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Legislative Fiscal Bureau
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May 15, 1997

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Budget Issue Papers

Attached are budget issue papers, prepared by this office, on the following agencies:

- Department of Justice
- Department of Administration -- Office of Justice Assistance
- Northern Great Lakes Center
- Department of Military Affairs

These agencies have been scheduled for executive action by the Joint Committee on Finance. The meeting will be held at 1:00 p.m. on Monday, May 19, in 119 MLK Building, Joint Finance (back of Senate Chambers).

BL/sas
Attachments

1997-99 BUDGET PAPERS

May 19, 1997

Paper #

Justice

530 Minor Policy and Technical Changes -- Removal of Noncontinuing Costs
531 Budget Reductions
532 DNA Crime Lab Initiative and Fee and Replace Federal Anti-Drug Program Funds
533 Victim/Witness Assistance -- Surcharge on Juveniles
534 Eliminate Bankruptcy Positions
535 Appeals Attorney -- Sexual Predators
536 Sheriff Fees in Real Estate Sales
537 Indian Law Initiative
538 Handgun Hotline Deficit
539 Minor Policy and Technical Changes -- Sexual Predator Prosecutors

Administration -- Office of Justice Assistance

491 **Northern Great Lakes Center**

Military Affairs

555 National Guard Tuition Grant Program
556 Minor Policy and Technical Changes
556 Regional Emergency Response Teams Appropriation -- Level A Teams
557 Emergency Response Equipment Appropriation -- Level B Teams
558 Emergency Response Supplement Appropriation

Justice

(LFB Budget Summary Document: Page 359)

LFB Summary Items for Which Issue Papers Have Been Prepared

Item #	Title
1(part)	Minor Policy and Technical Changes -- Removal of Noncontinuing Costs (Paper #530)
2	Budget Reductions (Paper #531)
3,13	DNA Crime Lab Initiative and Fee and Replace Federal Anti-Drug Program Funds (Paper #532)
6(part)	Victim/Witness Assistance -- Surcharge on Juveniles (Paper #533)
8	Eliminate Bankruptcy Positions (Paper #534)
15	Appeals Attorney -- Sexual Predators (Paper #535)
19	Sheriff Fees in Real Estate Sales (Paper #536)
-	Indian Law Initiative (Paper #537)
-	Handgun Hotline Deficit (Paper #538)
-	Minor Policy and Technical Changes -- Sexual Predator Prosecutors (Paper #539)

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Minor Policy and Technical Changes -- Removal of Noncontinuing Costs (Justice)

GOVERNOR

Delete $94,200 FED and $272,500 PR and 1.0 FED and 12.0 PR positions in 1997-98 and $366,700 GPR, $1,170,600 FED and $1,203,400 PR and 7.5 GPR, 11.5 FED and 19.0 PR positions as nonrecurring costs.

MODIFICATION TO BASE

Delete an additional $233,400 PR in 1998-99 to reflect anti-drug program funding that reaches its four-year limit in 1998-99. In addition, transfer -1.0 PR position from the subprogram for the crime information bureau to the subprogram for crime laboratories.

Explanation: A number of DOJ programs which receive funding under the federal anti-drug program reach the four-year funding limit allowed under this program during 1997-99. Under the bill, most, but not all, of the funding associated with these programs is deleted under the standard budget adjustment for nonrecurring costs. Therefore, additional funding of $233,400 should be eliminated in 1998-99. In addition, under the standard budget adjustments, 6.0 positions are eliminated under the subprogram for the crime information bureau; however, the base for that subprogram includes only 5.0 positions. The additional 1.0 position should be eliminated from the subprogram for crime laboratories.

Modification	PR
1997-99 FUNDING (Change to Base)	-$233,400
[Change to Bill	*-233,400]*

Prepared by: Carri Jakel

MO# Modification

JENSEN	Y	N	A
2 OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A
1 BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

AYE 16 NO 0 ABS ____

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Budget Reductions (Justice)

[LFB Summary: Page 359, #2]

CURRENT LAW

The Department of Justice has base GPR funding of $31.1 million and 410.15 GPR positions for state operations.

GOVERNOR

Delete $647,500 GPR in 1997-98 and $280,800 GPR in 1998-99 to reflect budget reductions. The reductions include the following: (a) -$68,500 and -1.0 position annually to remove a criminal history records project administrator position that was converted from GPR to FED by the Joint Committee on Finance under s. 16.505 in October, 1996; (b) -$94,700 annually to eliminate funding for 2.0 program and planning analyst positions that were restored without funding under 1995 Act 27, but included under DOJ's standard budget adjustment for full funding of salaries and fringe benefits; and (c) -$484,300 in 1997-87 and -$117,600 in 1998-99 in unspecified reductions from the general operations appropriation under the Law Enforcement Services program. Require DOJ to submit a report to the Governor and Joint Committee on Finance, by October 1, 1997, concerning the Department's recommendations on how to allocate the unspecified reductions among DOJ's sum certain GPR appropriations.

DISCUSSION POINTS

1. According to the "Budget in Brief" document, the Governor recommends permanent reductions of approximately 2% per year of GPR state operations funding for some state agencies, the Courts and the Legislature. For DOJ, the reductions represent a cut of 2% in 1997-98 and 0.9% in 1998-99 from the Department's base for state operations. DOA officials indicate that the calculation of DOJ's reduction in 1998-99 took into account the deletion of $366,700 GPR in 1998-99 that is used to match federal anti-drug abuse funds but which, under the bill, would no longer be needed in 1998-99 (this reduction is reflected under DOJ standard budget adjustments).

2. Under the 1997-99 DOA budget instructions, agencies were required to submit suggestions for reducing base budgets by 3.5%. DOJ requested an exemption from this process, indicating that such reductions could not be absorbed without reducing critical agency services, including undercover narcotics enforcement, training of local drug agents, investigative services, crime laboratory services, background checks, funds for victim compensation and state legal services. The exemption was denied; however, DOJ did not submit a reduction plan.

3. As a result, in addition to specified budget reductions, including -$163,200 annually associated with three DOJ positions (1.0 criminal history records administrator that has been converted from GPR to PR and 2.0 program and planning analysts for which funding was eliminated under 1995 Act 27, but included in the agency's standard budget adjustments), DOJ must identify cuts of $484,300 in 1997-98 and $117,600 in 1998-99.

4. Under the bill, DOJ would be required to submit a report to the Governor and Joint Committee on Finance concerning the agency's preference for allocating the unspecified reductions. On similar provisions relating to the Arts Board and Historical Society, the Committee voted to require that the report be subject to the approval of the Joint Finance Committee under a 14-day passive review process. Therefore, the bill could be modified to include a 14-day passive review of DOJ's proposal of the unspecified funding reductions. The modification would permit the recommended GPR reductions to be implemented, if the Committee approves the report or does not schedule a meeting to review the report within 14 working days after receipt of the report.

5. DOJ officials argue that the agency cannot absorb additional reductions, and that any allocation of these reductions would result in reduced services to local law enforcement agencies. As a result, costs would be shifted to local governments.

ALTERNATIVES TO BASE

1. Approve the Governor's recommendation to delete $647,500 GPR in 1997-98 and $280,800 GPR in 1998-99 and 1.0 GPR position annually. Of the reductions, $484,300 in 1997-

98 and $117,600 in 1998-99 would come from the general operations appropriation under the Law Enforcement Services Program, as unspecified reductions. Require DOJ to submit a report to the Governor and Joint Committee on Finance, by October 1, 1997, concerning the Department's recommendations on how to reallocate the reductions to the Law Enforcement Services Program among other sum certain GPR appropriations.

Alternative 1	GPR
1997-99 FUNDING (Change to Base)	- $928,300
[Change to Bill	*$0]*
1998-99 POSITIONS (Change to Base)	- 1.00
[Change to Bill	*0.00]*

2. Approve the Governor's recommendation with a modification to specify that DOJ's proposed allocation of the unspecified funding reductions submitted to the Joint Committee on Finance would be subject to approval under a 14-day passive review process.

Alternative 2	GPR
1997-99 FUNDING (Change to Base)	- $928,300
[Change to Bill	*$0]*
1998-99 POSITIONS (Change to Base)	- 1.00
[Change to Bill	*0.00]*

(3) Reduce DOJ appropriations by $163,200 GPR and 1.0 GPR position annually to reflect: (a) $68,500 and 1.0 position annually associated with a criminal history records project administrator position that was converted from GPR to FED by the Joint Committee on Finance under s. 16.505 in October, 1996; and (b) $94,700 annually for 2.0 program and planning analyst positions to reflect the 1995 Act 27 action that eliminated the positions' funding. Under this alternative, DOJ would not be subject to $601,900 in unspecified budget reductions included under the bill.

Alternative 3	GPR
1997-99 FUNDING (Change to Base)	- $326,400
[Change to Bill	*$601,900]*
1998-99 POSITIONS (Change to Base)	- 1.00
[Change to Bill	*0.00]*

4. Maintain current law.

Alternative 4	GPR
1997-99 FUNDING (Change to Base)	$0
[Change to Bill	*$928,300]*
1998-99 POSITIONS (Change to Base)	0.00
[Change to Bill	*1.00]*

Prepared by: Carri Jakel

MO# ALT #3

1 JENSEN	Y	N	A
2 OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A
BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

AYE 8 NO 8 ABS ____

FAIL

Senator Burke

JUSTICE
(Paper #531)
Budget Reductions

Motion:

Move to reduce DOJ appropriations by $68,500 GPR and 1.0 GPR position annually associated with a criminal history records project administrator position that was converted from GPR to FED by the Joint Committee on Finance under s. 16.505 in October, 1996.

Note:

The bill would reduce DOJ appropriations by $647,500 GPR in 1997-98 and $280,800 GPR in 1998-99 to reflect: (a) $68,500 and 1.0 position annually associated with a criminal history records project administrator position; (b) $94,700 annually for 2.0 program and planning analyst positions to reflect 1995 Act 27 actions that eliminated funding for these positions; and (c) $484,300 in 1997-98 and $117,600 in 1998-99 in unspecified budget reductions. Under this motion, funding of $579,000 in 1997-98 and $212,300 in 1998-99 would be restored for the program and planning analysts and to eliminate the unspecified budget reductions.

