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# **Health Insurance Risk Sharing Plan**

**HIRSP -- Program Modifications and Transfer (Paper #512)**

To: Joint Committee on Finance  
From: Bob Lang, Director  
Legislative Fiscal Bureau

**ISSUE**

**HIRSP -- Program Modifications and Transfer (Office of the Commissioner of Insurance)**

[LFB Summary: Page 343, #3]

**CURRENT LAW**

The Health Insurance Risk-Sharing Plan (HIRSP) provides comprehensive health insurance coverage for the state's medically uninsurable population. The program is funded by a combination of enrollee premiums, assessments of insurance companies which underwrite disability insurance in this state and \$3,239,000 GPR in 1997-99 (\$893,000 GPR in 1995-96 and \$846,000 GPR in 1996-97 in a biennial appropriation and \$1.5 million GPR in 1996-97 for a one-time premium subsidy). HIRSP is administered through the Office of the Commissioner of Insurance (OCI).

**GOVERNOR**

Transfer \$1,492,300 (\$423,100 GPR, \$1,021,900 PR and \$47,300 SEG) in 1997-98 and \$2,884,600 (\$746,200 GPR, \$2,043,800 PR and \$94,600 SEG) in 1998-99 and 1.5 SEG position from OCI's budget to DHFS to reflect the transfer of HIRSP from OCI to the Department of Health and Family Services (DHFS) effective January 1, 1998. Also, transfer to DHFS the Board of Governors which is currently attached to HIRSP.

Provide that covered expenses be limited to allowable charges paid under the medical assistance program, and only for the services provided by persons licensed and certified under medical assistance (MA) statutory provisions. Provide that DHFS establish, by rule, cost

containment provisions including managed care requirements for HIRSP. Provide that DHFS's fiscal agent for administration of MA program benefits also be the plan administrator for HIRSP.

Authorize DHFS to file a claim in certain circumstances, against the estate of a policyholder or against the estate of the surviving spouse of a policyholder who received a premium or deductible subsidy, to recover the amount of the subsidy paid after January 1, 1998, on behalf of the policyholder who dies after March 15, 1998.

Modify HIRSP program requirements as follows: (a) change the current definition of resident to remove the requirement that an individual must be domiciled in Wisconsin for 30 days and instead provide that a person would be considered a resident for purposes of HIRSP if he or she is legally domiciled in the state by living in this state; (b) provide that the individual premium rates set to cover 60% of the operating and administrative costs of the plan, could not exceed 200% of the rate that a standard risk would be charged under an individual policy providing substantially the same coverage and deductible as would be provided under the HIRSP; and (c) repeal preexisting conditions language which provides that conditions which are diagnosed or treated in the six months preceding the filing of an application are not covered for the first six months that the individual is enrolled in HIRSP.

Provide a number of changes in the responsibilities of the HIRSP Board of Governors, OCI and DHFS. Provide that HIRSP would no longer operate subject to the supervision and approval of the Board. Provide that Board members would be appointed by the Secretary of DHFS. Retain the Commissioner of Insurance as a member of the Board, but add the Secretary of DHFS, or designee, as a member of the Board and provide that the Secretary shall be the chairperson of the Board. Require that DHFS, in consultation with OCI, develop an alternative plan for eligible persons.

Provide that DHFS take over the following Board responsibilities: (a) management of the HIRSP fund; (b) promulgation of rules specifying other deductible or coinsurance amounts; (c) determination of what experimental treatments would be covered by the plan; (d) authority to maintain a cause of action against an eligible participant for the recovery of the amount of benefits paid which are not for covered expenses under the plan and maintain subrogation rights; (e) determination of the time of billings; (f) reductions of premiums; (g) establishment and implementation of a method for determining the household income of an eligible person for a subsidy; and (h) establishment of different deductible, coinsurance percentages, covered costs and deductible aggregate amounts in accordance with cost containment provisions.

## **DISCUSSION POINTS**

1. Due to a number of concerns regarding HIRSP costs, especially recent increases in policyholders' premiums, a provision was adopted as part of 1995 Act 463 which required OCI and DHFS to conduct a study for the purpose of establishing a replacement health care program

for HIRSP. The two agencies were required to submit their study and any recommended legislation to the Legislature by February 1, 1997.

