

1997-98 SESSION  
COMMITTEE HEARING  
RECORDS

Committee Name:

*Joint Committee on  
Finance  
(JC-Fi)*

Sample:

- Record of Comm. Proceedings
- 97hrAC-EdR\_RCP\_pt01a
- 97hrAC-EdR\_RCP\_pt01b
- 97hrAC-EdR\_RCP\_pt02

- Appointments ... Appt
- 
- Clearinghouse Rules ... CRule
- 
- Committee Hearings ... CH
- 
- Committee Reports ... CR
- 
- Executive Sessions ... ES
- 
- Hearing Records ... HR
- 
- Miscellaneous ... Misc
- 97hr\_JC-Fi\_Misc\_Dec. 1998\_pt07
- Record of Comm. Proceedings ... RCP
-

Dec 13.10 info

# State of Wisconsin



GARY R. GEORGE  
SENATOR

December 1, 1998

Senator Timothy Weeden, Co-Chair  
Room 203, One East Main  
Madison, WI

Dear Senator Weeden, Co-Chair:

I am writing in opposition to the Department of Corrections request for an increase in out-of-state bed contracts and portions of its request that would weaken legislative oversight of out-of-state prisoner placements.

I am strongly against the state's growing practice of shipping offenders to prisons located outside the state. This practice, which might make sense in an emergency situation and on a small scale, now threatens to become a permanent feature of our state's correctional system on a massive scale. As members of the Joint Committee on Finance, you ought to reflect very seriously on this trend.

The Department of Corrections' current budget request calls for an increase of \$124 million over the next biennium for contract beds. This funding level would support an increase in the number of Wisconsin inmates housed in non-state facilities from less than 3,000 at present to over 7,500-- a 150 percent increase.

Out-of-state prisons make it hard for inmates to keep in contact with their families, and hinder their rehabilitation, which ought to be a critical concern of those who seek to keep our state's citizens safe. We ought to reflect on what kind of inmate will be returning to our streets at the end of the sentence and how that inmate's experience will shape his eventual behavior in the community.

Out-of-state prisons also make it difficult to monitor and oversee activities affecting inmates. As we have seen in recent months, housing large numbers of Wisconsin inmates hundreds of miles from their homes has led to physical and perhaps sexual abuse of prisoners housed in out-of-state prisons, and cover-ups of abuse by officials charged with operating those out-of-state prison facilities. It has had a corrupting effect on our correctional system and our state's reputation. As the Milwaukee Journal-Sentinel wrote, "abusing prisoners crosses the line of what a society can tolerate and still remain civilized." There is no excuse for beating inmates, shocking inmates with stun guns or sexually abusing them, as has been alleged, and we ought not to reward that behavior by placing additional inmates and additional state dollars in the hands of those who perpetrate and then cover up those abuses.

The Department of Corrections (DOC) seeks authority to modify the number of inmates at currently approved sites, without certification by the Co-Chairs, as long as the total number of out-of-state beds does not exceed the total number approved by the Committee. While the Department will likely argue that it needs flexibility, under this proposal the Legislature would have no way of knowing how many Wisconsin inmates could be placed at any one contract location. The DOC would have unlimited discretion, provided it does not exceed the total limit on out-of state beds. There would no longer be site-specific limits on the number of Wisconsin inmates at any single contract location. This means that DOC could potentially place more than 1500 Wisconsin inmates in the Corrections Corporation of America facility in Whiteville, Tennessee, where we know abuses and cover-ups have occurred. This would not be flexibility, it would be foolishness.

The proposal before you would strip the Joint Finance Committee, and thus the Legislature, of a great deal of its authority and oversight. I urge you to maintain as much oversight as possible in the hands of the Legislature and reject the Department's request to allow contract modifications. Maintaining the current process should be no burden to the Administration unless it is trying to hide something.

Sincerely,

A handwritten signature in cursive script that reads "Gary R. George". The signature is written in dark ink and is positioned above the printed name.

GARY R. GEORGE  
State Senator  
Sixth Senate District

12/1/98 DOT file to JFC

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# THE STATE OF WISCONSIN

SENATE CHAIR  
**TIMOTHY WEEDEN**

1 E. Main Street, Room 230  
P.O. Box 7882  
Madison, WI 53707-7882  
Phone: (608) 266-2253



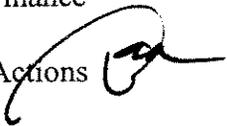
ASSEMBLY CHAIR  
**JOHN GARD**

315-N Capitol  
P.O. Box 8952  
Madison, WI 53708-8952  
Phone: (608) 266-2343

## JOINT COMMITTEE ON FINANCE

**Date:** December 1, 1998

**To:** The Members, Joint Committee on Finance

**From:** Dan Caucutt, Secretary for s. 13.10 Actions 

**Subject:** Agenda for Wednesday's Meeting

The Co-Chairs have advised that the agenda for the 1:30 p.m. meeting will include the items on the attached. Note that there is an additional matter just recently placed on the agenda: Surplus W-2 Agency Funding under the Department of Workforce Development.

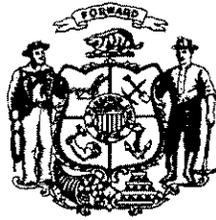
Attachment

cc: Bob Lang

# THE STATE OF WISCONSIN

SENATE CHAIR  
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## JOINT COMMITTEE ON FINANCE

### REVISED AGENDA

1:30 p.m., Wednesday, December 2, 1998

s. 13.10 Meeting

on the First Floor of 119 Martin Luther King, Jr. Blvd.

- ~~X~~ Department of Natural Resources -- H. Stan Druckenmiller, Executive Assistant
- ~~II~~ Department of Public Instruction -- Alan Beeler, State Schools Director
- ~~III~~ Department of Corrections -- Michael J. Sullivan, Secretary
- ~~IV~~ Department of Health of Family and Family Services -- Joe Leean, Secretary
- ~~V~~ Department of Health of Family and Family Services -- Joe Leean, Secretary
- ~~VI~~ Department of Transportation -- Charles Thompson, Secretary and Sandra Beaupre, Budget Director
- VII. Department of Workforce Development -- J. Jean Rogers, Division Administrator, Division of Economic Support

### Reports

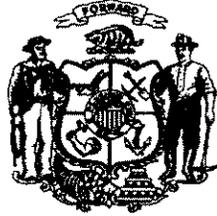
- R-1 Department of Administration Position Reports Required Under s. 16.50 (July 1-September 30, 1998).

# THE STATE OF WISCONSIN

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## JOINT COMMITTEE ON FINANCE

### Notice

**Date:** December 2, 1998

**To:** The Members  
The Joint Committee on Finance

**From:** Dan Caucutt, Secretary under s.13.10 

**Subject:** Continuation of s.13.10 Meeting

The meeting under s.13.10 of December 2, 1998 will continue at 10:00 a.m. on Thursday, December 3, at its usual location at 119 Martin Luther King Blvd. The agenda of the meeting will be disposition under s.13.101(4) of unexpended funds under agency contracts in the Department of Workforce Development for the Wisconsin Works (W-2) Program.



WISCONSIN STATE SENATE  
**RODNEY C. MOEN**  
SENATOR - 31ST DISTRICT

State Capitol, P.O. Box 7882, Madison, Wisconsin 53707-7882 Phone: (608) 266-8546 Toll-free Hotline: 1-800-362-9472

December 2, 1998

Senator Tim Weeden, Chair  
Joint Committee on Finance  
Room 203, One East Main

Dear Tim,

I am writing to express my support for the Department of Health and Family Services (DHFS) section 13.10 request to transfer \$207,300 in Medical Assistance funding to maintain specialized services for residents of the Trempealeau County Health Care Center.