[Change to Base: -$137,000 GPR and -1.0 GPR position]
[Change to Bill: $791,300 GPR]

MO# 1098

JENSEN	Y	N	A
ZOURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A
/ BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

AYE 15 NO 1 ABS ___

Motion #1098

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

DNA Crime Lab Initiative and Fee and Replace Federal Anti-Drug Program Funds (Justice)

[LFB Summary: Page 360, #3 and Page 364, #13]

CURRENT LAW

1993 Wisconsin Act 16 created a $250 DNA surcharge imposed on convictions of burglary and sexual assault to fund deoxyribonucleic acid (DNA) analysis at the DOJ crime laboratories. The surcharge on burglaries was declared unconstitutional by the Wisconsin Court of Appeals and is not currently being collected. Revenue from the surcharge on sexual assault convictions is estimated at $70,000 annually, compared to the original projection of $763,500 in DNA surcharge revenue annually.

DNA surcharge revenues currently support 4.75 PR crime lab positions and an assistant district attorney (ADA) project position in Milwaukee County, with adjusted base funding of $370,700 PR. Funding for the Milwaukee County ADA position and 0.75 crime lab position are deleted as noncontinuing elements under the standard budget adjustments. Because expenditures exceed revenues, the DNA program revenue appropriation is expected to end the 1995-97 biennium with a deficit of $1,022,600.

In the past, DOJ has been awarded federal anti-drug grant moneys to support a number of functions related to anti-drug enforcement efforts. Programs funded with these moneys, which require a 25% state match (matching funds come from the penalty assessment surcharge and general purpose revenues), are limited to four years. Over the 1997-99 biennium, 32.0 positions reach the limit for which federal funding will no longer be available. This represents total funding of $2,681,300 over the biennium.

GOVERNOR

Create a $4 crime laboratories assessment to be imposed on convictions for arrests that occur on or after January 1, 1998. The fee would be applied to the same offenses to which the penalty assessment is currently applied (any violation of state law or municipal or county ordinance, except for violations of smoking laws, nonmoving traffic violations or safety belt use violations). Revenue is estimated at $600,000 in 1997-98 and $2.6 million in 1998-99 and annually thereafter and would be deposited into the current appropriation for crime laboratories; DNA analysis.

Provide $75,000 PR in 1997-98 and $150,000 PR in 1998-99 to perform polymerase chain reaction (PCR) analysis, a new type of DNA identification tool.

Provide $750,700 PR and 3.0 PR positions and 1.0 GPR position in 1997-98 and $600,000 GPR and $4,163,000 PR and 11.0 GPR and 16.0 PR positions in 1998-99 to fund DOJ anti-drug programs which reach their four-year federal funding limit. In addition, create a new program revenue appropriation to receive revenue from the new $4 crime laboratories assessment to fund drug law enforcement programs and operations at the crime laboratories. Restored positions include the following: (a) 10.0 GPR and 7.0 PR special drug agents in 1998-99 ($600,000 GPR and $948,800 PR from OJA penalty assessment funds in 1998-99); (b) 6.0 PR forensic scientists in 1998-99 ($413,300 PR in 1998-99 from the new crime laboratory assessment); (c) 3.0 PR DNA analysts annually ($150,700 PR in 1997-98 and $200,900 PR in 1998-99 from the new crime laboratory assessment); and (d) 1.0 GPR drug tip hotline operator annually (no funding would be provided under the bill). [It should be noted that the bill incorrectly appropriates, from the new crime laboratory assessment, an additional $449,300 in 1997-98 and $1,985,800 in 1998-99.]

In addition, modify statutory language to: (a) provide a transfer of $948,800 in 1998-99 of penalty assessment revenue from DOA to DOJ; and (b) eliminate the requirement, effective July 1, 1998, that GPR funds be provided to match federal anti-drug funding for the crime laboratories, if revenue from the penalty assessment is insufficient.

DISCUSSION POINTS

Crime Lab Assessment and DNA Initiative

1. DOJ, in its budget request, proposed the creation of a $2 fee on all convictions for arrests that occur on or after January 1, 1998. The fee was proposed as a way to pay for DNA analysis at the state crime laboratories. The current DNA surcharge is not generating revenue to support the current DNA analysis. It is expected that the program will end the biennium with a deficit of $1,022,600. Under the bill, base funding for DNA operations totals $343,000 in 1997-98 and $333,200 in 1998-99 (adjusted base plus standard budget adjustments). DOJ

proposed using revenue from the fee to fund: (a) the DNA surcharge deficit; (b) base operations; and (c) polymerase chain reaction (PCR) analysis.

2. PCR analysis is a new type of DNA identification tool which would replace conventional blood type analysis (ABO typing). Materials for ABO typing are no longer being manufactured and therefore, ABO typing cannot be performed by the crime labs. The only type of DNA technology currently available at the state crime labs is restriction fragment length polymorphism (RFLP) analysis, which is the most definitive type of DNA technology. However, because of the cost, RFLP analysis is limited to the most serious cases. PCR analysis is a faster, less expensive and more sensitive type of analysis than RFLP, and could be used as a screening device to determine if RFLP analysis is required.

3. DOJ has secured a federal grant totalling $300,000 to purchase equipment needed to perform PCR analysis and for supplies to perform the test until January, 1998. Therefore, DOJ requested, and the bill would provide, funding of $75,000 PR in 1997-98 and $150,000 PR in 1998-99 for supplies and services to perform the test for the remainder of the biennium. Funding is based on a total of 4,000 to 5,000 tests annually.

4. The Governor expanded DOJ's proposal for a crime laboratory assessment by creating a $4, rather than a $2, fee. Under the bill, a portion of the revenue would be used to fund anti-drug programs that reach their four-year federal funding limit in the 1997-99 biennium.

5. The bill appropriates $998,200 in 1997-98 and $3,063,400 in 1998-99 from the crime laboratory assessment revenue, but only identifies expenditures of $548,900 in 1997-98 and $1,077,600 in 1998-99. Therefore, the appropriation should be technically corrected to reflect actual authorized expenditures.

6. DOA estimated revenue from the new $4 crime laboratory assessment fee at $600,000 in 1997-98 and $2,600,000 in 1998-99. Based on actual case filings, revenue from the $4 fee is reestimated to total $584,400 in 1997-98 and $2,540,800 in 1998-99. With revenue from the current $250 DNA surcharge on sexual assault convictions ($70,000 annually), total revenue is estimated at $654,400 in 1997-98 and $2,610,800 in 1998-99. Expenditures under the bill would total $548,900 in 1997-98 and $1,077,600 in 1998-99. In addition, revenues would be needed to fund the estimated $1,022,600 deficit in the current appropriation. As a result, the balance of these funds at the end of the biennium is estimated at $616,100, as shown below.

	1997-98	1998-99
Opening Balance	-$1,022,600	-$917,100
Revenue	654,400	2,610,800
Total Available	-368,200	1,693,700
Expenditures	548,900	1,077,600
Balance	-$917,100	$616,100

7. Under the bill, the fee would go into effect for convictions for arrests on or after January 1, 1998. The January date was chosen to allow for time to implement the new fee. However, most changes in court fees are effective October 1, so that they can be incorporated into the annual schedules produced by the courts and that changes to the court automation system programs can be made at one time. If the effective date was changed to convictions for arrests on or after October 1, 1997, additional revenue of $686,000 could be generated. This would increase the estimated balance in 1998-99 to $1.3 million.

Replacement of Federal Anti-Drug Program Funds, as Proposed by the Governor

8. In the past, federal anti-drug abuse grant funding has been used to fund a large portion of DOJ anti-drug programs. However, the funding, which requires a 25% state match, is intended to be used for start-up expenses or to pilot new approaches for enforcement of drug laws, and is limited to four years. DOJ has been able to extend federal funding for many of these programs for eight years by submitting applications for extensions that refocused what the funds were being used for, while still supporting the same DOJ functions. However, recent attempts to extend funding have been denied by the federal Department of Justice. As a result, nine DOJ federal grants will expire over the next biennium and include funding for the following:

Program	Grant Expiration	Biennial Loss to DOJ	Positions	Governor's Recommendations Funding	Positions
Drug Enforcement	June 30, 1998	-$1,603,800	-18.0	$1,548,800	17.0
Crime Laboratories	June 30, 1998	-437,300	-7.0	413,300	6.0
DNA Analysis	September 30, 1998	-351,600	-3.0	351,600	3.0
Drug Prosecution Team	February 28, 1998	-234,900	-3.0	0	0.0
Drug Tip Hotline	June 30, 1997	-53,800	-1.0	0	1.0
Total		-$2,681,400	-32.0	$2,313,700	27.0

9. The 32.0 positions, including 10.5 FED, 14.0 PR and 7.5 GPR positions, and funding were removed as non-continuing elements under the standard budget adjustments. (The PR and GPR positions and funding reflect the federal match requirements.)

10. According to DOJ, all of these programs involve ongoing efforts to assist local law enforcement in combating the war against drugs and, therefore, eliminating any of them would have serious consequences on drug crimes in Wisconsin. It should be noted that, while identifying this problem as a concern in its budget request, DOJ did not identify a solution.

11. Under the bill, revenue from the new fee would be used to restore 6.0 forensic scientists for DOJ crime laboratories ($413,300 in 1998-99), and 1.0 forensic scientist, 1.0 DNA technician and 1.0 management information specialist for DNA analysis ($150,700 in 1997-98 and $200,900 in 1998-99).

12. In addition, the bill would provide funding to restore 17.0 drug enforcement special agents in 1998-99, including $600,000 GPR and 10.0 GPR positions and $948,800 PR and 7.0 PR positions from penalty assessment surcharge revenues. The penalty assessment moneys, previously used to match the federal grant moneys, would be made available as the DOJ grants expire. (Under the bill, federal anti-drug funds would be used for automation of the Public Defender and District Attorneys and matching funds would come from the justice information fee revenue.)

13. Funding for the drug prosecution team is not included in SB 77 and therefore, would expire on February 28, 1998. The drug prosecution team includes 1.0 attorney, 1.0 administrative secretary, 1.0 legal secretary and LTE funding for a law clerk. This team is responsible for prosecuting complex drug cases which often involve multiple jurisdictions, as well as providing legal expertise and training to state and local prosecutors and law enforcement personnel on drug prosecution issues.