2. In February, the two agencies provided a report containing the study recommendations for HIRSP. The recommendations for the program included: (a) transferring HIRSP from OCI to DHFS; (b) modeling the program after the MA program; and (c) modifying HIRSP to meet the new federal requirements of the Health Insurance Portability and Accountability Act based on selecting HIRSP as the state response to the individual market reform option under that federal act.

3. Created by the Legislature in 1980, HIRSP provides health insurance coverage for the state's medically uninsurable population or those unable to obtain affordable coverage in the private market because of their health conditions.

4. The plan is funded from policyholders' premiums, insurer assessments and general purpose revenue, which is used to partially fund a subsidy program to offset the cost of premiums and deductibles for low-income policyholders. Under the current plan structure, HIRSP policyholders are required to pay 60% of the plan's administrative and claims costs through premiums. Health insurance companies fund the remaining costs through an assessment that is based on each company's market share or percentage of health insurance premiums collected in the state.

5. The Governor's recommendations for HIRSP can be seen as addressing two major concerns, both presented in a single proposal:

(a) First, the federal Health Insurance Portability and Accountability Act (HIPAA) requires, in regard to the individual insurance market, that states pick one of four options with regard to individual insurance market reform or be subject to the federal default provisions. In response to that requirement, the administration has opted to modify certain statutory provisions of HIRSP as provided for under HIPAA to allow the state to use the HIRSP plan as the state selected option under HIPAA (in lieu of other market reform).

(b) Second, in response to the study directive of 1995 Act 463 and OCI and DHFS recommendations, the Governor proposes reducing the cost of the HIRSP program (and thereby the costs to be borne by enrollee premiums and insurer assessments) by paying health care providers who provide services to HIRSP enrollees at rates that are equivalent to rates paid under the MA program. In addition, in order to facilitate the implementation of an MA rate schedule and other cost containment measures utilized by the MA program, the Governor recommends the transfer of the administration of the HIRSP program and Board of Governors to DHFS. The administration has also indicated that having the program in DHFS would allow its possible integration into other health care programs operated by DHFS. Each of these aspects of the Governor's proposal is discussed further below.

## HIPAA Provisions

7. The Health Insurance Portability and Accountability Act (HIPAA) was enacted on August 21, 1996. HIPAA amends a number of current federal laws to provide for, among other things, improved portability and continuity of health insurance coverage in the group and individual markets, and group health plan coverage provided in connection with employment.

8. The Act imposes a limited guaranteed availability and guarantee renewability requirement on insurers in the individual market. The Act, however, limits applicability of the provisions to only those "eligible individuals": (a) with at least 18 months of creditable coverage without a significant break (63 days) in creditable coverage; (b) whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan; (c) who is not eligible for coverage under a group health plan, Medicare or Medicaid; (d) whose prior coverage was not terminated because of nonpayment of premiums or fraud; and (e) who, if eligible, has exhausted coverage under COBRA continuation coverage or a similar state program.

9. The Act provisions relating to guaranteed availability require that health insurance issuers that offer coverage in the individual market cannot with respect to an eligible individual: (a) decline to offer individual coverage to, or deny enrollment of, such individual; or (b) impose any preexisting condition exclusion.

10. However, if a state implements an alternative mechanism it does not have to enforce the federal requirements for guaranteed availability. The alternative mechanism must provide: (a) a choice of health insurance coverage to all eligible individuals; (b) that such coverage does not impose any preexisting condition exclusion; and (c) the choice of coverage includes at least one policy form of coverage that is comparable to comprehensive health insurance coverage offered in the individual market or a standard option of coverage available under the group or individual health insurance laws of the state.

11. A state that elects to implement a qualified high risk pool as its acceptable alternative must in addition to meeting the preceding requirements also: (a) provide coverage to eligible persons with no preexisting condition exclusions; and (b) provide for rates and benefits consistent with the standard set forth in the NAIC Model Plan for Uninsurable Individuals.

12. OCI and DHFS recommended and Governor has decided to amend HIRSP to comply with HIPAA, thereby implementing an alternative mechanism and avoiding the federal requirements for guaranteed availability in the individual insurance market. OCI and DHFS's report to the Legislature indicates that HIRSP can meet HIPAA requirements with minor modifications which could be accomplished with the least disruption for consumers and insurers. Further, OCI indicated that a high-risk pool is less complicated to administer than other HIPAA options and results in less regulation and oversight of the insurance markets.