Prior to September 1, 1998, the Trempealeau County Health Care Center (TCHCC) was one of three MA certified institutes for mental disease (IMD) in Wisconsin. The residents of the TCHCC, who come from many areas of the state, have very challenging behaviors that require the use of restraints to prevent residents from harming themselves or others.

While federal law permits the use of restraints in federally regulated psychiatric hospitals, it does not allow MA certified nursing facilities to use these techniques on a regular basis to protect residents and staff from injurious behavior. According to the Legislative Fiscal Bureau, it appears that "federal nursing home regulations are not designed to accommodate certain classes of the mentally ill" such as those found at TCHCC. DHFS has indicated that the center's use of restraints are appropriate to manage the challenging behavior of residents at TCHCC.

Because TCHCC could not manage its IMD population within the federal guidelines for MA certified nursing facilities, the center terminated its MA certification and established a state-only licensed nursing home with 76 beds. DHFS is asking for the aforementioned transfer to maintain the same quality of care for the 76 residents who lost MA funding for specialized services as a result of the center's decertification.

TCHCC currently serves residents from 15 different counties. If the Joint Committee on Finance does not approve DHFS' request to transfer this funding for these residents, other counties would be liable for the additional costs.

Enclosed please find a letter I received from Phil Borreson, Executive Director of TCHCC, regarding the cost effectiveness of maintaining residents in TCHCC. If you wish to discuss this matter further, please do not hesitate to contact me.

Sincerely,

Senator Rod Moen

Enclosure



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

December 2, 1998

TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Corrections – Section 13.10 Request for Out-of-State Prison Contracts – Agenda Item III

On November 16, 1998, the Department of Corrections requested that the Joint Committee on Finance release \$2,419,796 GPR from its supplemental appropriation (s. 20.865(4)(a)) to support the costs of additional out-of-state prison contracts. The Department also requested that the Committee: (a) approve an amendment to a contract with the Corrections Corporation of America (CCA) to allow an additional 419 male inmates to be placed at a CCA in Sayre, Oklahoma; (b) authorize the use of a federal contract to place an additional 100 male inmates at a federal facility in Duluth, Minnesota, and 20 male inmates at a federal facility in Oxford, Wisconsin; and (c) authorize Corrections to place up to 500 inmates in sites previously approved by the Committee, if funding is available. On November 20, 1998, the Department submitted an amended request specifying that instead of authorizing Corrections to place up to 500 inmates in sites previously approved by the Committee, the Department be allowed to modify the number of authorized inmates at any approved site, without Committee approval, as long as the total number of beds remained unchanged.

### BACKGROUND

The Joint Committee on Finance is required, under s. 302.26 of the statutes, to approve any contract to transfer 10 or more inmates in any fiscal year to any public or private prison facility in another state. Since September, 1996, Corrections has been authorized to contract for beds at facilities outside of Wisconsin. In addition, Corrections also has a longstanding agreement with the federal government which allows for the placement of Wisconsin inmates in federal correctional facilities. Further, the Department contracts for beds in jails with Wisconsin counties and with the Prairie du Chien juvenile correctional facility. The following table indicates the number of

currently authorized beds and the number of inmates in those facilities as of November 13, 1998. Since Committee approval of in-state contracts is not required, the number of inmates in Wisconsin facilities is equal to the authorized beds. Discrepancies between the number of authorized beds and the current populations can be attributed three factors: (a) 480 beds (400 at CCA's Oklahoma facility and 80 in West Virginia) were approved on October 28, 1998; (b) 30 beds at the federal facility in Oxford, Wisconsin will be used beginning in the first week of December, 1998; and (c) transfers to CCA's Tennessee facility have been slower than initially estimated (160 inmates per month instead of 160 inmates per week).

**Contract Prison Beds  
Total Authorized and Current Population  
November 13, 1998**

<u>Contract Site</u>	<u>Authorized Beds</u>	<u>Current Population</u>
<b>Corrections Corporation of America</b>		
Tennessee	1,500	944
Oklahoma	700	298
<b>Federal Bureau of Prisons</b>		
Duluth, Minnesota	300	307
Alderson, West Virginia (Females)	200	117
Oxford, Wisconsin	30	-
Other Federal Facilities	25	25
<b>Texas Counties</b>	<u>700</u>	<u>662</u>
Out-of-State Total	3,455	2,353
<b>Wisconsin Counties</b>		
Male	263	263
Females	20	20
<b>Prairie du Chien Correctional Facility</b>	<u>303</u>	<u>303</u>
In-State Total	586	586
<b>Total Contracted Prison Beds</b>	4,041	2,939

The appropriation for correctional contracts (s. 20.410(1)(ab)) supports the costs of in-state and out-of-state prison space contracts, and temporary lockups for inmates in the correctional center system and in the intensive sanctions program. For 1998-99, total funding available in the contracts appropriation is \$62,785,900 GPR. The estimated total cost in 1998-99 for currently authorized contract beds (including the utilization of 30 beds at the federal prison in Oxford, Wisconsin beginning in November, 1998, and 300 beds at the Milwaukee County House of Corrections beginning in April, 1999) is \$60,055,900 GPR. The estimated costs for temporary lockup

utilization is \$1,723,400 GPR. As a result, total unbudgeted funding in the appropriation is estimated to be \$1,006,600 GPR.

In a June, 1998, s. 13.10 request related to additional authorization for contract beds, Corrections sought authorization to contract for more beds than the contracts appropriation could support. At the same time, however, information on prison admission and release trends indicated that inmate populations would continue to grow. In order to address Corrections' identified need for increased prison space and to provide for legislative oversight of the prison contracts, the Committee adopted a provision for 1998-99 authorizing Corrections to:

"submit amendments related to the number of beds in authorized contracts to the Co-chairs for certification to the Committee Secretary, as long as the total projected cost for the contract beds (including currently authorized beds) does not exceed the total amount of funding available for prison contracts in 1998-99."

The Department of Corrections has, by policy, defined the operating capacity of the prison system as the lesser of: (a) the number of inmates that a correctional institution can house; or (b) an institution's capacity to provide non-housing functions such as food service, medical care, recreation, visiting, inmate programs, segregation housing and facility administration. Medical services and segregation beds (single cells for inmates removed from the general population for behavioral or security reasons) are not counted in housing capacity. Housing capacity is defined as: (a) one inmate per cell at maximum-security facilities, with a 2% cell vacancy rate; and (b) up to 20% double occupancy of cells in medium-security facilities existing as of July 1, 1991, or 50% double occupancy of cells in medium-security facilities constructed after July 1, 1991. No specific standard has been established for minimum-security institutions, but capacities have been determined on an institution-by-institution basis. Corrections' operating capacity figures also include contracted county jail and prison beds.

As of November 13, 1998, Corrections' identified operating capacity was 13,400 inmates. This figure included 2,939 contract beds in Wisconsin and Texas county jails, federal facilities, the Prairie du Chien Juvenile Correctional Facility and in private facilities in Tennessee and Oklahoma. At that time, Corrections' inmate population totaled 17,634. As a result, the state adult correctional facilities were at 132% of operating capacity. Institutions for male inmates were at 131% of capacity (16,544 inmates in facilities with a capacity of 12,627), while institutions for female inmates were at 141% of capacity (1,090 inmates in facilities with a capacity of 773). It should be noted that if inmates in contracted space are excluded from both the capacity and population figures, the Department of Corrections' facilities were operating at 140% of capacity (140% for male institutions and 150% for female institutions).

From January, 1996, to November 13, 1998, correctional populations increased from 11,285 inmates (10,777 male and 508 female) to 17,634 (16,544 male and 1,090 female). This represents a 56% increase in approximately 35 months (a 54% increase in male inmates and a 115% increase in female inmates). The rate of monthly inmate population growth for both males and females has

also increased significantly since January, 1996. From January, 1996, until January, 1998, the prison population grew at an average monthly rate of 1.16%. Since January, 1998, the average monthly rate of population growth has increased significantly, from a growth rate of approximately 1.7% in January to a rate of approximately 1.9% in March, April and May. It should be noted that the rate of increase during August, September and October, 1998, averaged approximately 1.4%. While the rate of inmate population increase in recent months has slowed, the crowding in the state facilities has increased from 136% of operating capacity in July, 1998, to 140% in November, 1998.