14. In addition, funding would not be continued for: (a) a management information specialist under the Division of Narcotics Enforcement, who is responsible for working with the drug agents in performing trend analysis of personal records to develop leads in drug trafficking cases; and (b) a custodian at the Wausau Crime Laboratory.

15. Further, while GPR position authority would be provided for the drug tip hotline operator, no funding would be provided. Therefore, the Department would have to absorb the funding within its base budget. (This would be in addition to unspecified budget reductions of $484,300 in 1997-98 and $117,600 in 1998-99 under the bill). According to DOJ, over the last six years, more than 7,000 calls have been received by the hotline, resulting in more than 100 prosecutions.

16. DOJ officials indicate that not providing funding for these services would shift more responsibility and costs to local law enforcement agencies, and would reduce the state's anti-drug efforts.

Restore Remaining Federal Anti-Drug Positions and Replace GPR Funding

17. Given the estimated balance, it would appear that moneys would be available to fund the current programs that were not funded under the bill. This would include the following: (a) $26,900 annually and 1.0 PR position (and the elimination of 1.0 GPR position) for the drug tip hotline operator; (b) $55,000 and 1.0 PR position in 1998-99 to restore the management information specialist position under the Division of Narcotics Enforcement; (c) $24,000 PR and 1.0 PR position in 1998-99 to restore the custodian position at the Wausau Crime Lab; and (d) $234,900 and 3.0 PR positions in 1998-99 to restore funding for the drug prosecution team. The approval of all of the items would cost $26,900 PR in 1997-98 and $340,800 PR in 1998-99.

18. In order to extend funding for these purposes, statutory language would be needed to broaden the name and scope of the fee. The crime laboratories assessment could be renamed the crime laboratories and anti-drug law enforcement assessment, to be used for activities of the state and regional crime laboratories, drug law enforcement and prosecution assistance and drug investigations and analysis.

19. If the Committee approves broadening the scope of the fee and changing the effective date to October 1, 1997, the additional revenues could be used to replace $600,000 GPR and 10.0 GPR special drug agent positions provided under the bill.

New Positions -- Tactical Intelligence

20. If the crime laboratories and anti-drug law enforcement assessment is approved with the modified effective date, the Committee also could consider using a portion of the revenue to provide additional resources for tactical intelligence efforts under the Division of Narcotics Enforcement. DOJ requested 2.0 program and planning analysts to assist state and local law enforcement agencies in criminal intelligence analysis. This involves gathering and analyzing information from telephone, bank, postal, utility and real estate records to identify drug manufacturers, money laundering schemes and locating fugitives. The Attorney General, in his address to the Committee, reiterated the need for the additional criminal intelligence resources.

21. DOJ currently has two analysts, a program assistant and a supervisor working in criminal intelligence. According to DOJ, while it would be optimal to have an analyst assigned full-time to work one case, the current analysts handle at least 20 cases at one time.

22. The Committee could provide $79,800 PR in 1997-98 and $90,100 PR in 1998-99 from the crime laboratories and anti-drug law enforcement assessment for the two analysts

requested by DOJ. Alternatively, the Committee could provide 1.0 PR tactical intelligence analyst position, at a cost to the bill of $39,900 PR in 1997-98 and $45,100 PR in 1998-99.

ALTERNATIVES TO BASE

A. Crime Laboratories Assessment Fee

A1. Approve the Governor's recommendation to create a new $4 crime laboratories assessment to be imposed on convictions for arrests that occur on or after January 1, 1998. Revenues from the new fee are estimated at $584,400 in 1997-98 and $2,540,800 in 1998-99.

Alternative A1	PR
1997-99 REVENUE (Change to Base)	$3,125,200
[Change to Bill	*- $74,800]*

A2. Create a new $4 crime laboratories and anti-drug law enforcement assessment. Specify that the new assessment would apply to convictions for arrests that occur on or after October 1, 1997. Under this alternative, revenues are estimated at $1,270,400 in 1997-98 and $2,540,800 in 1998-99, and could be used for crime laboratories, drug law enforcement and prosecutions and drug investigations and analysis.

Alternative A2	PR
1997-99 REVENUE (Change to Base)	$3,811,200
[Change to Bill	*$611,200]*

A3. Maintain current law. Under this alternative, funding would not be available for new DNA analysis techniques at the crime laboratories, or to restore funding for programs which reach their four-year federal funding limit. In addition, the DNA program revenue account would end the biennium with a deficit of approximately $1.7 million.

Alternative A3	PR
1997-99 REVENUE (Change to Base)	$0
[Change to Bill	*- $3,200,000]*

B. Crime Lab Polymerase Chain Reaction (PCR) Analysis (B1 to be considered if A1 or A2 is adopted)

B1. Approve the Governor's recommendation to provide $75,000 PR in 1997-98 and $150,000 PR in 1998-99 for polymerase chain reaction (PCR) analysis.

Alternative B1	PR
1997-99 FUNDING (Change to Base)	$225,000
[Change to Bill	*$0]*

B2. Provide $75,000 GPR in 1997-98 and $150,000 GPR in 1998-99 for polymerase chain reaction (PCR) analysis.

Alternative B2	GPR	PR	TOTAL
1997-99 FUNDING (Change to Base)	$225,000	$0	$225,000
[Change to Bill	*$225,000*	*- $225,000*	*$0]*

B3. Maintain current law.

Alternative B3	PR
1997-99 FUNDING (Change to Base)	$0
[Change to Bill	*- $225,000]*

C. Replacement of Federal Anti-Drug Program Funds for Crime Laboratories and DNA Analysis -- Crime Laboratories Assessment (C1 to be considered if A1 or A2 is adopted)

C1. Approve the Governor's recommendation, as technically corrected, to: (a) provide $150,~~700~~ PR and 3.0 PR positions in 1997-98 and $614,200 and 9.0 PR positions in 1998-99 to fund DOJ anti-drug programs which reach their four-year federal limit (including 7.0 forensic scientists, 1.0 DNA technician and 1.0 management information specialist); (b) create a new program revenue appropriation to receive revenue from the new $4 crime laboratories assessment to fund drug law enforcement programs and operations at the crime laboratories; and (c) eliminate the requirement, effective July 1, 1998, that GPR funds be provided to match federal anti-drug funding for the crime laboratories, if revenue from the penalty assessment is insufficient.

Alternative C1	PR
1997-99 FUNDING (Change to Base)	$764,900
[Change to Bill	*- $2,435,100]*
1998-99 POSITIONS (Change to Base)	9.00
[Change to Bill	*0.00]*

C2. Modify Alternative C1 as follows: (a) delete the PR positions and funding and the program revenue appropriation; and (b) instead, provide $150,700 GPR and 3.0 GPR positions in 1997-98 and $614,200 GPR and 9.0 GPR positions in 1998-99.

Alternative C2	GPR	PR	TOTAL
1997-99 FUNDING (Change to Base)	$764,900	$0	$764,900
[Change to Bill	*$764,900*	*- $3,964,900*	*- $3,200,000]*
1997-99 POSITIONS (Change to Base)	9.00	0.00	9.00
[Change to Bill	*9.00*	*- 9.00*	*0.00*

C3. Maintain current law. Under this alternative, 1.0 forensic scientist, 1.0 DNA technician and 1.0 management information specialist would expire on September 30, 1997, and 6.0 forensic scientists would expire on June 30, 1998.

Alternative C3	PR
1997-99 FUNDING (Change to Base)	$0
[Change to Bill	*- $3,964,900*
1998-99 POSITIONS (Change to Base)	0.00
[Change to Bill	*- 9.00]*

D. Replacement of Federal Anti-Drug Funds for DOJ Special Agents -- Penalty Assessment (to be considered if A1, A2 or A3 is adopted)

D1. Approve the Governor's recommendation to provide $948,800 PR from the penalty assessment and 7.0 PR positions in 1998-99 to restore 7.0 special agents which reach their four-year federal funding limit on June 30, 1998. In addition, provide statutory authority to transfer of $948,800 in penalty assessment revenue from DOA to DOJ in 1998-99.

Alternative D1	PR
1997-99 FUNDING (Change to Base)	$948,800
[Change to Bill	*$0]*
1998-99 POSITIONS (Change to Base)	7.00
[Change to Bill	*0.00]*

D2. Maintain current law. Under this alternative, 7.0 special agent positions would expire on June 30, 1998.

Alternative D2	PR
1997-99 FUNDING (Change to Base)	$0
[Change to Bill	*- $948,800]*
1998-99 POSITIONS (Change to Base)	0.00
[Change to Bill	*- 7.00]*

E. Replace Federal Anti-Drug Funding -- GPR (E1 or E3 to be considered if either A1, A2 or A3 is adopted, E2 to be considered only if A2 is adopted)

E1. Approve the Governor's recommendation to provide 1.0 GPR position in 1997-98 for the drug tip hotline operator which expires June 30, 1997, and $600,000 GPR and an additional 10.0 GPR positions in 1998-99 for the special agents which expire June 30, 1998. No funding would be provided for the drug tip hotline operator, and therefore would be funded from DOJ base funding.

Alternative E1	GPR
1997-99 FUNDING (Change to Base)	$600,000
[Change to Bill	*$0]*
1998-99 POSITIONS (Change to Base)	11.00
[Change to Bill	*0.00]*

E2. Provide $26,900 PR and 1.0 PR position for a drug tip hotline operator in 1997-98 and $626,900 PR and 11.0 PR positions for a substance abuse operator and 10.0 special agents in 1998-99. Program revenue would come from a modified crime laboratory and anti-drug law enforcement assessment, and would replace GPR funding under the bill.

Alternative E2	GPR	PR	TOTAL
1997-99 FUNDING (Change to Base)	$0	$653,800	$653,800
[Change to Bill	*- $600,000*	*$653,800*	*$53,800]*
1998-99 POSITIONS (Change to Base)	0.00	11.00	11.00
[Change to Bill	*- 11.00*	*11.00*	*0.00]*

E3. Maintain current law. The drug tip hotline operator would be eliminated June 30, 1997, and the 10.0 special agents would be eliminated June 30, 1998.