13. The Governor proposes changes to HIRSP in the four areas, presumably in order to bring HIRSP into compliance with the federal requirements relating to an acceptable alternative mechanism using a high risk pool.

14. First, currently HIRSP requires individuals to establish residency in the state for 30 days prior to enrollment. The federal requirements provide that states may not require a specific period of residency for eligible individuals, however states may require an HIPAA eligible individual be a state resident to be eligible for protection under applicable state law.

15. The Governor's recommendation modifies the current definition of resident to remove the requirement that an individual must be domiciled in Wisconsin for 30 days and instead provides that a person would be considered a resident for purposes of HIRSP if he or she is legally domiciled in the state by living in this state. The Governor's recommendations go beyond what is required under HIPAA. Under the Act, this provision only has to apply to eligible individuals. The Governor's language applies it to all individuals regardless of whether those individuals are eligible for HIPAA protections. The Committee could consider limiting the applicability of this provision to only eligible individuals as defined under the federal law if it wants to only meet the requirements of HIPAA.

16. Second, under current law HIRSP has a six-month waiting period before pre-existing conditions would be covered. Current statutes provide that conditions which are diagnosed or treated in the six months preceding the filing of an application are not covered for the first six months that the individual is enrolled in HIRSP. HIPAA provisions preclude the imposition on an eligible individual of a preexisting condition exclusion. Under the Act, a preexisting condition exclusion is a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the date of enrollment for such coverage, whether or not any medical advice, diagnosis, care or treatment was recommended or received before such date.

17. The Governor's provision repeals the preexisting conditions language in HIRSP. Again, the Governor's recommendations go beyond what is required under HIPAA. Under the Act, this provision only has to apply to eligible individuals and preexisting conditions as federally defined. The Governor's language applies it to all individuals regardless of whether those individuals are actually eligible for HIPAA protections. The Committee could consider limiting the applicability of the exclusion of preexisting conditions, as defined in the Act, to only eligible individuals, as defined under the federal law, if it wants to only meet the requirements of HIPAA.

18. Third, HIRSP premium rates are currently required to be set at a level estimated to be sufficient to provide funding for 60% of the administrative and operating costs of HIRSP. There is no maximum premium rate or "cap" provision for premiums under current law. HIPAA requires, by reference to the NAIC Model Health Plan for Uninsurable Individuals Act, that premiums shall not exceed 200% of the rates applicable to standard risks.

19. The bill provides that the individual premium rates set to cover 60% of the operating and administrative costs of the plan, may not exceed 200% of the rate that a standard risk would be charged under an individual policy providing substantially the same coverage and deductibles as would be provided under HIRSP.

20. Fourth, under current law the Board of Governors for HIRSP is authorized to offer an alternative plan to participants. Such an alternative plan, which must include managed care and marketing concepts designed to lower costs, must be offered under contract through health maintenance organizations or preferred provider organizations. Currently, the Board of Governors is not actively pursuing the offering of a comprehensive alternative plan to HIRSP participants. Rather, the Board has acted to implement a discount network for providers of certain services. Under HIPAA, an acceptable alternative mechanism must provide a choice of coverage for all eligible individuals.

21. The Governor's recommendations provide that DHFS, in consultation with OCI, would develop an alternative plan for eligible persons. All references regarding the alternative plan as provided under current law are repealed under the bill. The Committee may wish to clarify that eligible persons are those defined as eligible individuals under applicable HIPAA provisions.

#### **Medical Assistance Reimbursement Rates**

22. Under the bill, services currently covered under HIRSP would continue to be covered, however covered expenses under HIRSP would be limited to the allowable charges paid under the medical assistance (MA) program. Further, only those services provided by persons licensed and certified under MA statutory provisions would be covered under HIRSP. Providers of a covered service or article would have to accept as payment in full for the covered services or article the allowable charge paid under the MA program and could not impose a charge or receive payment from an eligible person in excess of the allowable charge paid under MA. DHFS would be responsible for ensuring timely payment of benefits according to the procedures established for the payment of allowable charges under the MA program.

23. Under current law, HIRSP claims are paid at no more than the 90th percentile of the usual and customary reimbursement in an area, as approved by the HIRSP Board. In addition, by statute, HIRSP also reduces payment to in-state providers by 10% from the 90th percentile usual and customary payment rate.

