funding for the traffic violation and registration program.

Act 208 (AB-791) generally makes a harbor facility owner eligible for grants under the Harbor Assistance Program administered by DOT. Former law limited the eligibility for these grants to counties, municipalities, and boards of harbor commissioners.

Act 209 (AB-15) imposes liability upon the owner of a vehicle involved in a violation of certain railroad crossing traffic laws. The owner of a vehicle involved in the violation is subject to the same penalties that apply to the operator of the vehicle involved in the violation, except that the owner's operating privilege may not be suspended or revoked and no demerit points may be recorded against the owner's driving record.

Act 211 (AB-436) increases, from \$3,000 to \$15,000, the amount of the exception under which DOT, without the approval of the governor, may sell or donate state property that is not necessary for transportation.

Act 212 (AB-495) allows a county to sell surplus county highway land at fair market value by private, rather than public, sale to an owner of land adjacent to the surplus county highway land.

MAJOR PROPOSALS THAT FAILED ENACTMENT OR ADOPTION

Assembly Bills 58, 462, 464, and 465 would have limited the use of a cellular telephone while operating a motor vehicle.

Assembly Bill 748 would have generally allowed owners of certain outdoor advertising signs along state trunk

highways and owners of businesses advertised on these signs to remove obstructing trees or other vegetation located in the highway right-of-way if the trees or other vegetation would have prevented a driver traveling at the posted speed limit from seeing the sign for six uninterrupted seconds.

Trusts and Estates; Probate

Act 264 (SB-492) replaces the prudent person rule, which requires fiduciaries, personal representatives, and guardians of estates to invest their trust and estate assets conservatively, with the generally more flexible Uniform Prudent Investor Act.

Act 304 (SB-504) exempts from a creditor claim any unmaturing life insurance or annuity contract that the debtor owns and that insures the debtor if the contract was purchased at least 24 months before the date on which the exemption is claimed or the date on which the cause of action is filed. If the contract was issued or funded less than 24 months before that date, only \$4,000 of the contract or new funds is exempt from the creditor claim.

Veterans and Military Affairs

Act 25 (AB-20) establishes the minimum criteria necessary for appointment as the adjutant general; establishes the minimum and maximum rank of the adjutant general and the military rank for all other staff officers; and allows the adjutant general to appoint persons to staff officer vacancies.

Act 33 (SB-44) increases the maximum amount for veterans tuition reimbursement grants for a UW-Madison resident undergraduate; authorizes DVA to provide stipends to nursing school graduates who are employed at a nursing facility for veterans; and limits the National Guard Tuition Reimbursement Program to courses at Wisconsin schools or at schools with reciprocity agreements and limits the amount to the lesser of 100 percent of the actual tuition or 100 percent of the average tuition charged by all UW System campuses.

Act 58 (AB-42) allows a person to be buried in a Wisconsin veterans cemetery if the person was a Wisconsin

resident of this state at the time he or she entered into service in the National Guard or reserve unit of the U.S. armed forces, was a Wisconsin resident for at least 12 consecutive months before his or her death, and was eligible for burial in a national veterans cemetery.

Act 69 (AB-19) provides Wisconsin residents who are members of the National Guard in another state with the same protections provided to members of the Wisconsin National Guard.

Act 70 (AB-293) prohibits a cemetery, other than a cemetery affiliated with a religious society, from refusing to bury a veteran if the cemetery is paid for the burial.

Act 83 (SB-170) increases the tuition amount paid under the National Guard Tuition Reimbursement Program to the lesser of the actual tuition paid or 100 percent of the maximum resident tuition charged by UW-Madison; adds the Iraq War to the periods of war for veterans benefits eligibility; allows a veteran to receive tuition reimbursement for a course taken at a school that does not grant the veteran's degree if the course is accepted as transfer credit, is necessary to complete the degree, and is not available at the degree-granting school; allows DVA to guarantee loans for multifamily transitional housing for homeless veterans; increases the Veterans Personal Loan Program grant maximum; and increases the maximum income of a veteran and spouse for eligibility for the Veterans Personal Loan Program.

Act 102 (SB-205) allows DVA to construct or renovate and operate residential, treatment, and nursing care facilities for veterans in southeastern Wisconsin and northwestern Wisconsin.

Act 163 (AB-409) requires the adjutant general to provide DVA with deployment and military contact information for activated members of the National Guard and allows county veterans' service officers to inform National Guard members of potential veterans benefits and of deployment and military contact information.

Act 185 (AB-869) allows a veteran who is a Wisconsin resident for purposes of receiving veterans benefits to be considered a resident for purposes of determining the tuition for the UW System.

Act 186 (SB-120) requires DMA to include in its emergency management plan state training programs on managing emergencies and the standards for local emergency management programs, including the use of an incident command system in a multiagency emergency response. The act also grants immunity to persons who provide services during a state of emergency on behalf of federally recognized American Indian tribes, DHFS, or local health departments. See also *Health and Social Services — Public Health*.