Alternative E3	GPR
1997-99 FUNDING (Change to Base)	$0
[Change to Bill	*- $600,000]*
1998-99 POSITIONS (Change to Base)	0.00
[Change to Bill	*- 11.00]*

F. Additional Program Revenue to Restore Grant Positions and Provide Tactical Intelligence Agents -- Crime Laboratories Assessment (F1 to be considered if A1 or A2 is adopted, F2 or F3 to be considered only if A2 is adopted)

F1. Provide $313,900 PR and 5.0 PR positions in 1998-99 to fund the remaining positions and programs currently funded with federal anti-drug grant moneys that expire in the 1997-99 biennium. Funding would be included for the Division of Narcotics Enforcement management information specialist ($55,000 PR and 1.0 PR position in 1998-99), a custodian at the crime laboratories ($24,000 PR and 1.0 PR position in 1998-99) and the drug prosecution team ($234,900 PR and 3.0 PR positions in 1998-99). If adopted with A1, language would be needed to rename the assessment the crime laboratories and anti-drug law enforcement assessment to be used for crime laboratory activities, drug law enforcement and prosecutions and drug investigations and analysis.

Alternative F1	PR
1997-99 FUNDING (Change to Base)	$313,900
[Change to Bill	*$313,900]*
1998-99 POSITIONS (Change to Base)	5.00
[Change to Bill	*5.00]*

F2. Adopt F1. In addition, provide an additional $79,800 PR in 1997-98 and $90,100 in 1998-99 and 2.0 PR positions annually for two tactical intelligence agents.

Alternative F2	PR
1997-99 FUNDING (Change to Base)	$169,900
[Change to Bill	*$169,900]*
1998-99 POSITIONS (Change to Base)	2.00
[Change to Bill	*2.00]*

F3. Adopt F1. In addition, provide an additional $39,900 PR in 1997-98 and $45,100 PR in 1998-99 and 1.0 PR position annually to provide one additional tactical intelligence agent.

Alternative F3	PR
1997-99 FUNDING (Change to Base)	$85,000
[Change to Bill	*$85,000]*
1998-99 POSITIONS (Change to Base)	1.00
[Change to Bill	*1.00]*

F4. Maintain current law.

Prepared by: Carri Jakel

MO# Alt-A2
B1, C1, D1, E2, F1

JENSEN	Y	N	A
ZOURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A
BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

AYE 14 NO 2 ABS ____

Page 7

Senator George

JUSTICE

Crime Lab and Anti-Drug Initiative

Motion:

Move to provide $575,800 GPR in 1997-98 and $2,018,400 GPR in 1998-99 and 1.0 GPR position in 1997-98 and 25.0 GPR positions in 1998-99 for crime lab and anti-drug activities, as identified in Alternative B1, C1, E2 and F1 of LFB Paper #532.

MO# 975

JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A
BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

AYE 3 NO 13 ABS ____

Motion #975

Senator Decker

JUSTICE

Documents Examiner and Computer Crime Lab Analyst

Motion:

Move to provide $262,100 PR and 3.0 PR positions in 1998-99 for 1.0 documents examiner position and 2.0 computer crime laboratory analyst positions, funded from a newly-created crime laboratory assessment. The two computer crime laboratory analyst positions would be located in Madison and the documents examiner position would be located at the state crime laboratory in Wausau. The funding includes one-time costs of $79,000 related to equipment costs for the documents examiner.

Note:

Under Senate Bill 77, a crime laboratory assessment of $4 would be created on all convictions for arrests that occur on or after January 1, 1998. The assessment would apply to any violation of state law, county ordinance or municipal ordinance, except for violations of smoking laws, nonmoving traffic laws or safety belt use violations. Under the bill, revenue from the fee is estimated at $600,000 in 1997-98 and $2,600,000 in 1998-99.

The motion would provide $118,200 PR in 1998-99 from the crime laboratory assessment for two computer crime laboratory analyst positions that would assist state and local law enforcement personnel in combating criminal activities which involve computer information. According to DOJ, drug traffickers and illegal gambling operations often store information regarding their illegal activities on computers. In addition, the positions would be used to investigate cases of pedophiles using computers and the Internet to prey on children.

The motion would also provide $143,900 PR in 1998-99 from the crime laboratory assessment for one documents examiner position for the Wausau crime laboratory. The motion includes $79,000 in one-time funding for associated equipment for the position. According to DOJ, the Wausau crime laboratory does not currently have document examining capability; therefore, any cases requiring investigation of documents has to be sent to the Madison or Milwaukee crime laboratories. In addition, DOJ indicates that there are currently 150 cases pending for documents analysis in the other two crime labs.

[Change to Base: $262,100 PR and 3.0 PR positions]
[Change to Bill: $262,100 PR and 3.0 PR positions]

Motion #915

VOTE OVER

MO# 915

JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A
BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

AYE 12 NO 4 ABS ____

Senator Decker

JUSTICE

Division of Narcotics Enforcement

Motion:

Move to provide $34,900 PR in 1997-98 and $23,200 PR in 1998-99 to establish a regional office under the Department of Justice, Division of Narcotics Enforcement, which would be located in Wausau. Funding would be provided from a newly-created crime laboratory assessment. The motion includes one-time funding of $17,000 in 1997-98 for equipment costs.

Note:

Under Senate Bill 77, a crime laboratory assessment of $4 would be created on all convictions for arrests that occur on or after January 1, 1998. The assessment would apply to any violation of state law, county ordinance and municipal ordinance, except for violations of smoking laws, nonmoving traffic violations or safety belt use violations. Under the bill, revenue from the fee is estimated at $600,000 in 1997-98 and $2,600,000 in 1998-99.

This motion would provide $34,900 PR in 1997-98 and $23,200 PR in 1998-99 from the crime laboratory assessment to establish a regional office of the Division of Narcotics Enforcement in Wausau. According to Department officials, the office would be staffed by a reorganization of current Division staff.

[Change to Base: $58,100 PR]
[Change to Bill: $58,100 PR]

MO# 1094

JENSEN	Y	~~N~~	A
OURADA	Y	~~N~~	A
HARSDORF	Y	~~N~~	A
ALBERS	Y	~~N~~	A
GARD	Y	~~N~~	A
KAUFERT	Y	~~N~~	A
LINTON	~~Y~~	N	A
COGGS	~~Y~~	N	A
2 BURKE	~~Y~~	N	A
1 DECKER	~~Y~~	N	A
GEORGE	Y	~~N~~	A
JAUCH	~~Y~~	N	A
WINEKE	~~Y~~	N	A
SHIBILSKI	~~Y~~	N	A
COWLES	~~Y~~	N	A
PANZER	~~Y~~	N	A

AYE 9 NO 7 ABS ____

Motion #1094

Senator George

JUSTICE

Crime Laboratory Assessment

Motion:

Move to eliminate the newly-created crime laboratory assessment on municipal court ordinance violations.

Note:

This motion would reduce the revenue generated by the $4 assessment fee by $897,100.

[Change to Bill: -$897,100 PR-REV]

MO# 980

JENSEN	Y	~~N~~	A
OURADA	Y	~~N~~	A
HARSDORF	Y	~~N~~	A
ALBERS	Y	~~N~~	A
GARD	Y	~~N~~	A
KAUFERT	Y	~~N~~	A
LINTON	~~Y~~	N	A
2 COGGS	~~Y~~	N	A
BURKE	Y	~~N~~	A
DECKER	Y	~~N~~	A
1 GEORGE	~~Y~~	N	A
JAUCH	~~Y~~	N	A
WINEKE	~~Y~~	N	A
SHIBILSKI	Y	~~N~~	A
COWLES	Y	~~N~~	A
PANZER	Y	~~N~~	A

AYE 5 NO 11 ABS ___

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Victim/Witness Assistance -- Surcharge on Juveniles (Justice)

[LFB Summary: Page 361, #6 (part)]

CURRENT LAW

The Wisconsin Constitution requires the state to provide certain privileges and protections to victims of crime. Statutes place the responsibility for enforcement of victim and witness rights and the provision of services with each county in Wisconsin. Counties are eligible for reimbursement of up to 90% of their costs of providing the services. Counties may decide not to enforce these rights or provide services, in which case they would not receive reimbursement from the state. Currently, 64 counties operate victim/witness programs, and it is expected that six more counties will be operating programs by December, 1997.

Base funding for state reimbursement of county victim/witness program operating costs includes the following: (a) $1,741,200 from the part A of the victim/witness surcharge (a $30 surcharge on all misdemeanor offenses and a $50 surcharge on all felony offenses); (b) $1,497,100 from general purpose revenues; and (c) $850,800 from federal grant funds administered by the Office of Justice Assistance. The total funding of $4,089,100 is expected to provide reimbursement of approximately 76% of county costs in 1996-97.

GOVERNOR

Provide $600,000 PR annually to increase reimbursement to counties for the costs of operating victim/witness programs. A portion of the increase in funding ($75,000 in 1997-98 and $200,000 in 1998-99) would come from a new delinquency victim and witness surcharge of $20 on juveniles adjudicated delinquent, effective on the date of enactment of the bill. Provide that

if the juvenile does not pay the surcharge, as ordered, the court could vacate the surcharge and order other alternatives or, after a notice and hearing, could suspend the juvenile's hunting, fishing or driver's license for not less than 30 days and for up to five years (or until the surcharge is paid). The parent with custody could be held liable for payment. The court could also order that the juvenile perform community services work in lieu of paying the surcharge or, if the parent agrees, the court could order the parent to perform community service work in lieu of paying the surcharge. Under the bill, if a juvenile placed in a secured correctional facility or secured child caring institution fails to pay the surcharge, the Department of Corrections would be required to collect the amount owed from the juvenile's wages or other moneys.

DISCUSSION POINTS

1. State statutes provide that counties may receive reimbursement of up to 90% of their costs of operating victim/witness programs. Due to an increased number of counties providing services and the increased costs of the services, the amount of funding available has allowed for reimbursement of approximately 78% to 83% of counties' costs in recent years. In 1996-97, funding is expected to be available to fund 76% of counties' costs. The appropriated amounts under the bill are estimated to provide 82% reimbursement to counties in 1997-98 and 79% reimbursement in 1998-99.

2. The increased funding under the bill assumes a 5% increase in revenues from the current victim/witness surcharge and includes $75,000 in 1997-98 and $200,000 in 1998-99 in estimated revenues from a new surcharge on juveniles adjudicated delinquent. This estimate is based on a total of 20,000 delinquency cases filed annually, with at least one-half of these cases ending in adjudication and paying the surcharge.