24. Rates paid to MA providers for non-institutional services are the lesser of: (a) the providers' usual and customary charge; or (b) maximum fees established by DHFS for each procedure. Under the MA program, inpatient hospital services are paid on a prospective payment system, commonly referred to as a diagnostic related group (DRG) system. Under this system, each hospital determines the patient diagnosis and bills MA for the DRG related to a specific condition and/or treatment. Each DRG is assigned a weight that measures the relative resources

required by an average patient. Typically MA reimbursement rates are lower than rates paid by commercial insurers and other state administered health plans, including HIRSP.

25. It has been argued that using MA provider reimbursement rates could significantly reduce HIRSP enrollees' access to providers because many providers may not be willing to accept MA rates. It is estimated that 91% of Wisconsin licensed physicians who live in Wisconsin are MA certified. However, not all physicians who are MA certified actually provide services to MA recipients.

26. Due to limitations in the data currently collected by DHFS, it is not possible to provide a reliable estimate of the percentage of physicians in the state who provide services to MA recipients. If MA reimbursement rates are substituted for current HIRSP reimbursement rates, the total payments paid to providers for services rendered to HIRSP enrollees will decrease. It is unknown to what extent this will impact providers' willingness to participate in the HIRSP program. If providers consider these decreased reimbursement rates to be insufficient, they may cease providing services to HIRSP enrollees. This potential for decreased access to health care providers for HIRSP enrollees may be of concern to the Committee.

27. There is currently debate among health care providers, state agencies and others relating to the level of savings which will be realized by the recommended modifications to the HIRSP program. This level of savings is of particular interest to health care providers as it represents reduced reimbursement for their services. The level of savings is also of particular concern to the insurance industry, because approximately 40% of the costs of HIRSP are supported through assessments on insurance companies. To the extent that the costs of the HIRSP plan are reduced as a result of the recommendations included in SB 77, these savings in program costs would benefit both insurance companies who bear roughly 40% of the program costs (not counting assessments for subsidies) and policyholders who support the remaining 60% of the program costs through premium payments.

28. DHFS prepared an estimate of the potential savings to the HIRSP program, which would be realized if HIRSP providers were reimbursed at rates equivalent to MA rates and if cost containment strategies employed by the MA program were applied to HIRSP. DHFS estimates that the savings to the HIRSP program would be approximately \$8.8 million in 1998-99, the first full fiscal year of implementation. In order to calculate these savings DHFS prepared two estimates.

29. First, DHFS projected that HIRSP program costs would increase in 1997-99 over 1996-97. This projection was based on historical program costs adjusted for inflation. However, program costs have recently been decreasing for a number of reasons, including cost containment measures implemented in April, 1996.

30. Second, in order to estimate HIRSP 1997-99 program costs under the Governor's recommendation, the Department examined average annual MA costs for MA recipients whose

medical needs were deemed to be similar to HIRSP enrollees. To prepare this estimate DHFS multiplied the number of anticipated 1997-99 HIRSP enrollees by an estimated average MA cost. This estimated annual cost was \$5,055 in 1998-99. The \$8.8 million in projected savings represents the difference between these two estimates.

31. However, this analysis has a number of limitations. The primary limitation is the comparability of the average MA recipient and the average HIRSP enrollee. HIRSP enrollees have a wide range of medical diagnoses and medical needs. It may not necessarily be true that the average MA enrollees included in the DHFS analysis utilize the same types and quantities of services as the average HIRSP enrollee would utilize.

32. An alternative method for calculating these savings would be to compare the payment of 1996 actual HIRSP claims with a projection of MA payment for those same claims. In other words, compare HIRSP payments for a set of services with expected MA payments for the same set of services. For example, one could compare HIRSP reimbursement for a type of service as a percent of a provider charges and MA reimbursement for that type of service as a percent of providers' charges. Utilizing data available from the Office of Health Care Information relating to MA and HIRSP reimbursement for inpatient hospital, outpatient hospital and physician services, this office has prepared an estimate utilizing this method of analysis. It is estimated that HIRSP program savings would be a maximum of approximately \$10.8 million per year, under the Governor's recommendation.

33. While this method of analysis is considered to be reasonable, it is difficult to estimate the exact level of savings that will be realized for a number of reasons including: (a) the uncertainty of possible increases in MA provider rates, which may be provided in the final budget bill; and (b) limitations in data related to savings associated with provider networks due to the recent implementation of these networks.