**SUMMARY OF REQUEST**

The request from the Department of Corrections seeks Committee approval for the following:

**a. Additional Contract Beds and Funding.** The Department requests that the Committee authorize the utilization of: (a) an additional 419 beds at CCA's Sayre, Oklahoma, facility, increasing the total number of authorized beds at the facility to 1,119; (b) an additional 100 beds at the federal facility in Duluth, Minnesota, increasing the total number of authorized beds at the facility to 400; and (c) an additional 20 beds at the federal facility in Oxford, Wisconsin, increasing the total number of authorized beds at the facility to 50.

The estimated cost for the additional <sup>477</sup>539 beds is \$3,276,336 in 1998-99. Of the total, Corrections requests that \$2,269,796 GPR be transferred from the Committee's supplemental appropriation (s. 20.865(4)(a)) to the Department's contracts appropriation (s. 20.410(1)(ab)). The remaining funding necessary to support the additional contract beds (\$1,006,540) would be provided from the estimated balance in the contracts appropriation.

**b. Increased Travel Costs.** In addition to increased contract funding, Corrections is requesting that the Committee transfer \$150,000 GPR from the Committee's supplemental appropriation (s. 20.865(4)(a)) to the Department's general program operations appropriation (s. 20.410(1)(a)) to support the costs of travel by program staff to contract facilities for monitoring purposes and for inmate transportation.

The following sources of reserved funding in the Committee's appropriation would be used to support the Department's request: (a) \$782,296 GPR associated with contract beds; (b) \$645,700 GPR associated with possible increased food service costs at the Racine Youthful Offender Correctional Facility; and (c) \$991,800 GPR associated with the expansion of the St. John's Correctional Center in Milwaukee.

**c. Departmental Modifications to Existing Contracts.** In its initial request, the Department also requested authorization to add up to 500 additional beds at previously approved sites with the federal Bureau of Prisons, CCA or Texas counties. The Department indicated that funding for any additional beds would come from savings in the existing contracts appropriation

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that may be generated by unanticipated underutilization of contracted beds. On November 20, 1998, however, the Department submitted a revised request, withdrawing its request for authorization to add another 500 contract beds and instead requesting authority to place inmates in any authorized facility without Committee approval as long as the total number of out-of-state beds did not exceed the total authorized number of beds.

## ANALYSIS

The Department indicates that since January, 1998, prison populations have increased by 268 inmates per month. The Department's currently projects that on June 30, 1999, the population will be 19,790. This projection is consistent with recent prison population growth trends. Corrections' projection is an increase of approximately 2,200 inmates from the current population. As noted previously, the prison system currently has an operating capacity of 13,400 inmates (10,461 in state correctional institutions and 2,939 in contract beds). While capacity of the state institutions will increase by approximately 2,200 beds as the result of currently authorized construction projects, only 30 of those beds (at the R. E. Ellsworth Correctional Center for women) will be available during 1998-99.

Population increases are affected by several admission and release factors. Admission and release data since January, 1996, indicate that admissions have always exceeded releases but that the difference between admissions to prison and releases from prison have varied greatly: there were 28 more admissions than releases in August, 1997, compared to 443 more admissions than releases in April, 1998. On average, the difference between average monthly admissions and releases has increased from 130 inmates in 1996 to 282 inmates thus far in 1998. The ratio of most types of admissions (admission on a new sentence and admission for revoked probation or parole) has remained relatively constant. However, as the result of a State Supreme Court ruling (DOC vs. Kleismet) that Corrections may not place its detainees in a county jail over a sheriff's safety objections, admissions to the prisons of individuals pending revocation of probation or parole have recently increased (from 1 in January, 1996, to 207 in August, 1998).

With regard to releases, three trends should be noted: (a) discretionary parole releases have accounted for the vast majority of releases from prison, averaging 248 releases per month since January, 1996. Beginning in April, 1998, however, the number of discretionary paroles has significantly decreased, with a low of 47 parole releases in May, 1998; (b) releases to the intensive sanctions program have almost been eliminated, decreasing from a high of 178 releases to the program in October, 1996, to a low of 7 releases in November, 1997, and January, June and September, 1998; and (c) the number of releases as the result of mandatory release have increased from 8.9% of monthly releases in January, 1996, to 40.2% of releases in September, 1998. If these admissions and release trends continue, prison populations will continue to increase.

**Contract Approval Request and Funding.** The Department's request would increase the number of beds at three previously authorized sites: (a) the CCA facility in Sayre, Oklahoma (this

site was originally approved on June 23, 1998); (b) the federal Bureau of Prisons--Duluth, Minnesota (this site was approved on March 27, 1997); and (c) the federal Bureau of Prisons--Oxford, Wisconsin (this site was approved on March 27, 1997). Beds at the CCA facility have become available because the State of Oklahoma has decided to place its inmates in other contracted facilities. Beds in the federal facilities are available because the Department requested additional space and the federal Bureau of Prisons was able to accommodate that request. The increase in the number of prison beds would not affect the terms of the existing contracts with the federal government or CCA, including the cost per day per bed (\$42 per day with CCA and \$45 per day with the federal government).

how many more can they take?

If the Committee approves the Department's request for authority to contract for additional out-of-state prison beds, the total number of beds will increase from 3,455 to 3,994 as follows: (a) CCA--Tennessee, 1,500 beds; (b) CCA--Oklahoma, 1,119 beds; (c) federal Bureau of Prisons--Duluth, Minnesota, 400 beds; (d) federal Bureau of Prisons--Oxford, Wisconsin, 50 beds; (e) federal Bureau of Prisons--Alderson, West Virginia (female inmates), 200 beds; (f) federal Bureau of Prisons--other sites, 25 beds; and (g) Texas counties, 700 beds. In order to fund the additional contract prison beds, Corrections requests the release of \$2,269,796 GPR from the Committee's appropriation under s. 20.865(4)(a) to the prison contracts appropriation under s. 20.410(1)(ab). If the Committee does not approve the Department's request, it is likely that, without major changes in departmental or Parole Commission practices concerning releases, crowding at the existing facilities would continue to increase. In its request, the Department indicates that if populations continue to increase at the same rate as in the last nine months, a shortfall of beds and a deficit in funding will be occur later in 1998-99.

**Contract Funding and Increased Travel Costs.** Corrections requests that \$150,000 GPR be transferred to the Department's general program operations appropriation (s. 20.410(1)(a)) to support additional out-of-state travel for Corrections program staff and for inmate transportation. The additional \$150,000 GPR would be used as follows: (a) travel for inmate program review monitoring staff, \$55,500 GPR (\$44,600 GPR on-going and \$10,900 GPR on a one-time basis); (b) \$49,000 GPR for unscheduled return trips for Wisconsin inmates in contract prisons; (c) \$20,500 GPR for inmate transportation costs to West Virginia; and (d) \$25,000 GPR for prior inmate transportation costs to Alderson, West Virginia.

A portion of the Department's request would be used to support travel costs of Corrections staff to monitor programs provided by contractors (alcohol and drug abuse, sex offender treatment and criminal behavior modification) and the program review process administered by the contractors under Wisconsin's specifications. These monitoring costs are in addition to the general contract oversight positions that the Committee created at the June, 1998, s. 13.10 meeting, and utilize existing Corrections program staff. The requested funding is based on actual costs of previous staff trips to contract sites.