3. It should be noted that, under the bill, the surcharge would be effective on the date of enactment of the bill. However, a technical correction is needed to clarify that the surcharge would be effective for adjudications for arrests that occur on, or after, the effective date. In addition, most changes in court fees have a delayed effective date of October 1, so that they can be incorporated into the annual fee schedules produced by the Courts. Therefore, the Committee may want to modify the bill to provide that the new surcharge on juveniles be effective for adjudications for arrests that occur on, or after, October 1, 1997, to be consistent with other modifications in court fees.

4. According to DOJ, historically, most victim/witness assistance programs have not served victims of juvenile crime. However, 1995 Act 77, which revised the juvenile justice code, extends the same rights to victims and witnesses of acts committed by juveniles as provided to victims and witnesses of other crimes. As a result of the new services and inflationary increases in costs of providing services, DOJ estimates county victim/witness services costs to increase 5% annually. The new juvenile surcharge would offset a portion of these costs.

5. Given the revenue assumptions and expenditure levels under the bill, it would be expected that the victim/witness program would end the 1997-99 biennium with a deficit of $147,800. However, it appears that the estimate of revenues from the new juvenile surcharge in 1997-98 may be understated. Assuming the surcharge is effective October 1, 1997, and there is a three-month lag time for revenues to start accumulating, it could be expected that revenues would total at least $100,000 in 1997-98, rather than the $75,000 estimated under the bill. Therefore, it would be expected that the victim/witness program would end the biennium with a deficit of $122,800.

6. Based on these reestimates, the appropriation should be adjusted by -$19,000 in 1997-98 and -$103,800 in 1998-99. This level of funding would provide reimbursement of 82% of counties' costs in 1997-98 and 77% in 1998-99. This would be an average reimbursement of 79% of counties' costs, consistent with the levels provided in recent years.

7. It should be noted that if surcharge revenues do not increase 5% annually, funding would not likely be available for reimbursement of 79% of county victim/witness program operating costs. In addition, if the surcharge on juveniles is not approved, available funding would cover an average of 74% of counties' costs.

ALTERNATIVES TO BASE

1. Approve the Governor's recommendation to provide $600,000 PR annually to increase funding available for reimbursement of counties' costs of operating victim/witness programs. In addition, create a $20 surcharge on juveniles adjudicated delinquent, technically corrected to apply to adjudications for arrests that occur on, or after, the effective the date of enactment, to be deposited to the victim/witness program. Create statutory provisions for collection procedures, sanctions for non-payment and alternatives to payment of the surcharge.

Alternative 1	PR
1997-99 FUNDING (Change to Base)	$1,200,000
[Change to Bill	*$0]*

2. Approve the Governor's recommendation, as technically corrected, with the following modifications: (a) reduce funding appropriated for county victim/witness program reimbursement by $19,000 PR in 1997-98 and $103,800 PR in 1998-99 to reflect reestimates of program revenues; and (b) provide that the effective date of the new surcharge would be October 1, 1997, and would apply to adjudications for arrests that occur on, or after, the effective date.

Alternative 2	PR
1997-99 FUNDING (Change to Base)	$1,077,800
[Change to Bill	*- $122,800]*

3. Maintain current law. Under this alternative, a new $20 surcharge on juveniles adjudicated delinquent would not be created and it is estimated that counties would be reimbursed for approximately 75% in 1997-98 and 73% in 1998-99 of the costs of operating victim/witness programs.

Alternative 3	PR
1997-99 FUNDING (Change to Base)	$0
[Change to Bill	*- $1,200,000]*

Prepared by: Carri Jakel

MO# Alt #2

JENSEN	Y	N	A
2 OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A
1 BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

AYE 16 NO 0 ABS ____

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Eliminate Bankruptcy Positions (Justice)

[LFB Summary: Page 362, #8]

CURRENT LAW

Under 1995 Wisconsin Act 27, the Department of Justice (DOJ) was authorized a total of 5.5 PR positions for an initiative to collect tax liabilities in bankruptcy cases. DOJ was authorized to: (a) monitor bankruptcy cases in Wisconsin and other states; (b) notify state agencies affected by bankruptcy cases; and (c) represent the interests of the state in bankruptcy cases and related proceedings. It was expected that the initiative would generate GPR-Earned of $938,000 in 1995-96 and $1,876,000 in 1996-97 from recoveries of tax obligations. However, to date, no revenue has been collected by DOJ from tax liabilities in bankruptcy cases. Collections of $210,700 in 1995-96 and $186,200 in 1996-97, through May 9, 1997, have been recovered in obligations owed to other state agencies. Statutes provide that the reasonable and necessary expenses incurred by the Department relating to these collections be deposited in a program revenue appropriation, which supports the positions. Adjusted base funding is $347,800 PR. DOJ has retained $7,500 in 1995-96 and $29,400 to date in 1996-97, which has been deposited to the PR appropriation to offset DOJ costs. No revenue has been deposited in the general fund under DOJ.

GOVERNOR

Delete $347,800 PR and 5.5 PR positions annually due to insufficient revenue generated from the DOJ bankruptcy initiative. In addition, delete an associated $300,000 in GPR-Earned annually. Statutory authority to handle bankruptcy proceedings would remain and any revenue

collected in the future would be deposited to the general fund (after the current deficit in the appropriation is paid off).

DISCUSSION POINTS

1. In its budget request, DOJ proposed continuing its initiative to collect tax liabilities in bankruptcy cases. However, given the current amount of revenue generated from these cases, it is clear that funding is not available to support the currently authorized level of resources. In addition, the Department of Revenue already dedicates resources to collecting delinquent tax obligations in bankruptcy cases and has better access to the type of information to pursue these cases.

2. DOJ officials argue that 1.5 of the 5.5 positions that would be eliminated under the bill are involved in collections of debt owed to other state agencies, including accounts, charges, claims, debts, fees, fines, forfeitures, interest, judgments, loans, penalties and taxes and should be continued. These 1.5 positions (1.0 paralegal and 0.5 attorney) were converted from GPR to PR under Act 27, as part of the larger collections initiative.

3. DOJ indicates that collections of obligations owed to the state totalled $210,700 in 1995-96 and $186,200, to date, in 1996-97. DOJ currently retains 17% of collections to cover program costs. However, because the program was new, DOJ did not start retaining 17% of these funds as program revenue until late in the year in 1995-96. Therefore, only $7,900 was deposited to the program revenue account in that year, and $29,400 has been deposited to the appropriation so far this fiscal year.

4. DOJ indicates that while collections in these types of cases have been low, it currently has open 87 cases involving unpaid obligations to the state, with a total value of $2.6 million. DOJ officials anticipate that $1.7 million of this will be recovered over the 1997-99 biennium, if the 1.5 positions are continued. If DOJ continues to retain 17% of collections, available program revenue funding would total $289,000 for the next biennium. The cost to continue the 1.5 positions would be $100,200 annually.

5. While state statutes clearly provide that collections proceeds be forwarded to the state treasurer to be deposited to the appropriate fund, after covering reasonable and necessary expenses incurred by DOJ, the statutes are unclear as to what types of collections cases to which this authority applies. DOA officials argue that it only relates to bankruptcy cases. Therefore, if the Committee decides to continue the 1.5 PR positions to pursue debts owed to other state agencies, it may wish to clarify the language governing recoupment of DOJ's costs to allow DOJ to retain an amount equal to the reasonable and necessary expenses incurred by the Department in cases involving collections of delinquent obligations owed to any state agencies.

6. It is expected that the delinquency obligation appropriation which receives revenue to support the positions will have a deficit of $78,800 on June 30, 1997. However, under the bill, while the authority for DOJ to pursue these cases would remain, resources to do so would be eliminated. If the 1.5 positions are continued to pursue debts owed to the state and the authority to cover their costs is clarified, DOJ indicates that funding would be available to erase the deficit and fund the ongoing costs of the positions.

7. If the positions are not continued, DOJ will have to address the deficit in some other manner. Under s. 16.513, if an agency's program revenue appropriation has a negative balance, the agency is required to submit a plan to the Department of Administration to assure that revenues are sufficient to cover projected expenditures. If approved by DOA, the plan is submitted to the Joint Committee on Finance under a 14-day passive review process. If the Committee chooses to meet on the plan, no part of the plan may be implemented without approval of the Committee or through legislation.

8. DOJ has not submitted such a plan to DOA, even though, under the bill, they would not generate funds to cover the deficit. Therefore, if the 1.5 positions are not continued, the Committee may want to direct DOJ to submit a plan, under s. 16.513, by September 1, 1997.

9. Alternatively, if authority is not provided for the 1.5 positions, the Committee could provide one-time funding of $78,800 GPR in 1997-98 to eliminate the deficit. Proceeds from any liabilities to the state pursued by DOJ in the future would be deposited to the general fund; however, few cases would likely be pursued.

ALTERNATIVES TO BASE

1. Approve the Governor's recommendation to delete $347,800 PR and 5.5 PR positions annually associated with DOJ's bankruptcy initiative. In addition, delete the $300,000 in GPR-Earned that was expected to be generated in collections of tax obligations in bankruptcy cases.

Alternative 1	GPR	PR	TOTAL
1997-99 FUNDING (Change to Base)	$0	-$695,600	- $695,600
[Change to Bill	*$0*	*$0*	*$0]*
1997-99 REVENUE (Change to Base)	- $600,000	$0	- $600,000
[Change to Bill	*$0*	*$0*	*$0]*
1998-99 POSITIONS (Change to Base)	0.00	- 5.50	- 5.50
[Change to Bill	*0.00*	*0.00*	*0.00]*

2. Delete $247,600 PR and 4.0 PR positions annually associated with DOJ's bankruptcy initiative. In addition, delete the $300,000 in GPR-Earned that was expected to be

generated in collections of tax obligations in bankruptcy cases. Further, provide specific statutory authority to allow DOJ to recoup its reasonable and necessary costs in cases involving collections of delinquent obligations owed to any state agencies. Under this alternative, $100,200 PR and 1.5 PR positions would be retained (1.0 paralegal and 0.5 attorney) to continue to pursue cases relating to debts owed to state agencies.