34. If the Committee is concerned about the estimated payment reductions to providers and potential limits to accessibility to providers due to using MA reimbursement rates, there are several alternatives the Committee could consider to reduce overall plan costs without implementing the MA reimbursement rate for HIRSP.

35. First, the Committee could consider maintaining current law in regard to payment of HIRSP claims. As noted previously, recent information indicates that claims are not increasing as much as previously expected and implementation of the provider network has resulted in additional cost savings. In addition, premiums as currently set under 60% of cost methodology are at an average of 185% of a standard risk plan.

36. If the Committee is concerned that if current law is maintained plan costs will continue to increase, the Committee could consider as an alternative to moving the program to DHFS, using the MA reimbursement mechanism and changing the Board, increasing the statutory discount rate from 10% to 35% to provide nearly the same level of cost savings, or by reducing

the statutory discount rate to a lesser percentage such as 15% or 25%, which would also result in a lower amount of reduction in total plan costs.

37. While available data does not provide sufficient detail to project exactly the savings that would result from increasing the statutory discount to 35%, a tentative estimate based on the estimated discounts is that the increased reduction rate could have a savings on the order of \$10 million annually based on the first quarter of 1997 claims cost data for HIRSP. HIRSP claims currently are paid at no more than the 90th percentile of the usual and customary reimbursement (UCR) in an area, as approved by the HIRSP Board. By statute, HIRSP also reduces payments to providers by 10% from the usual and customary payment. Under this alternative, the statutory language would be modified to increase the rate reduction amount which would result in a decrease of total plan costs.

### **Program Administration**

38. As previously discussed, in order to facilitate the use of MA reimbursement rates and to allow for the incorporation of MA case management and other managed care provision currently used under MA, the Governor has proposed the transfer of HIRSP to DHFS. However, if HIRSP were transferred to DHFS it would be managed separately from the MA program and would not be administered by the DHFS Bureau of Health Care Financing, which administers the MA program. While DHFS has indicated that it would manage HIRSP using MA reimbursement levels, program administration and cost containment policies, it has indicated that it does not intend to enroll HIRSP enrollees in managed care organizations, although language included in the bill provides DHFS with the authority to implement managed care provisions for this population. Other cost containment provisions which may be employed include: (a) mandatory prior authorization requirements; (b) second surgical opinion requirements; and (c) other limitations on quantity of services.

39. The Governor's recommendation would also authorize DHFS to implement an estate recovery program for HIRSP enrollees similar to the MA estate recovery program. Under this program, DHFS would be authorized to file a claim in certain circumstances, against the estate of a policyholder or against the estate of the surviving spouse of a policyholder who received a premium or deductible subsidies, to recover the amount of the subsidy paid after January 1, 1998, on behalf of the policyholder who dies after March 15, 1998. Under the bill, the court would be required to reduce the claim by up to \$3,000, if necessary, to allow the policyholder's heirs or beneficiaries to retain certain personal property of the decedent. Further, DHFS would be prohibited from filing a claim if the decedent has a surviving child, under age 21 or disabled, or a surviving spouse or if DHFS determines that filing a claim would result in an undue hardship in that particular case. All monies collected from these provisions would be deposited into an appropriation which would then fund additional premium and deductible subsidies.

40. HIRSP currently employs a number of cost containment provisions, including the following: (a) preadmission and concurrent review of hospital admissions; (b) pretreatment and concurrent review of selected outpatient services; (c) case management services for high cost cases; and (d) audits hospital billings. The hospital audit provides for a retrospective review of hospital claims for medical necessity and allowability of billed charges. In April of 1996, a provider network was implemented. Participating network providers (hospitals, pharmacies and mental health services) grant additional discounts for services provided to HIRSP policyholders. Additional copayment amounts are assessed to policyholders for using non-network providers. From January 1997, through March 1997, approximately \$1.3 million was saved as a result of the network pricing and the 10% state mandate reduction.

41. To the extent that HIRSP will be administered separately from MA, it is not clear what efficiencies will be achieved by transferring the program from DHFS to OCI. Presumably, either department could modify provider reimbursement rates and implement other cost containment provisions. It could be argued that transferring the program may lead to unnecessary operational disruptions and administrative expenses. Therefore, the Committee may want to consider deleting the Governor's recommendations relating to the transfer of HIRSP, but maintaining provisions relating to the adoption of MA reimbursement rates and MA cost containment provisions.