The remainder of the Department's request (\$94,500 GPR) provides funding for the transportation of inmates to and from various contract sites. Based on three months of experience,

Corrections estimates that unscheduled return trips for Wisconsin inmates for medical and legal reasons costs approximately \$4,500 per month, for a total of \$54,000 GPR annually. In order to keep the request at a total of \$150,000 for the general program operation appropriation, the total for inmate return trips was reduced to \$49,000. The transportation of female offenders to West Virginia is provided by the federal government and reimbursed by Corrections. In the Department's request, prior trips were budgeted at a cost of \$25,000 GPR and an additional two trips were budgeted at \$20,500 GPR for total transportation costs of \$45,500 GPR. Based on revised figures, however, total costs of transportation to West Virginia will be \$27,500 GPR. If the Committee wishes, the Department's request could be reduced by \$13,000 GPR to account for the actual projected cost of inmate return trips and transportation to West Virginia.

Funding for the Department's request would be come from the following reserved funds in the Committee's appropriation: (a) \$782,296 GPR for contract beds; (b) \$645,700 GPR for food service at the Racine Youthful Offender Correctional Facility; and (c) \$991,800 GPR for the expansion of the St. John's Correctional Center. At the June 23., 1998, s. 13.10 meeting the estimated lapse from Corrections' contract appropriation in 1997-98 (\$1,749,200 GPR) was transferred to the Committee's appropriation and then to the contracts appropriation in 1998-99, as authorized under a previous Committee action. The actual amount lapsed to the Committee's appropriation was \$2,531,496, leaving a balance of \$782,296. With regard to the other two reserved amounts:

**a. St. John's Correctional Center.** In 1997 Act 27, \$991,800 GPR was placed in the Committee's 1998-99 appropriation to support the potential costs of expanding the St. John's Correctional Center (Milwaukee) once a new location for the facility had been located. Corrections now indicates that a new location will not be found during 1998-99, and that the Center will be allowed to remain at its current location until a new location is available. Therefore, the funding reserved for this purpose will not be necessary.

**b. Racine Youthful Offender Correctional Facility.** In 1997 Act 237, \$645,700 GPR was placed in the Committee's appropriation to fund potential increased costs of a yet-to-be-negotiated food service contract at the Racine Youthful Offender Correctional Facility (RYOCF). According to Corrections, sufficient funding is available to support the existing contract. As a result, the reserved funding is not necessary.

**Departmental Modifications to Existing Contracts.** As originally written, the Department requested authority to add up to 500 additional beds at previously approved sites with the federal Bureau of Prisons, CCA or Texas counties, utilizing funds in the existing contracts appropriation that may become available as the result of unanticipated underutilization of contracted beds. Corrections submitted an amended request on November 20, 1998, indicating that: (a) the request to add up to 500 additional beds at previously approved sites was withdrawn; and (b) the Department seeks the ability to modify the number of authorized inmates at currently approved sites, without approval of the Joint Committee on Finance, as long as the number of out-of-state beds does not exceed the total number approved by the Committee.

X Under authority granted to the Co-chairs of the Committee for 1998-99, Corrections currently has the authority to seek approval for additional contract beds from the Co-chairs if the total projected cost for the contract beds (including currently authorized beds) does not exceed the total amount of funding available for prison contracts in 1998-99. The Department's current request would allow Corrections the ability to modify the authorized number of inmates at any contract facility without Co-chair certification as long as the total number of out-of-state inmates was not exceeded. The Department indicates that this authority would allow it to react quickly to any unforeseen circumstance at any one particular site, without having to wait for Co-chair certification. It should be noted that the Department may currently move inmates between authorized contract sites, as long as the total at a specific site is not exceeded. Site-specific limitations only affect the Department's flexibility if individual sites have reached the maximum authorized limits (currently this only applies to the federal facility at Duluth, Minnesota).

Approving the Department's request to allow departmental contract modifications would limit the Legislature's oversight of out-of-state contracts because: (a) there would be no means for the Legislature to know how many state inmates could be placed at any one contract location because Corrections could freely modify the number of authorized inmates; (b) the Committee would lose the ability to approve caps at specific locations; and (c) there would be no distinction made between male and female inmates. In order to address the first concern, the Committee could approve the request, with the requirement that the Department report any modification to the site-specific caps to the Committee within five working days. It could be argued that under the current authority for Co-chair certification, Corrections may already modify contracts in a relatively quick time frame (in October, Corrections' request was certified within eight working days of its submission), with the Legislature maintaining its oversight role in those changes. In order to address all three concerns, the Department's request for contract modification flexibility could be denied.

## ALTERNATIVES

### A. Contract Approval

1. Approve the Department's request to authorize the utilization of: (a) an additional 419 beds at CCA's Sayre, Oklahoma, facility, increasing the total number of authorized beds at the facility to 1,119; (b) an additional 100 beds at the federal facility in Duluth, Minnesota, increasing the total number of authorized beds at the facility to 400; and (c) an additional 20 beds at the federal facility in Oxford, Wisconsin, increasing the total number of authorized beds at the facility to 50.

2. Deny request.

**B. Contract Funding and Increased Travel Costs**

1. Approve the Department's request to transfer: (a) \$2,269,796 GPR from the Committee's supplemental appropriation (s. 20.865(4)(a)) to the Department's contracts appropriation (s. 20.410(1)(ab)); and (b) \$150,000 GPR from the Committee's supplemental appropriation (s. 20.865(4)(a)) to the Department's general program operations appropriation (s. 20.410(1)(a)) to support the costs of the additional contract beds, travel by program staff to contract facilities for monitoring purposes and inmate transportation. Funding would come from the following reserved amounts in the Committee's appropriation: (a) \$782,296 GPR for contract beds; (b) \$645,700 GPR for food service at the Racine Youthful Offender Correctional Facility; and (c) \$991,800 GPR for the expansion of the St. John's Correctional Center.

2. Modify the Department's request by decreasing by \$13,000 the amount transferred to s. 20.410(1)(a) from the amount in the Committee's appropriation reserved for contract beds (20.865(4)(a)) to account for the projected cost of inmate return trips and transportation to West Virginia.

3. Deny the request.

**C. Departmental Modifications to Existing Contracts**

1. Approve the Department's request for authority to modify the number of authorized inmates at currently approved sites, without certification by the Co-chairs of the Joint Committee on Finance, as long as the number of out-of-state beds does not exceed the total number approved by the Committee.

2. Approve the Department's request, with the requirement that the Department report any modifications to the site-specific caps to the Committee within five working days.

3. Deny the request. Approval of this alternative would allow Corrections to continue to use the Co-chair certification process for modifications in the number of out-of-state contract beds.

*(i.e. as long as the ~~site~~ funding required doesn't exceed amounts budgeted for such contracts)*

Prepared by: Jere Bauer

*major disturbance } DoD would  
major abuse } define emergency  
natural disaster }*



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

December 2, 1998

TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Public Instruction: Section 13.10 Request to Release Funds for Maintenance Projects at the State Residential Schools--Agenda Item II

The Department of Public Instruction (DPI) requests the release of \$91,200 GPR in 1998-99 from reserve in the Joint Committee on Finance's GPR appropriation to DPI's residential schools appropriation, for maintenance projects at the School for the Deaf and at the School for the Visually Handicapped.

### BACKGROUND

In 1997 Act 27 (the 1997-99 budget act) \$91,200 GPR annually was provided to increase base funding by \$74,000 annually to fund maintenance projects at the School for the Deaf and by \$17,200 annually for maintenance projects at the School for the Visually Handicapped. Act 27 directed the State Superintendent of Public Instruction to submit plans to the Joint Committee on Finance (JFC) within 30 days after the effective date of the budget act (October 14, 1997) and by October 1, 1998, specifying how the Superintendent would allocate the maintenance funds provided. JFC has the authority to release these funds upon approval of the plans. DPI submitted its plan for 1997-98 in November, 1997 and it was approved on a 15 to 0 vote at the Committee's December, 1997, s. 13.10 meeting.