Alternative 2	GPR	PR	TOTAL
1997-99 FUNDING (Change to Base)	$0	- $495,200	- $495,200
[Change to Bill	*$0*	*$200,400*	*$200,400]*
1997-99 REVENUE (Change to Base)	- $600,000	$0	- $600,000
[Change to Bill	*$0*	*$0*	*$0]*
1998-99 POSITIONS (Change to Base)	0.00	- 4.00	- 4.00
[Change to Bill	*0.00*	*1.50]*	*1.50]*

3. Approve the Governor's recommendation. In addition, require DOJ to submit a plan, under s. 16.513, by September 1, 1997, to fund the estimated deficit of $78,800 in the delinquent obligations appropriation.

Alternative 3	GPR	PR	TOTAL
1997-99 FUNDING (Change to Base)	$0	-$695,600	- $695,600
[Change to Bill	*0*	*0*	*0]*
1997-99 REVENUE (Change to Base)	- $600,000	$0	- $600,000
[Change to Bill	*0*	*0*	*0]*
1998-99 POSITIONS (Change to Base)	0.00	- 5.50	- 5.50
[Change to Bill	*0.00*	*0.00*	*0.00]*

4. Approve the Governor's recommendation to delete the 5.5 positions. In addition, provide one-time funding of $78,800 GPR in 1997-98 to fund the deficit in the delinquent obligations appropriation.

Alternative 4	GPR	PR	TOTAL
1997-99 FUNDING (Change to Base)	$78,800	-$695,600	- $616,800
[Change to Bill	*78,800*	*$0*	*78,800]*
1997-99 REVENUE (Change to Base)	- $600,000	$0	- $600,000
[Change to Bill	*0*	*0*	*0]*
1998-99 POSITIONS (Change to Base)	0.00	- 5.50	- 5.50
[Change to Bill	*0.00*	*0.00*	*0.00]*

Prepared by: Carri Jakel

Representative Jensen

JUSTICE

Bankruptcy Positions

Motion:

Move to delete $247,600 PR and 4.0 PR positions annually associated with DOJ's bankruptcy initiative. Convert the remaining 1.5 PR positions to project positions. In addition, delete $300,000 in GPR-Earned that was expected to be generated in collections of tax obligations in bankruptcy cases. Further, provide specific statutory authority to allow DOJ to recoup its reasonable and necessary costs in cases involving collections of delinquent obligations owed to any state agencies.

Note:

Under 1995 Wisconsin Act 27, DOJ was authorized a total of 5.5 PR positions for an initiative to collect tax liabilities in bankruptcy cases. However, to date no revenue has been collected by DOJ from tax liabilities in bankruptcy cases. Collections of $210.700 in 1995-96 and $186,200 in 1996-97 have been recovered in obligations owed to other state agencies. DOJ has retained $7,500 in 1995-96 and $29,400 in 1996-97 to offset DOJ costs. It is expected that DOJ would end this biennium with a deficit of $78,800. Under this motion, it would be expected that the 1.5 positions would collect sufficient revenue to fund the deficit, in addition to the cost of the positions ($100,200 PR annually)

[Change to Base: -$495,200 PR and -4.0 PR positions]
[Change to Bill: $200,400 PR and 1.5 PR positions]

MO# 965

JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A
BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

AYE 15 NO 1 ABS ____

Motion #965

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Appeals Attorney -- Sexual Predators (Justice)

[LFB Summary: Page 365, #15]

CURRENT LAW

1993 Wisconsin Act 479 (the sexual predator law) created Chapter 980, which provides for involuntary civil commitment of sexually violent persons to secure mental facilities prior to their release from custody of the Department of Corrections (DOC) or the Department of Health and Family Services (DHFS). A "sexually violent person" is defined as someone who has been: (1) convicted of a sexually violent offense; (2) adjudicated delinquent for a sexually violent offense; or (3) found not guilty of, or not responsible for, a sexually violent offense by reason of insanity or mental disease, defect or illness.

Each person committed as a sexually violent person may petition for supervised release every six months and for discharge every year. The person has a right to an appeal of the commitment and every decision on supervisory release or discharge. Appeals are handled by the Department of Justice (DOJ).

GOVERNOR

Provide $48,900 GPR in 1997-98 and $56,400 in 1998-99 and 1.0 attorney position annually for an appellate attorney to handle an increased workload associated with sexual predator cases. It should be noted that, according to the executive budget book, the position would be a project position, which would expire June 30, 1999. However, a permanent position would be created under the bill.

DISCUSSION POINTS

1. Chapter 980 became effective on June 2, 1994. Since then, DOJ has handled a total of 61 appeals of these cases in the Wisconsin Court of Appeals (10 of those did not involve an appeal of a Chapter 980 decision, but involved another issue such as ineffective assistance of counsel). Two cases are currently pending in the Wisconsin Supreme Court and two more have petitions for review pending. In four cases, petitions have been filed in the U.S. Supreme Court. In addition, the constitutionality of a similar sexual predator law, in Kansas, is currently under consideration in the U.S. Supreme Court; DOJ has filed an amicus brief in the support of the Kansas law. There is also one case in Federal District Court which has been stayed pending the Supreme Court decision of the Kansas law.

2. DOJ expects the number of sexual predator appeals to increase in the next few years. It is expected that many appeals will be filed when the U.S. Supreme Court issues an opinion on the Kansas law. The Department indicates that regardless of how the Court rules, appeals will be filed seeking clarification of the impact on the Wisconsin law. DOJ also indicates that, since Chapter 980 is relatively new, many cases have not yet reached the appeals stage. Further, an additional 48 persons may be committed, under the sexual predator law, each year. The amount of appellate work associated with these cases will have a cumulative effect, since many of the individuals may face a lifetime commitment, yet have a right to three petitions a year (two for supervisory release and one for discharge) and can appeal those decisions.

3. The number of DOJ appeals cases has increased over 70% over the last eight years. Over that same period, the number of appellate attorneys has increased only 20%. DOJ currently has 18.0 attorneys assigned to the appeals unit and, in 1996, each attorney handled an average of 43 appeals cases. This compares with an average of 30 cases that DOJ attorneys were budgeted to handle eight years ago.

4. In addition, DOJ officials indicate that the complexity and seriousness of issues involved in the appeals cases are greater than they were eight years ago, in part, because of new laws such as the sexual predator law.

5. DOJ indicates that it lacks the resources to handle the current number of appeals and will not be able to absorb the expected increase resulting from sexual predator cases. In its budget request, DOJ requested 2.0 appellate attorneys to handle sexual predator cases, in addition to other appeals. They indicate that if they do not receive additional resources, their ability to successfully defend state laws would be impeded.

6. Given the current appellate workload, the Committee could consider providing two appeals attorneys as requested by DOJ. The additional cost to the bill would be $48,900 GPR in 1997-98 and $56,400 in 1998-99.

7. Because of the uncertainty of the U.S. Supreme Court decision on the constitutionality of the Wisconsin sexual predator law, the executive budget book indicates that a project position is being provided. However, under the bill, a permanent position is created. Therefore, if the Committee approves the position, a technical correction would be needed to provide for a project, rather than a permanent, position. Further, if the Committee adopts an alternative that would provide two appeals attorneys, both positions could be made project and the overall appeals workload could be reassessed in the next biennium.

ALTERNATIVES TO BASE

1. Approve the Governor's recommendation, as technically corrected, to provide $48,900 GPR in 1997-98 and $56,400 GPR in 1998-99 and 1.0 GPR project position annually for a DOJ appeals attorney to handle an increased workload associated with sexual predator cases. The position would expire June 30, 1999.

Alternative 1	GPR
1997-99 FUNDING (Change to Base)	$105,300
[Change to Bill	*$0]*
1998-99 POSITIONS (Change to Base)	1.00
[Change to Bill	*0.00]*

2. Provide $97,800 GPR in 1997-98 and $112,800 in 1998-99 and 2.0 GPR project positions annually to address the increased appeals workload associated with sex predator and other types of appeals cases. The positions would expire June 30, 1999.

Alternative 2	GPR
1997-99 FUNDING (Change to Base)	$210,600
[Change to Bill	*$105,300]*
1998-99 POSITIONS (Change to Base)	2.00
[Change to Bill	*1.00]*

3. Maintain current law.

Alternative 3	GPR
1997-99 FUNDING (Change to Base)	$0
[Change to Bill	*- $105,300]*
1998-99 POSITIONS (Change to Base)	0.00
[Change to Bill	*- 1.00]*

MO# Alt #2

JENSEN	Y	N	A
ZOURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A
BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

AYE 16 NO 0 ABS ____

Prepared by: Carri Jakel

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Sheriff Fees in Real Estate Sales (Justice)

[LFB Summary: Page 367, #19]

CURRENT LAW

Sheriffs receive a fee of $50, of which $25 must be prepaid by the owner of the property and is nonrefundable, for costs involved with the sale of real estate by the sheriff or other officers, under judgment or court order.

GOVERNOR

Increase, to $150, the fees paid to sheriffs for activities related to the sale of real estate by a sheriff or other officer, under a judgment or court order. Provide that $75 of the fee would be prepaid and nonrefundable. The increased fees would apply to sales commenced on, or after, the effective date of the bill.

DISCUSSION POINTS

1. Sheriff fees in real estate sales are intended to cover the costs of advertising, issuing certificates of sale, drawing, executing and acknowledging a deed pursuant to sale, posting notices of the sheriff's sale, recording a certificate of sale with the register of deeds and travel required in making the sale. The owner of the property pays the fee, which is typically a bank holding the mortgage in a foreclosure case.

2. There is no state fiscal effect associated with this provision because fees are retained by the county. In addition, there is no information on the number of incidents in which sheriffs sell real estate or on the amount of fees currently collected. Therefore, the impact on counties of the increase in fees cannot be assessed.

3. Some counties have indicated that the current $50 fee does not cover their costs. Milwaukee County officials indicate that, in 1996, sheriffs' expenses associated with sales of foreclosed properties cost county taxpayers $7,000. However, costs and revenues in other counties are not known. According to an unofficial survey by the Wisconsin Bankers Association, many counties spend little, if any, on advertising and selling the property. Instead, the property is typically sold in an auction.