42. In addition, OCI could contract with the MA fiscal agent to be the HIRSP plan administrator as intended under SB 77. Under the Governor's recommendations, the fiscal agent would perform all eligibility and administrative claims payment functions, establish premium billing procedures and pay claims under the direction of DHFS. The MA fiscal agent is Electronic Data Systems (EDS). EDS subcontracts with Blue Cross and Blue Shield, which is the current administering carrier for HIRSP.

43. However, the Department and OCI indicate in their report that transferring HIRSP to DHFS will bring all state-operated medical coverage programs under one department and because DHFS has the systems in place to administer the program at MA reimbursement levels the transfer would allow for a consolidation of administrative and case management activities.

44. Another reason that has been indicated for transferring HIRSP to DHFS would be to allow for possible future modification of the program such as possibly incorporating it into a MA buy-in feature or some other health care program operated by DHFS.

45. If the Committee is concerned about HIRSP policyholders' access to services and estimated payment reductions to providers under MA reimbursement rates and cost containment provisions as provided under the Governor's proposal, the Committee could choose not to implement the MA reimbursement rate or MA cost-containment and managed care requirements for HIRSP.

46. Instead, the Committee could consider requiring OCI to implement a physician provider network in HIRSP, as already provided for under administrative rule. OCI has indicated that due to the pending legislation affecting HIRSP, implementation of the provider network was postponed. As seen in the network plans already implemented, additional cost savings can be realized by implementing these types of networks. Under this alternative, administration of HIRSP would remain in OCI rather than being transferred to DHFS. This alternative could be approved in addition to increasing the current statutory discount rate of 10%.

47. If the Committee chooses to pursue the option of reducing program costs by increasing the statutory discount rate, it could retain program administration and the Board in OCI.

## **ALTERNATIVES TO BILL**

### **HIPAA Related Provisions**

1. Approve the Governor's recommendations.
2. Approve the Governor's recommendations with the modification to limit applicability of Governor's recommendations relating to: (a) the change in the definition of residency; (b) pre-existing conditions as defined under HIPAA; and (c) alternative plan, to eligible individuals as defined under HIPAA.

### **All Other Provisions**

1. Approve the Governor's recommendations.
2. Approve the Governor's recommendations with the following modifications: (a) eliminate the transfer of the administration of HIRSP and the transfer of HIRSP Board of Governor's to DHFS; (2) eliminate all changes made to the Board's responsibilities; (3) require OCI rather than DHFS to implement MA provider reimbursement rates, cost-containment and managed care services; and (4) provide that OCI would contract with an MA fiscal agent rather than DHFS.
3. Delete the Governor's recommendations and provide that the current HIRSP statutory rate reduction of 10% be increased to one of the following levels:
  - (a) 15%;
  - (b) 25%; or
  - (c) 35%.

4. In addition to alternative 3, require the HIRSP Board to implement a physician provider network in HIRSP.

5. Maintain current law.

Prepared by: Tricia Collins and Amie Goldman

MO# \_\_\_\_\_

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 \_\_\_\_\_

*See Motion # 5040*

HEALTH INSURANCE RISK SHARING PLAN/GENERAL FUND TAXES/INSURANCE

Motion:

**A. Health Insurance Portability and Accountability Act (HIPAA) Modifications and Other Miscellaneous Insurance Statute Modifications**

Move to modify:

(1) Include a provision to repeal the current law requirement that whenever a person becomes eligible for and obtains coverage under HIRSP due either to notice of cancellation or reduction in health insurance coverage or notice of a substantial policy-specific premium increase (50% or more), the Commissioner is directed to require the health insurer issuing that notice to pay an assessment of \$1,750.

(2) Add statutory language defining the following terms according to HIPAA: church plan, creditable coverage, eligible individual, federal continuation provision, federal governmental plan, governmental plan, group health plan, and preexisting condition exclusion. Modify the definition of resident in the bill, to instead be defined as a person who has been legally domiciled in this state for a period of at least 30 days or, with respect to an eligible individual, an individual who resides in this state.

(3) Add a provision requiring that the Commissioner of Insurance, in consultation with the DHFS, shall promulgate rules specifying how creditable coverage, as defined in the bill, is to be aggregated for purposes of defining an eligible individual and provide that the rules shall comply with HIPAA.