Currently, annual base funding allocated to maintenance projects is \$121,500 GPR at the School for the Deaf and \$89,000 GPR at the School for the Visually Handicapped. In total, with the Act 27 amounts combined with base funding, the annual maintenance budgets equal \$195,500 GPR at the School for the Deaf and \$106,200 GPR at the School for the Visually Handicapped.

## ANALYSIS

During 1996, the Department of Administration (DOA) directed DPI to allocate additional funding for facility upkeep and repairs at each school. As part of its agency budget submission, DPI requested, and the Governor recommended, \$91,200 GPR annually for maintenance at the residential schools. DPI worked with the Division of Facilities Development (DFD) in DOA to develop the funding amounts that were approved by the Legislature and the Governor in Act 27.

The \$91,200 GPR in 1998-99 annually would be used, in part, to purchase new or updated tools, shop supplies, paint and painting supplies, new doors, tree removal and contractual services. The following table lists, by item, the plan submitted by the State Superintendent for 1998-99.

### Residential Schools – 1998-99 Maintenance Funding

<u>Wisconsin School for the Deaf</u>	<u>Amount</u>
Lumber	\$3,500
Hand tools--carpenter shop	4,000
Dual axis multi-mixer	1,000
16 canister electric agitator	2,400
Ladders	1,000
Paint	2,000
Hand tools--paint shop	500
Hand tools, supplies, machinery--electrical shop	1,800
Electrician's calculator	500
Fluke multimeter attachment kit	400
Inductive amplifier	700
Cleaning system with vacuum—boiler/chiller shop	4,000
Freon recycling/reclaim machine	5,000
Supplies (gaskets, rivets, chemicals)	1,500
CFC clean system	6,000
Dakota chairs with caddy (50)	3,000
Folding tables with caddy (12)	1,300
✓ Refuse containers (4)	1,500
Supplies--custodian shop	2,000
Washer/dryer	1,500
Linens, towels, sheets, cases	1,800
Racks with wire mesh and gates	7,000
Pallets, nuts and bolts	300
Push bar door locks	2,500
Fork lift repairs	1,500
✓ Insect spraying	1,000
Volley ball court	3,100
Sealcoat/crack filling	2,900
Landscaping, plant material, tree removal	7,000
Pressure washer	1,300
Carpeting for computer lab	<u>2,000</u>
Total--School for the Deaf	\$74,000

<u>Wisconsin School for the Visually Handicapped</u>	
Furnish and install two doors and frames	\$7,000
Overhead garage door	200
Three CFA windows	1,200
Motor for commercial washer	400
Maxi dump	5,000
Giant vacuum	2,500
Soil pipe cutter	300
Hammer drill and bits	<u>600</u>
Total--School for the Visually Handicapped	\$17,200
 Total -- Residential Schools	 \$91,200

## CONCLUSION

Because the 1998-99 plan submitted for the allocation of the maintenance funding held in reserve in the Committee's appropriation appears reasonable, the Committee may wish to release \$91,200 GPR in 1998-99 from the Joint Committee on Finance's s. 20.865(4)(a) appropriation to DPI's s. 20.255(1)(b) residential schools appropriation to fund maintenance projects at the School for the Deaf and at the School for the Visually Handicapped.

Prepared by: Dave Loppnow



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

December 2, 1998

TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Health and Family Services: Funding for Child Abuse and Neglect Prevention in Milwaukee County – Agenda Item IV

1997 Wisconsin Act 27 (the 1997-99 biennial budget) provides \$744,800 GPR in 1997-98 and \$1,489,600 GPR in 1998-99 in the Finance Committee's appropriation to fund child abuse and neglect prevention activities in Milwaukee County, beginning January 1, 1998. Act 27 requires the Department of Health and Family Services (DHFS) to submit a plan to the Department of Administration (DOA) for the use of these funds and to request the transfer of funds from the Committee's appropriation to the DHFS appropriation for Milwaukee child welfare services. Upon approval, DOA is directed to forward a plan to the Committee for its review under a 14-day passive review process.

In December, 1997, the Committee approved the transfer of \$744,800 GPR in 1997-98 and \$744,800 GPR in 1998-99 to DHFS for distribution in calendar year 1998 for prevention activities in Milwaukee County. At the time, DHFS indicated that it would later request the remaining \$744,800 GPR in 1998-99 once it developed a plan for 1999. On October 30, 1998, DOA submitted a request to transfer the remaining \$744,800 in 1998-99 to DHFS to fund child abuse and neglect prevention programs in Milwaukee County for the first six months of 1999. On November 18, the Co-Chairs notified DOA Secretary Bugher that this matter would be considered at a future meeting of the Committee.

### BACKGROUND

**Act 27 Provisions.** Under provisions of Act 27, DHFS became responsible for the administration of child welfare activities in Milwaukee County, beginning January 1, 1998. In

order to maintain funding for child abuse and neglect prevention that had been allocated by Milwaukee County prior to January 1, 1998, Act 27 placed \$744,800 GPR in 1997-98 and \$1,489,600 GPR in 1998-99 in the Committee's program supplements appropriation.

During the 1997-99 budget deliberations, Committee members raised concerns about the need for such programs and duplication of services in light of other activities in Milwaukee County to prevent child abuse and neglect. At the time, the administration provided little information about these programs. For these reasons, the Committee placed funding for these prevention programs in its appropriation, which would be available for transfer to DHFS once additional information on these programs was provided.

**Calendar Year 1998 Contract.** Under the plan approved by the Committee in December, 1997, DHFS distributed the \$1,489,600 to the same organizations in the same amounts that Milwaukee County had distributed in 1997. The contract was awarded on a sole-source basis, which means that there was no competition for the contract. For most of the funding (\$1,252,000), DHFS contracted with Community Advocates, Inc. as a lead agency for the Child Abuse Prevention (CAP) Network. The contract specified the amount of funding Community Advocates was required to distribute for six programs that were members of the CAP Network. The contract with Community Advocates did not provide any requirements for accountability or evaluation.

X The remaining funds transferred by the Committee under the DHFS plan, (\$237,600) were provided to three organizations through safety service referrals, since DHFS determined that these organizations provided services that were more appropriate for cases where child abuse or neglect was already occurring or at significant risk of occurring. Safety services are provided to those families where the Bureau of Milwaukee Child Welfare has substantiated child abuse or neglect, but an assessment has determined that the child or children in the family could remain safe if services were provided in the families' home.

**Description of DHFS Request for 1999.** The DHFS plan for 1999 includes the issuance of a request-for-proposal (RFP) to select a lead agency to coordinate, implement, evaluate and manage a comprehensive and collaborative prevention program for calendar year 1999. The lead agency will not be a direct service provider. Instead, it will subcontract with various community-based agencies to provide services as part of a countywide continuum of services available to all families to prevent child abuse and neglect. The recipient of the grant will be expected to coordinate its efforts with other community initiatives with the goal of not only preventing child abuse and neglect, but also strengthening families and increasing self-sufficiency among the families served.

DHFS issued the RFP on November 5, 1998. The total amount of the contract will be for \$1,489,600 with no more than 5% available to the lead agency for administrative and evaluation costs. The plan before the Committee requests the transfer of \$744,800 GPR in 1998-99 to DHFS to fund the first six months of the contract. The remaining six months of the contract would be funded in the next biennium as provided in the DHFS budget request for 1999-2001.

*Program Goals.* In the RFP, DHFS identified seven program goals that will be examined as part of the evaluation of the grant recipient:

- Reduction in the incidence of substantiated child abuse and neglect in Milwaukee County;
- Increased universal access to family support programs aimed at preventing child abuse and neglect;
- Provision of intensive and voluntary family support services to parents of newborns who are identified as in need of services to prevent child abuse and neglect;
- Increased access to group-based parent education and family strengthening services;
- Enhanced coordination of child abuse and neglect prevention services among existing community programs;
- Increased awareness of child abuse and neglect prevention strategies within the community and within families by improving protective behavior skills in children of all ages;
- Increased utilization of community resources designed to provide family support and build self-sufficiency skills; and
- Development of a county-wide evaluation program of child abuse and neglect prevention services to assess the effectiveness of county-wide service delivery.