4. Under current law, in addition to sales of real estate, sheriffs collect statutorily-set fees for services of summons or other processes, executions on judgments, travel in certain civil and criminal processes, collection of money, copies, advertising personal property, seizures and evictions of property, and notices of sales of personal property. Higher fees may be established by the county board for some of these activities, namely for services of summons or other processes, executions on judgments and travel in certain civil and criminal processes.

5. An alternative to the Governor's recommendation would be to allow county boards to establish higher fees for sheriffs in real estate actions. This would allow counties which incur higher costs to assess these fees accordingly.

6. It should be noted that 1997 Assembly Bill 199, introduced March 27, 1997, would also modify these fees. AB 199 would allow sheriffs to retain one percent of the sale price of the real estate. In addition, the bill would increase the nonrefundable, prepaid deposit from $25 to $75.

7. While information on current revenues or expenses of sheriffs involved in real estate sales is not available, it appears that the Governor's proposal is an effort to bring the fee in line with actual expenses incurred by sheriffs. Under the fee structure proposed in AB 199, it appears that revenues could exceed expenses, since a fee based on one percent of sales, particularly with large properties, might not be representative of actual costs incurred.

ALTERNATIVES TO BASE

1. Approve the Governor's recommendation to increase, from $50 to $150, the fee paid to sheriffs related to the sale of real estate by a sheriff or other officer. In addition, provide that $75 of the fee would be prepaid and nonrefundable. The increased fee would be effective for sales commenced after the effective date of the bill.

2. Do not increase the statutory fee paid to sheriffs in real estate sales. Instead, authorize county boards to establish higher fees for sheriffs in real estate sales.

3. Take no action.

Prepared by: Carri Jakel

MO# Alt #2

JENSEN	Y	N	A
ZOURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A
BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

AYE 14 NO 2 ABS ____

Senator Cowles

JUSTICE

Cap on Sheriff Fees in Real Estate Sales

Motion:

Move to authorize county boards to establish higher fees for sheriffs in real estate sales, and provide that these fees could not exceed $150.

Note:

Under current law, a fee of $50 is paid to sheriffs related to the sale of real estate by a sheriff or other officer, of which $25 must be prepaid by the owner of the property and is not refundable. Under SB 77, this fee would be increased to $150, of which $75 would be prepaid and nonrefundable. This motion would keep the statutory fee at $50, and would authorize county boards to establish higher fees, not to exceed $150.

MO# 1096

JENSEN	Y	~~N~~	A
OURADA	~~Y~~	N	A
HARSDORF	Y	~~N~~	A
ALBERS	~~Y~~	N	A
GARD	~~Y~~	N	A
2 KAUFERT	~~Y~~	N	A
LINTON	~~Y~~	N	A
COGGS	Y	~~N~~	A
BURKE	Y	~~N~~	A
DECKER	Y	~~N~~	A
GEORGE	~~Y~~	N	A
JAUCH	~~Y~~	N	A
WINEKE	~~Y~~	N	A
SHIBILSKI	Y	~~N~~	A
1 COWLES	~~Y~~	N	A
PANZER	~~Y~~	N	A

AYE 10 NO 6 ABS ___

Motion #1096

Representative Jensen

JUSTICE

Sheriffs' Procedures in Sales of Real Estate

Motion:

Move to require sheriffs, prior to conducting a sale of foreclosed property, to contact the clerk of the federal bankruptcy court, to ascertain whether there has been a stay of relief granted on that property.

Note:

Current law does not require sheriffs to contact the federal bankruptcy court to determine whether a stay of relief has been granted related to the sale of a foreclosed property. Therefore, it is possible for the sheriff to go forth with the sale, and later discover a stay of relief has been granted by the federal bankruptcy court.

MO# 1573

1 JENSEN	Y	N	A
2 OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A
BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

AYE 15 NO ___ ABS ___

Motion #1573

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Indian Law Initiative (Justice)

CURRENT LAW

The Division of Legal Services in the Department of Justice (DOJ) provides legal representation and advice to the Governor, Legislature, other state officers and state agencies, and renders legal opinions to county corporation counsel, district attorneys, the Legislature and state agencies. In addition, it has primary responsibility to take court action to enforce certain state laws, including environmental, antitrust, consumer protection and medicaid fraud laws, and limited jurisdiction to enforce certain criminal laws. The Division also represents the state's interests in state and federal appellate courts and in all felony cases on appeal, and defends state employes, state officers and state agencies in certain civil actions.

GOVERNOR

No provision.

DISCUSSION POINTS

1. In its budget request, the Department of Justice requested $89,000 GPR and 2.0 GPR positions (1.0 attorney and 1.0 legal secretary) in 1997-98 and $247,500 GPR and 4.0 GPR positions (3.0 attorneys and 1.0 legal secretary) in 1998-99 to create an Indian litigation unit.

2. DOJ officials indicate that there has been a major increase in litigation involving the state and Indian tribes, and that these cases are complex and present fundamental challenges to the authority of Wisconsin to exercise its sovereign powers within the territorial boundaries

of the state. The type of work DOJ is currently involved in includes the following: (1) claims related to the rights of Menominee tribal members to hunt, fish and gather over the eastern third of Wisconsin (currently on appeal); (2) reservation boundary claims by the Oneida Tribe in Brown County (currently on appeal); (3) ongoing advice to local governments regarding expansion of Indian trust land status; (4) challenges by the tribes to the federal Clean Water Act concerning reservation waters; (5) administrative proceedings before federal agencies in trust land status, the Clean Water Act and the Clean Air Act; (6) preparation of amicus briefs in support of other states' authority in cases involving challenges from Indian tribes which may have national implications; and (7) other legal challenges to state authority over various manners including natural resources, law enforcement issues and adoption proceedings.

3. In order to address issues involving Indian litigation, DOJ has had to assign attorneys from other litigation units, mainly the environmental unit, to work on these cases. DOJ currently has 95.6 FTE attorney positions assigned to eight litigation units including: (a) civil litigation (16.0 attorneys); (b) contracts (8.0 attorneys); criminal appeals (19.05 attorneys); (c) criminal litigation, antitrust and consumer protection (14.8 attorneys); (d) employment (12.4 attorneys); (e) environmental (11.15 attorneys); (f) government operations and administrative law (11.7 attorneys) and medicaid fraud (2.5 attorneys).

4. DOJ indicates that in order to handle the current cases involving Indian litigation, work in other units has been set aside. For example, prosecution in at least two environmental cases has been delayed and, according to DOJ, the longer the delay, the harder it is to impress upon the court the importance of the violation. In addition, with cases relating to Indian law increasing, the lack of DOJ resources may mean some cases ultimately going unprosecuted. As a result, if more resources are not provided, the Department argues that the state could potentially lose much more than the cost of the additional positions.

5. The Attorney General, in his address to the Joint Finance Committee, reiterated the need for additional state resources in this area. He indicated that a special unit for Indian litigation would allow the Department to develop more expertise in these areas and expand its ability to assist local governments.

6. Given that the amount of Indian litigation is a relatively new phenomenon, it is difficult to tell what the future workload will be. If DOJ's success in defending the state's rights in these cases continues, the number of cases filed in the future may diminish. Therefore, the Committee could consider providing additional resources to DOJ on a project basis through June 30, 1999. This would allow the Department to devote resources to the current cases which could set precedence and reduce the number of cases in the future. Caseload could then be reviewed during 1999-01 budget deliberations.

7. DOJ indicates that a minimum of three attorneys and a legal secretary would be needed to establish a unit to handle the current and projected Indian law work and to assist local governments. DOJ officials indicate that two attorneys are currently working on Indian litigation

full time, with assistance from additional attorneys. It could be argued that DOJ could continue using attorneys from other units, as needed, to assist with these cases. In addition, the Department's request for three attorneys also reflected anticipated legal assistance concerning Indian gaming compact negotiations. Previous action by the Joint Finance Committee (April 30, 1997) would provide an attorney position and legal assistance contract funds to DOA for these negotiations. This would lessen (although not necessarily eliminate) the involvement of DOJ attorneys in the negotiations. Therefore, the Committee could provide two attorneys and one-half legal secretary to allow DOJ to continue devoting the current level of resources to Indian litigation without reducing the number of attorneys working on other litigation. This alternative would cost $73,500 GPR and 1.5 project positions (one attorney and one-half legal secretary) in 1997-98 and $154,100 GPR and 2.5 project positions (two attorneys and one-half legal secretary) in 1998-99.

8. Alternatively, the Committee could provide $57,300 GPR in 1997-98 and $69,000 GPR in 1998-99 and 1.0 GPR project position annually to provide one attorney to coordinate DOJ Indian litigation. Under this alternative, at least one position would be dedicated to Indian law issues and attorneys from other units could be used as caseload allows.

9. It should be noted that if the Committee were to approve DOJ's request for three attorneys and one legal secretary, the level of funding identified by DOJ should be reduced by $3,200 in 1997-98 and $8,300 in 1998-99 to reflect the actual cost of the positions (total costs to the bill would be $85,800 in 1997-98 and $239,200 in 1998-99). In addition, the positions could be made project positions, subject to review in the next biennium.

ALTERNATIVES TO BASE

1. Provide $85,800 GPR and 2.0 project positions (1.0 attorney and 1.0 legal secretary) in 1997-98 and $239,200 and 4.0 project positions (3.0 attorneys and 1.0 legal secretary) in 1998-99 to create an Indian litigation unit under DOJ's Division of Legal Services. The positions would expire on June 30, 1999.

Alternative 1	GPR
1997-99 FUNDING (Change to Base)	$325,000
[Change to Bill	*$325,000*
1998-99 POSITIONS (Change to Base)	4.00
[Change to Bill	*4.00]*

2. Provide $73,500 GPR and 1.5 project positions (1.0 attorney and 0.5 legal secretary) in 1997-98 and $154,100 GPR and 2.5 positions (2.0 attorneys and 0.5 legal secretary)

in 1998-99 to create an Indian litigation unit under DOJ's Division of Legal Services. The positions would expire June 30, 1999.

Alternative 2	GPR
1997-99 FUNDING (Change to Base)	$227,600
[Change to Bill	*$227,600]*
1998-99 POSITIONS (Change to Base)	2.50
[Change to Bill	*2.50]*

3. Provide $57,300 GPR in 1997-98 and $69,000 in 1998-99 and 1.0 project position annually for one attorney to litigate cases involving Indian laws and coordinate Indian law litigation. The position would expire June 30, 1999.