INDEX BY ACT NUMBER

Act	Page	Act	Page	Act	Page
1	..... 27	50	..... 4, 7	100	..... 18
2	..... 27	51	..... 7	101	..... 20
3	..... 11	52	..... 4	102	..... 34
4	..... 11	53	..... 4	103	..... 25
5	..... 11	54	..... 5	104	..... 7
6	..... 11	55	..... 9	105	..... 5
7	..... 11	56	..... 27	106	..... 14
8	..... 11	57	..... 22	107	..... 12
9	..... 11	58	..... 33	108	..... 12
10	..... 11	59	..... 24	109	..... 3
11	..... 11	60	..... 20	110	..... 17
12	..... 11	61	..... 10	111	..... 20
13	..... 12	62	..... 9	112	..... 12
14	..... 12	63	..... 13, 15	113	..... 12
15	..... 12	64	..... 30	114	..... 12
16	..... 12	65	..... 3	115	..... 13
17	..... 12	66	..... 22	116	..... 13
18	..... 12	67	..... 24	117	..... 13
19	..... 12	68	..... 30	118	..... 1, 14, 23
20	..... 12	69	..... 34	119	..... 28
21	..... 12	70	..... 34	120	..... 16
22	..... 12	71	..... 31	121	..... 5, 7
23	..... 8	72	..... 28	122	..... 7
24	..... 11	73	..... 5	123	..... 28
25	..... 33	74	..... 32	124	..... 2
26	..... 32	75	..... 24	125	..... 26
27	..... 1	76	..... 32	126	..... 21
28	..... 5	77	..... 32	127	..... 21
29	..... 17	78	..... 20	128	..... 28
30	..... 32	79	..... 21	129	..... 27
31	..... 21	80	..... 3	130	..... 8
32	..... 21	81	..... 5	131	..... 9
33	..... 1, 4-5, 7-10, 12-15, 17-19, 21, 22, 24, 27, 28-30, 32, 33	82	..... 3	132	..... 9
34	..... 21	83	..... 34	133	..... 1
35	..... 11	84	..... 27	134	..... 21
36	..... 6, 25, 30	85	..... 28	135	..... 28
37	..... 28	86	..... 16	136	..... 1
38	..... 1	87	..... 5	137	..... 27
39	..... 27	88	..... 5	138	..... 5
40	..... 26	89	..... 21, 23, 26	139	..... 6
41	..... 3	90	..... 2	140	..... 6
42	..... 9	91	..... 10	141	..... 5
43	..... 9	92	..... 17	142	..... 32
44	..... 20	93	..... 21	143	..... 11
45	..... 2	94	..... 28	144	..... 14
46	..... 21	95	..... 28	145	..... 1
47	..... 12	96	..... 14	146	..... 10
48	..... 26	97	..... 33	147	..... 27
49	..... 7	98	..... 11	148	..... 6
		99	..... 28	149	..... 10

INDEX BY ACT NUMBER

Act	Page	Act	Page	Act	Page
150	.....25	200	.....30	250	.....2
151	.....25	201	.....31	251	.....24
152	.....26	202	.....33	252	.....7
153	.....13	203	.....29	253	.....24
154	.....25	204	.....22	254	.....9
155	.....9	205	.....22	255	.....3, 29
156	.....9	206	.....16	256	.....3
157	.....21, 27	207	.....9	257	.....16
158	.....17	208	.....33	258	.....29
159	.....3	209	.....33	259	.....3
160	.....13	210	.....31	260	.....16
161	.....26	211	.....33	261	.....20
162	.....13	212	.....33	262	.....16
163	.....34	213	.....31	263	.....16
164	.....21	214	.....31	264	.....33
165	.....6	215	.....32	265	.....11
166	.....23	216	.....32	266	.....11
167	.....20	217	.....31	267	.....29
168	.....25	218	.....31	268	.....3
169	.....2	219	.....2	269	.....3, 27
170	.....28	220	.....31	270	.....25
171	.....21	221	.....30	271	.....17
172	.....27	222	.....7	272	.....17
173	.....19	223	.....7	273	.....17
174	.....27	224	.....7	274	.....25
175	.....17	225	.....8	275	.....23
176	.....17, 28	226	.....5	276	.....14
177	.....28	227	.....6	277	.....1
178	.....20	228	.....22	278	.....26
179	.....24	229	.....1	279	.....3, 6
180	.....9	230	.....29	280	.....9, 30
181	.....25	231	.....22	281	.....17
182	.....6	232	.....27	282	.....10
183	.....28	233	.....22	283	.....26
184	.....31	234	.....31	284	.....5
185	.....34	235	.....1	285	.....25
186	.....19, 34	236	.....3	286	.....27
187	.....19	237	.....31	287	.....8
188	.....5	238	.....2	288	.....29
189	.....7	239	.....24	289	.....29
190	.....7	240	.....24	290	.....18
191	.....22	241	.....31	291	.....29
192	.....31	242	.....22	292	.....5
193	.....22	243	.....7	293	.....16
194	.....22	244	.....24	294	.....16
195	.....28	245	.....2	295	.....3
196	.....7	246	.....2	296	.....11
197	.....14	247	.....24	297	.....32
198	.....19	248	.....24	298	.....3
199	.....6	249	.....24	299	.....27

INDEX BY ACT NUMBER

Act	Page
300	20
301	25
302	20
303	2
304	33
305	9
306	7
307	22
308	15
309	6
310	15
311	27
312	15
313	25
314	15
315	15
316	15
317	22
318	18
319	13

INDEX BY ENROLLED JOINT RESOLUTION NUMBER

EnJR	Page
8.....	4
12.....	4
29.....	4