*Selection Process.* Unlike the 1998 award process, the selection of the recipient of the grant will be a competitive process with an evaluation by a committee consisting of a representative from the DHFS Bureau of Milwaukee Child Welfare, a child abuse and neglect prevention service provider from outside Milwaukee County and experts from DHFS.

Each respondent to the RFP will be reviewed and given points on various aspects including the organization's: (a) experience; (b) staff and qualifications of the vendors with whom the lead agency will contract; (c) understanding of the needs of the community; (d) collaboration and coordination with other organizations in the community with similar objectives and how duplication of services will be avoided; (e) ability to use these funds to leverage other sources of support for prevention of child abuse and neglect; (f) workplan for the project; and (g) plan for evaluation of the project. Each respondent will be ranked based on the amount of points scored.

*Evaluation.* DHFS will require an evaluation of the overall effectiveness of the program as well as the effectiveness of collaborative efforts, coordination of services, fiscal management, data collection and overall community impact. The goals identified earlier will be examined as part of the evaluation. DHFS performance evaluation managers within the Bureau of Milwaukee Child

Welfare will be available to the grant recipient to assist in the implementation of the evaluation plan and provide access to data, as allowed by law, to determine the status of families served.

## ANALYSIS

**Contract Award Process.** The DHFS plan represents a significant improvement over the process used to award the contract in 1998, since the contracts will be awarded on a competitive basis. It is the administration's policy that all contracts for services should be awarded on a competitive basis whenever possible. A competitive RFP process is generally considered preferable since: (a) the decision is usually made based on objective, rather than subjective, criteria; (b) a panel of qualified individuals reviews each organization's response to the RFP, rather than a single individual; and (c) the decision-making process is documented and open to review.

In 1998, the contracts were awarded on a sole-source basis. DHFS was unable to develop an RFP and review proposals in time to award the contracts by January 1, 1998, since staff were focusing on ensuring that the state was ready to takeover administration of the child welfare system on January 1, 1998.

**Evaluation Process.** No evaluation requirements were included in the 1998 contracts for prevention services in Milwaukee County. The 1999 contract will ensure that the recipient of these funds demonstrate its effectiveness in managing the funds, working with other organizations and that the organizations that receive funding are successful at reducing child abuse and neglect in Milwaukee County.

If the Committee wishes to ensure that the funding distributed under this request is distributed based on a competitive review, the Committee could approve the plan developed by DHFS. This alternative would not preclude the organization that received this funding in 1998 from competing and possibly receiving the contract for 1999, but instead would require that it compete with other organizations that respond to the RFP for that funding.

However, since Community Advocates, as lead agency for the CAP Network, has been a long-time recipient of these funds, both from DHFS in 1998 and from Milwaukee County for years prior to 1998, the Committee could approve the transfer of funds from the Committee's appropriation but require DHFS to give Community Advocates and the CAP Network the right of first refusal for the contract for 1999. The contract could still hold Community Advocates and the CAP Network responsible for the requirements included in the RFP, but the right of first refusal would be given to Community Advocates and the CAP Network out of consideration of their long-standing receipt of these funds.

## ALTERNATIVES

1. Approve the request to transfer \$744,800 GPR in 1998-99 from the Committee's program supplements appropriation to the DHFS appropriation for Milwaukee child welfare services, as submitted by DOA.
2. Approve the request to transfer \$744,800 GPR in 1998-99 from the Committee's program supplement appropriation to the DHFS appropriation for Milwaukee child welfare services. In addition, require DHFS to give Community Advocates, Inc. and the CAP Network of Milwaukee County the right of first refusal for the 1999 contract for child abuse and neglect prevention services in Milwaukee County.
3. Deny the request.

Prepared by: Rachel Carabell



## Legislative Fiscal Bureau

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December 2, 1998

TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Health and Family Services: Section 13.10 Request for Transfer of MA Funds to Maintain Specialized Services for Residents of the Trempealeau County Health Care Center – Agenda Item V

The Department of Health and Family Services (DHFS) requests that the Committee transfer \$186,800 GPR from the medical assistance (MA) benefits appropriation to the Department's appropriation for mental health treatment services in order to maintain current state funding of specialized mental health services for residents of the Trempealeau County Health Care Center.

### BACKGROUND

The Trempealeau County Health Care Center is a nursing home that specializes in the treatment of mental illness and, as a result, is considered an institute for mental disease (IMD). There are three IMDs in Wisconsin. If an IMD meets the various standards and regulations under MA and is MA-certified, the IMD is eligible for: (a) MA coverage for institutional services for children (21 years old and younger) and the elderly (65 years and older); and (b) state-only funding of \$9 per day per resident for any resident that needs specialized mental health treatment services. Although MA does not provide coverage for institutional services for adults 22 to 64 years old, the state provides \$11,861,000 GPR annually to assist counties in the support of persons residing in IMDs and persons relocated from an IMD to a community-based treatment program. This funding amount reflects the level of support that was provided in the year that MA ended IMD coverage for adults aged 22 to 64 years old. In general, the state pays counties 90% of the rate that was paid in 1989 under MA for care in an IMD. Because of inflation, this special state payment does not fully cover the costs of care.

Prior to September 1, 1998, the Trempealeau County Health Care Center was an MA-certified IMD and received MA coverage for young and elderly residents and benefited from the state supplemental payments of \$9 per day per patient for each resident that needed specialized mental health treatment services. However, the Center has decided to voluntarily terminate its MA certification because its management believes that the facility cannot operate within federal regulations regarding the use of restraints and seclusion for a portion of its clientele. Many of the Center's residents have challenging behaviors and management believes that the facility must continue its current restraint and seclusion practices to prevent the residents from harming themselves or others. In conjunction with terminating its MA certification, the Trempealeau Center has: (a) established a state-only licensed nursing home with 76 licensed beds that will serve residents that have more challenging behaviors and who are, in general, middle-aged adults; (b) retained a distinct part MA-certified IMD that serves residents that can be treated within the guidelines of federal regulations and who are, in general, 65 years of age or older; and (c) relocated elderly residents who do not need the services of an IMD to either the community or the county's other nursing home, which does not specialize in the treatment of persons with mental illness.

As a result of these actions, the Trempealeau Center can utilize the techniques that it feels are necessary for dealing with its more challenging residents, while retaining MA coverage for its elderly residents who can be treated within the constraints of federal nursing home regulations. However, because state statutes limit the state supplemental payment for specialized services to MA-certified nursing homes, the Trempealeau Center has lost the supplemental payment for the residents of its state-only licensed IMD.

has can we provide supplement if stats. prohibit it?

## ANALYSIS

The Department requested a transfer of \$186,800 to fund these supplemental payments for the period from September 1, 1998, to June 30, 1999. However, the amount of funding required to fund supplemental payments for a ten-month period is \$207,300. The original request would only fund nine months of payments.

The Department believes that the supplemental payments are important to maintain the quality of care for the residents of the Trempealeau Center and recommends that the funding be continued by transferring the funding from the MA appropriation to the Department's appropriation for mental health treatment services.

One important consideration is assessing the Department's recommendation is whether the care provided by the Trempealeau Center merits support. If their procedures cannot meet federal nursing home regulations, there is a suggestion that the care provided is deficient in some regard. However, it appears that Trempealeau's problem with meeting federal regulations is not so much a problem of inappropriate care but rather a problem that federal nursing home regulations are not designed to accommodate the care of certain classes of the mentally ill. The procedures used by the Trempealeau Center are permissible in a federally regulated psychiatric hospital, but not in a

federally regulated nursing home. Under federal nursing home regulations, restraints can only be used for the treatment of a medical condition or in an emergency. Federal rules do not permit restraints to be used in place of treatment to protect the resident from self-injurious behavior or physical harm to other residents or staff on a regular basis. DHFS has indicated that the Center's procedures provide appropriate care and that it would be very difficult to manage the type of residents who are cared for by the Trempealeau Center if the Center followed federal nursing home restrictions on restraints.