Alternative 3	GPR
1997-99 FUNDING (Change to Base)	$126,300
[Change to Bill	*$126,300]*
1998-99 POSITIONS (Change to Base)	1.00
[Change to Bill	*1.00]*

4. Take no action.

MO# Alt #3

JENSEN	Y	N	A
2 OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A
1 BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

AYE 15 NO 1 ABS ____

Prepared by: Carri Jakel

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Handgun Hotline Deficit (Justice)

CURRENT LAW

A person is prohibited from possessing a firearm if he or she has been: (a) convicted of a felony in Wisconsin or was convicted of a crime elsewhere that would be a felony if committed in the state; (b) adjudicated delinquent for an act committed on or after April 24, 1994, that if committed by an adult in this state would be a felony; (c) found not guilty in this state (or an equivalent offense elsewhere) by reason of mental disease or defect; (d) involuntarily committed for treatment and ordered by a court not to possess a firearm; (e) subject to a domestic abuse or child abuse restraining order or injunction; or (f) ordered by a court not to possess a firearm, based on evidence that the person may use a firearm to cause physical harm to another or endanger public safety. A person meeting one of these criteria who possesses a firearm is guilty of a Class E felony.

When a firearms dealer sells a handgun, he or she may not transfer possession of that handgun until: (1) the dealer has provided information to and requested a firearms restrictions record search from the Department of Justice (DOJ); and (2) 48 hours have lapsed, subject to extension under certain circumstances, and DOJ has not notified the dealer that the transfer would be a violation of state law. An $8 fee is assessed on firearms dealers (who may pass the charge on to the purchaser) for each background check. The revenues from the fee are provided to DOJ for the cost of operating the record check program. Base funding is $305,900 and 8.0 FTE (1.0 director, 1.0 programmer and 6.0 operators).

GOVERNOR

No provision.

DISCUSSION POINTS

1. It is expected that the handgun hotline program revenue appropriation will end 1996-97 with a deficit of $230,900. For the 1997-99 biennium, annual handgun hotline revenues are estimated at $222,100 and expenditures, under the bill, total $326,800 annually. As a result, it is estimated that the handgun hotline appropriation will end the 1997-99 biennium with a deficit of $440,300.

2. On May 13, 1996, DOA Secretary Klauser requested DOJ to submit a plan under s. 16.513 regarding a proposal to assure that there would be sufficient handgun hotline revenues to meet projected expenditures. DOJ responded by indicating that the handgun hotline deficit would be addressed in DOJ's 1997-99 budget request. Secretary Klauser subsequently concurred that it would be appropriate for the deficit to be addressed in the context of the 1997-99 budget.

3. In its budget request, DOJ proposed requiring gun dealers to do firearms restrictions record searches on buyers prior to sale of all guns, not just handguns, beginning November 30, 1998. This proposal was in response to a requirement under the federal Brady Law, which requires criminal searches on long gun buyers by November 30, 1998. DOJ estimated that the expansion in the number of record searches conducted would result in additional revenue of $224,000 in 1998-99, and $384,000 annually thereafter. Total revenues from checks on all gun buyers was estimated at $606,100 per year, and DOJ projected that the deficit would be corrected in 1999-00.

4. DOA officials indicate that the proposal was not included as part of the Governor's budget recommendations because it was felt that the issue would be better addressed in separate legislation. DOJ has indicated that it will seek legislation to have background checks required on the purchase of all guns by the federal deadline. It is expected that the deficit would be resolved through this legislation.

5. The Committee could consider an increase in the $8 fee assessed for each firearm restrictions search to cover the deficit for this biennium. Assuming a September 1, 1997, effective date, the fee would have to be increased to $15 to cover the projected deficit.

6. Alternatively, the Committee could take no action, with the expectation that DOJ will submit legislation to require checks on purchasers of all guns beginning no later than November 30, 1998, in accordance with federal legislation. It is estimated that the additional revenues generated through the increased number of background checks to be conducted under

this legislation would result in a positive balance in the handgun hotline appropriation by fiscal year 1999-00.

ALTERNATIVES TO BASE

1. Increase the fee for criminal record checks required of handgun purchasers from $8 to $15, effective September 1, 1997, to eliminate the handgun hotline deficit.

2. Take no action at this time and address the deficit and other issues related to the gun hotline through the separate legislation that the Attorney General is drafting for introduction.

Prepared by: Carri Jakel

NO VOTE

MO# Alt # 2 (by default)

JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A
BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

AYE ____ NO ____ ABS ____

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Minor Policy and Technical Changes -- Sexual Predator Prosecutors (Justice)

Governor

No Provision.

Modification to Previous JFC Amendment

Delete $17,500 GPR in 1997-98 and $12,800 GPR in 1998-99 for legal expenses and supplies and services associated with a DOJ attorney position deleted from the bill, as amended by the Committee.

Explanation: The Governor recommended four additional assistant district attorneys to handle sexual predator cases on a regional basis, including one each for Brown, Dane, Milwaukee and Marathon Counties. Under alternative #4 of LFB paper #345, the Committee modified the bill to eliminate the ADAs for Brown, Dane and Marathon Counties, and instead provided 3.0 attorneys to DOJ to handle sexual predator cases statewide. Motion #1064 modified the alternative by restoring the regional sexual predator position to Brown County and eliminating one DOJ attorney. The state pays only for salary and fringe benefit costs associated with assistant district attorneys. Alternative #4 approved by the Committee included $17,500 GPR in 1997-98 and $12,800 GPR in 1998-99, under DOJ, for legal expenses and supplies and service associated with one attorney position. However, when the alternative was modified, under motion #1064, the additional funding associated with the DOJ position was not removed.

Modification	GPR
1997-99 FUNDING (Change to Base)	$0
[Change to JFC	*- $30,300]*

Prepared by: Carri Jakel

MO# Modifications to the Previous JFC Amendments

JENSEN	✓	N	A
ZOURADA	✓	N	A
HARSDORF	✓	N	A
ALBERS	✓	N	A
GARD	✓	N	A
KAUFERT	✓	N	A
LINTON	✓	N	A
COGGS	✓	N	A
BURKE	✓	N	A
DECKER	✓	N	A
GEORGE	✓	N	A
JAUCH	✓	N	A
WINEKE	✓	N	A
SHIBILSKI	✓	N	A
COWLES	✓	N	A
PANZER	✓	N	A

AYE 16 NO 0 ABS ____

Senator Wineke

JUSTICE

Consumer Protection

Motion:

Move to transfer 34.0 GPR positions (10.5 program assistants, 11.0 regulation compliance investigators, 10.0 consumer specialists, 0.5 legal secretary, 1.0 program and planning analyst and 1.0 attorney) and $1,668,900 GPR in 1998-99 and transfer consumer protection authority from the Department of Agriculture, Trade and Consumer Protection to the Department of Justice, effective July 1, 1998. In addition, delete $137,200 GPR and $93,900 SEG in 1998-99 and eliminate 3.0 GPR regulation compliance investigators and 1.0 SEG attorney under the Department of Agriculture, Trade and Consumer Protection. Further, rename the Department of Agriculture, Trade and Consumer Protection the Department of Agriculture and Trade.

Note:

1995 Act 27 transferred $701,200 GPR and 13.8 GPR positions from DOJ to DATCP and provided an additional 3.0 GPR positions for DATCP to perform most of the state's consumer protection functions. DOJ retained 9.3 positions including 4.8 attorneys, 1.0 administrative assistant, 1.5 legal secretaries and 2.0 compliance investigators, to commence actions and to conduct limited investigations relating to violations of the state's fraudulent advertising laws and telecommunications trade practices, and to recover civil forfeitures for violations of injunctions under the state's fraudulent advertising statutes, drug pricing statutes and unfair trade practices.,

This motion would transfer all DATCP staff and funding related to consumer protection, except for 4.0 positions that would be eliminated, to DOJ. Under this motion, consumer protection responsibilities transferred to DOJ would include: (a) fraudulent representations (DATCP would retain some authority relating to actions involving trade practices); (b) fraudulent drug advertising; (c) telecommunication services; (d) fitness center and weight reduction contracts; (e) future service plans; (f) allegations of unfair practices (DATCP would retain some authority relating to actions involving trade practices); (g) motor vehicle rustproofing warranties; (g) penalties: marketing and trade practices; (h) ticket refunds; (i) cable television subscriber rights; (i) dating service contracts; (j) pawnbrokers and secondhand article and jewelry dealers; (k) prize notices; (l) mail-order sales; (m) motor fuel dealerships; (n) vehicles--financial responsibility: damage waivers and penalties; (o) self-service storage areas; (p) time share

ownership deposits, escrow requirements remedies and penalties; and (q) prepaid maintenance liens. DATCP would retain authority relating to trade practices under s. 100.18 and s. 100.20.

[Change to Base: -$137,200 GPR and -$93,900 SEG and -3.0 GPR positions and -1.0 SEG position]

[Change to Bill: -$137,200 GPR and -$93,900 SEG and -3.0 GPR positions and -1.0 SEG position]

MO# 1571

JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A
BURKE	Y	N	A
ZDECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

AYE 8 NO 8 ABS ____

FAIL

JUSTICE

LFB Summary Items for Which No Issue Papers Have Been Prepared

Item #	Title
1(part)	Standard Budget Adjustments
4	Federal Victims of Crime (VOCA) Funding
5	Sexual Assault Victim Services
6(part)	Victim/Witness Assistance Funding and New Surcharge on Juveniles
7	Victim Resource Center
9	Law Enforcement Training
10	Convert Criminal Records Project Positions to Permanent
11	Division of Narcotics Enforcement -- Technical Services Unit Equipment
12	Electronic Imaging
14	Eliminate Corrections Compliant Examiners
16	Medicaid Fraud Investigation
17	Milwaukee County DNA Prosecution Matching Grant

LFB Summary Items for Introduction as Separate Legislation

Item #	Title
18	Department of Administration Approval of DOJ Settlement Agreements and Legal Expenses
20	Denial of Certification for Law Enforcement, Jail and Secure Detention Officers for Failure to Pay Child Support
21	Release of Certain Confidential Records for Child Support Enforcement and Public Assistance Administration

MO# Summary Items

JENSEN	Y	N	A
LOURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

AYE 16 NO 0 ABS ____