A related issue is whether an IMD that is subject to the staffing requirements of a nursing home, rather than a psychiatric hospital, should be allowed to use the techniques permissible in a psychiatric hospital. Nursing home regulations do not impose as high of a staffing requirement for professional staff as is required for psychiatric hospitals. It could be argued that persons with challenging behaviors who require the use of restraints may require the staffing level required in a psychiatric hospital. However, an IMD nursing home may provide an adequate and more cost-effective method for treating persons over a longer period of time. After a period of time in which an individual has been evaluated, various treatment techniques have been tried, and the treatment plan has been stabilized, it may appropriate and cost-effective to treat a person at the staffing level of an IMD nursing home when the treatment requires a more lengthy period of time. State administrative rules allow the use of restraints in a nursing home in order to deter the person from self-injurious behavior and to protect other residents.

A final issue is whether the Department's appropriation for mental health treatment services can be used to maintain state support of specialized mental health services at the Trempealeau Center. The statutes require that this appropriation be used to provide funding to counties for the care in an IMD or in the community for persons (or their replacement) who lost funding under MA because the nursing home in which they resided was found prior to July 1, 1989 by the federal health care financing administration to be an IMD. The Trempealeau Center was one of the state's nursing homes that was found to be an IMD prior to July 1, 1989, and currently has 63 beds that are funded under this appropriation at rates ranging from \$29.29 to \$56.11 per day. The statutory language directs that the state share of noninstitutional medical services, as well as 90% of the daily institutional rate, be funded under this appropriation. Thus, payment of the \$9 per day payment for specialized mental health services for at least 63 residents would appear to be permissible under this appropriation. However, the statutory language also limits the total number of persons supported under this appropriation to the number that lost MA-funding in 1989 due to a finding that the nursing home was an IMD. Thirteen of the 76 licensed beds at the Trempealeau IMD are not currently funded under this appropriation, and so, may not be eligible for funding under the current statutory language. Funding 63 persons, rather than 76, would require a transfer of \$171,800 in 1998-99, rather than \$207,300.

The Trempealeau Center serves individuals from a number of counties and could be considered a regional or statewide facility. Residents from 15 different counties are currently being served at the Trempealeau Center. Further, the Trempealeau facility provides a statewide service in that the facility tends to specialize in the care of individuals with challenging behaviors. This type

of individual would tend to have a more difficult time finding a facility that would accept them for treatment. The financial benefit of continuing state support of the \$9 per day payment will probably benefit other counties in addition to Trempealeau County, since counties that send their residents to the Trempealeau Center are liable for the costs of care at the facility. If the state no longer funded the \$9 per day payment, the Trempealeau facility may raise the rate it charges to other counties for services provided to their residents.

## **ALTERNATIVES**

1. Approve the Department's request, as modified to fund the payments for ten months, to transfer \$207,300 GPR in 1998-99 from the MA benefits appropriation [s. 20.435(5)(b)] to the Department's appropriation for mental health treatment services [s. 20.435(7)(be)] to maintain the current funding of specialized mental health services for residents of the Trempealeau County Health Care Center.

2. Modify the Department's request by reducing the transfer to \$171,800 GPR to recognize the limits allowed under current statutory provisions governing the appropriation for mental health treatment services.

3. Deny the Department's request.

Prepared by: Richard Megna



## Legislative Fiscal Bureau

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December 2, 1998

TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Transportation: Plan for Adjusting 1998-99 Appropriations for Additional Federal Aid -- Agenda Item VI

### REQUEST

The Department of Transportation requests 1998-99 appropriation increases to allocate \$127,092,000 in additional federal highway aid, as follows: (a) \$73,710,300 FED for state highway rehabilitation; (b) \$14,685,000 FED for major highway development; (c) \$2,396,700 FED for administration and planning; (d) \$2,000,000 FED for departmental management and operations; (e) \$21,341,700 FED for local transportation facilities; (f) \$2,000,000 FED for local bridges; (g) \$6,919,000 FED for congestion mitigation and air quality improvement; (h) \$2,498,000 FED for transportation enhancements; (i) \$1,200,000 FED for railroad crossing improvement; and (j) \$341,300 FED for rail passenger service.

In addition, the Department requests appropriation increases to reflect increases in nonhighway federal funds, as follows: (a) \$7,600,000 FED for transit and demand management aids; (b) \$300,000 FED for elderly and disabled aids; and (c) \$3,447,300 FED for departmental management and operations (allocating additional traffic safety funds and transit planning funds).

Finally, the Department requests 1998-99 local funds appropriation increases to reflect the required 20% match for the local programs, as follows: (a) \$500,000 SEG-L for local bridge improvement; (b) \$1,729,800 SEG-L for congestion mitigation and air quality improvement; (c) \$624,500 SEG-L for transportation enhancements; (d) \$110,000 SEG-L for transit and demand management aids; and (e) \$75,000 SEG-L for elderly and disabled aids. These increases do not involve an appropriation of state transportation fund dollars.

## BACKGROUND

1997 Act 86 included a provision that requires the Department of Transportation to submit a plan to the Joint Committee on Finance for adjusting the Department's appropriations if federal transportation aid received by the state differs from the amounts estimated for the state biennial budget by more than 5%. The federal Transportation Equity Act for the 21st Century (TEA-21), signed last June, increased transportation spending significantly, resulting in an increase in aid for most states, including Wisconsin. Due to this increase, DOT is required to submit a plan for adjusting its appropriations.

After the plan is submitted, the Co-chairs of the Committee are required to jointly determine if the plan is complete. Upon that finding, the Committee may meet to review the plan within the following 14 calendar days. The Committee may either approve or modify and approve the plan at that meeting. The Secretary of DOT is required to implement the plan approved by the Committee. If, within 14 calendar days, no meeting is held or the Committee does not approve a plan at a meeting, the Secretary of DOT is required to implement the plan initially submitted, if that plan has been found to be complete.

During deliberations on the 1997-99 state budget, the amount of federal highway aid to be received during the biennium was estimated at \$345 million annually. In 1998, however, the state received \$409.9 million, an increase of \$64.9 million above the amount estimated. At a July meeting under s. 13.10, the Committee approved DOT's plan to allocate \$57.3 million of the additional amount as follows: (a) \$34,380,000 FED for state highway rehabilitation; (b) \$5,730,000 FED for major highway development; and (c) \$17,190,000 FED for local transportation facility improvement. At the time of that meeting, the full amount of 1998 aid had not been received, but DOT indicated that the remainder (\$7.6 million) would be allocated along with 1999 aid. At its September meeting under s. 13.10, however, the Committee provided \$500,000 FED of 1998 aid for railroad crossing signals, reducing the amount of 1998 aid to be allocated along with 1999 aid to \$7.1 million. In 1999, Wisconsin will receive \$465 million, which is \$120 million above the amount budgeted by Act 27. The total amount that DOT is required to allocate, therefore, is \$127.1 million.

DOT has also requested increases to certain appropriations allocating additional federal aid outside the federal highway program, including mass transit, elderly and disabled and traffic safety funds. Since these programs only have one corresponding state appropriation, there are no alternatives to DOT's plan for distributing these funds. Consequently, the following description and analysis only considers the portion of the plan allocating federal highway aid.

## DESCRIPTION OF THE PLAN

The following table shows 1998-99 DOT appropriations, and the changes DOT has proposed to allocate the additional federal aid. Several of the programs shown in the table have both federal

category-  
type  
Federal  
programs

and state appropriations, and the major highway development program is also funded by an appropriation of revenue bond proceeds. Since these programs use more than one appropriation, the final column of the table compares the changes proposed by DOT's plan to the Act 27 program total. The actual appropriation amounts for the federal highway rehabilitation and departmental management and operations appropriations are slightly higher than the amounts shown in the table because these appropriations also have federal funds from outside the principal federal highway aid program.

### Allocation of Additional Federal Highway Aid Under DOT's Plan

	1998-99 Appropriations			DOT Plan Changes	Percent Change To Total
	Federal	State/Rev. Bond*	Program Total		
Rail Passenger Service	\$2,730,000	\$682,500	\$3,412,500	\$341,300	10.0%
Local Bridge Improvement	24,288,200	8,464,200	32,752,400	2,000,000	6.1
Local Transportation Facility Improvement	50,038,000	0	50,038,000	21,341,700	42.7
Transportation Enhancements	3,750,000	0	3,750,000	2,498,000	66.6
Railroad Crossing Improvement	1,849,300	450,000	2,299,300	1,200,000	52.2
Surface Transportation Grants	2,720,000	0	2,720,000	0	0.0
Congestion Mitigation/Air Quality Improvement	5,579,500	0	5,579,500	6,919,000	124.0
Major Highway Development	40,935,100	151,748,400	192,683,500	14,685,000	7.6
State Highway Rehabilitation	200,698,400	254,424,500	455,122,900	73,710,300	16.2
Highway Maintenance	880,000	146,051,200	146,931,200	0	0.0
Highway Administration and Planning	2,903,300	18,610,900	21,514,200	2,396,700	11.1
Departmental Management and Operations	6,575,600	44,550,600	51,126,200	2,000,000	3.9
Motor Vehicle Emission Inspection and Maintenance	2,052,600	7,881,700	9,934,300	0	0.0
<b>TOTAL</b>	<b>\$345,000,000</b>	<b>\$632,864,000</b>	<b>\$977,864,000</b>	<b>\$127,092,000</b>	<b>13.0%</b>

state + federal, not just federal \$ (as in DOT's table)

\*The major highway development program uses \$110,535,300 in revenue bond proceeds.

### ANALYSIS

#### DOT's Plan

The plan submitted by DOT would allocate the additional federal funding between the state highway program and the local assistance program in roughly the same proportion as Act 27 apportioned federal aid between state and local uses. Of the \$345 million in federal aid estimated under Act 27, 73.6% was provided for the state highway program (including planning and research), while the plan would provide 73.0% of the \$127.1 million increase for state highways. Within the state highway programs, the largest appropriations were generally increased in proportionate amounts.

On the local side, the share of funding for the programs changed slightly. The local transportation facilities program (which funds improvements to major roads that are not on the state trunk highway system) was increased by a greater percentage than the local bridge program because DOT believes that the need for improvements in the local highway program is greater than the need in the local bridge program.

Funding was increased by a greater percentage for both the transportation enhancements program (which funds primarily local bicycle and pedestrian projects) and the congestion mitigation and air quality improvement (CMAQ) program (which funds projects in ozone nonattainment areas that are designed to reduce highway congestion and air pollution caused by automobiles). DOT indicates that increases were provided for these programs in order to avoid losing funds that the state has been authorized to spend. In the federal highway program, funds are authorized for expenditure in various program categories, including enhancements and CMAQ. However, authorized funds (called apportionments) do not represent actual spendable dollars. Since the federal government frequently authorizes more spending than it appropriates, not all apportionments can be used in any given year. Unused amounts carry-over into the following year, but eventually they lapse if they are not used. In the past, the state has not used all of its apportionments in the enhancements and CMAQ categories and, consequently, has built a balance of apportionments. The plan would provide larger increases, according to DOT, in order to avoid lapsing federal apportionments in these programs. However, since the amount of apportionments that the state receives in these categories is considerably greater than the amount spent, and since the state receives new apportionments each year, a loss of apportionments in either of these categories would be unlikely to restrict the amount that could be spent on CMAQ or enhancements in the future.

### **Flexibility in Making Modifications**

Under the law requiring DOT to submit a plan to allocate additional federal aid, the Committee is given the authority to make modifications to the plan, including modifications to any of DOT's appropriations. Given this flexibility, the Committee has several possible options:

- Move federal funds from one or more federal appropriations to one or more other federal appropriations.
- Use federal funds to replace state funds (in programs that use both sources) and then use the state funds to increase a program or programs that use only state funds.
- Use federal funds to replace revenue bond proceeds in the major highway development program. (The Committee voted to reduce the use of revenue bonding by \$10 million when it considered DOT's plan for allocating 1998 federal aid, but this action was vetoed by the Governor.)

- Use federal funds to replace state funds, leaving a balance in the transportation fund carrying over into the 1999-2001 biennium, thereby allowing these funds to be used to provide increases in programs that require corresponding statutory modifications.
- Use federal funds to replace state funds, leaving a balance in the transportation fund carrying over into the 1999-2001 biennium, thereby allowing more flexibility to consider state transportation fund revenue options.

While there are several options for making modifications to the plan, the most significant restriction on flexibility is that some programs may not be able to use additional funding in the short term. Most significantly, the major highway development program could not use more funding than would be provided by the plan because the designs for new projects would not be completed in time.

### **1998-99 Base**

DOT did not submit a budget request in September for the major transportation programs because the Department believed that the adjustments made in the 1999 federal plan would establish the new base for the 1999-2001 budget. The base is typically established when agencies file preliminary budget papers with DOA in July. In the plan, DOT proposes to include these increases (plus the \$500,000 FED provided for railroad crossing signals in September) in the base for the purposes of preparing the 1999-2001 budget. The Committee may either vote to include or exclude the adjustments made by DOT's plan (or any adjustments made to the plan by the Committee) as part of the 1998-99 base.

Since the funds allocated by DOT's 1999 federal plan are revenue received during the base year, it could be argued that it would be appropriate to include the plan's changes in the base. If the Committee decides not to include these amounts in the base, the 1999 adjustments would not be affected, but any changes made by the next biennial budget would be made to a lower base.

## **ALTERNATIVES**

### **A. Allocation of Additional Federal Aid**

1. Approve the Department's request to:

(a) Increase 1998-99 federal appropriations as follows: (a) \$73,710,300 FED for state highway rehabilitation; (b) \$14,685,000 FED for major highway development; (c) \$2,396,700 FED for administration and planning; (d) \$5,447,300 FED for departmental operations; (e) \$21,341,700 FED for local transportation facilities; (f) \$2,000,000 FED for local bridges; (g) \$6,919,000 FED for congestion mitigation and air quality improvement; (h) \$2,498,000 FED for transportation enhancements; (i) \$1,200,000 FED for railroad crossing improvement; (j) \$341,300 FED for rail

passenger service; (k) \$7,600,000 FED for transit and demand management aids; and (l) \$300,000 FED for elderly and disabled aids; and

(b) Increase local funds appropriations as follows: (a) \$500,000 SEG-L for local bridge improvement; (b) \$1,729,800 SEG-L for congestion mitigation and air quality improvement; (c) \$624,500 SEG-L for transportation enhancements; (d) \$110,000 SEG-L for transit and demand management aids; and (e) \$75,000 SEG-L for elderly and disabled aids.

2. Modify the plan by changing the amounts in one or more DOT appropriations.

**B. 1998-99 Base**

1. Specify that the changes made to the 1998-99 appropriations by DOT's plan (plus any modifications made by the Committee) shall be considered as part of the base for the purposes of preparing the 1999-2001 biennial budget.

2. Specify that the changes made to the 1998-99 appropriations by DOT's plan (plus any modifications made by the Committee) shall not be considered as part of the base for the purposes of preparing the 1999-2001 biennial budget.

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