(4) Modify the Governor's preexisting condition exclusion to provide that only eligible individuals who obtain coverage under the plan may not be subject to any preexisting condition exclusions under the plan, effective with the passage of this bill.

(5) Delete the provision that the HIRSP Board shall, under the direction of DHFS and in consultation with OCI, develop an alternative plan for eligible person and instead add that the Board in consultation with OCI and DHFS shall establish a choice of coverage as set forth below.

(a) Add a provision specifying that on effective date of the bill that under the current HIRSP statutes, beginning on January 1, 1998, in addition to current HIRSP coverage, the plan

shall offer to all eligible persons a choice of coverage as described in the applicable HIPAA provisions. Add that any such choice of coverage shall be major medical expense coverage. Further, provide that an eligible person may elect once each year, as established by the Board, among the coverages offered by HIRSP. Provide that if an eligible person elects new coverage, any preexisting condition exclusion imposed under the new coverage is met to the extent that the eligible person has been previously and continuously covered under this subchapter. Specify that, except as specified by the Board, the terms of coverage, including premium and deductible reductions do not apply to the coverage offered under the alternative plan. Provide that the schedule of premiums for coverage under this section shall be promulgated by rule including emergency rules by the Commissioner. Further, provide that the rates for coverage under this section shall be set such that they differ from the rates set under the current HIRSP plan by the same percentage as the percentage difference between the following: the rate that a standard risk would be charged under an individual policy providing substantially the same coverage and deductibles as provided under HIRSP; and the rate that a standard risk would be charged under an individual policy providing substantially the same coverage and deductibles as the coverage offered under this section.

(b) Further, modify the HIRSP statute as modified under (5)(a), to add that effective January 1, 1998, no preexisting condition exclusion may be imposed on an eligible person who elects new coverage if the person was an eligible individual when first covered under the program and the person remained continuously covered up to the time of electing the new coverage. Delete the provision that the schedule of premiums for coverage shall be set such that they differ from the rates set under HIRSP in DHFS, by the same percentage as the percentage difference between the rate that a standard risk would be charged under an individual policy providing substantially the same coverage and deductibles as the coverage offered under this section.

(6) Modify the provision that DHFS shall set rates at 60% of the operating and administrative costs of the plan, except that a rate may not exceed 200% of the rate that a standard risk would be charged under an individual policy providing substantially the same coverage and deductible as are provided under the plan to add "or at 60% of the operating and administrative costs of the plan, whichever is less."

(7) Modify the following eligibility provisions to provide that: (a) the life-time maximum amount to paid out per covered individual is \$1,000,000; (b) a person who is an eligible individual is eligible for HIRSP; (c) an eligible individual, who is 65 years of age or older is eligible for coverage under HIRSP; (d) no person who is eligible for creditable coverage provided by an employer on a self-insured basis or through health insurance is eligible for coverage under the plan; (e) an eligible individual is eligible even if he or she was covered under HIRSP and voluntarily terminated the coverage under the plan even if less than 12 months have elapsed since the person's latest voluntary termination of coverage under the plan; and (f) eliminate provisions specifying that a person who is eligible for health care benefits under the small employer health insurance plan may be eligible for the plan even if less than 12 months have elapsed since the person's latest voluntary termination of coverage under the plan.

(8) Modify the provision that OCI in consultation with DHFS shall by rule increase the amount of the insurer assessment and instead provide that OCI may only levy an assessment against every insurer sufficient to reimburse the plan for premium reductions and deductible reduction under s. 619.14(5)(a). Further, add that any assessments levied and collected under this section shall be credited to the PR appropriation funding premium reductions and deductible reductions.

(9) Repeal the current law provision requiring that, for an eligible employee who obtains coverage under HIRSP, an employer that participates in the small employer health insurance plan shall pay a premium contribution to the health insurance risk-sharing plan that is equal to the amount that the employer would pay on behalf of the employee for coverage under the plan.

(10) Add a nonstatutory provision requiring that rules relating to determining creditable coverage shall be submitted by the Commissioner of Insurance to the Legislative Council staff no later than the first day of the 4th month beginning after the effective date of the bill. Provide that Commissioner may promulgate rules required under the creditable coverage section for the period before the effective date of the rules submitted to Legislative Council staff as emergency rules.

(11) Add a provision clarifying that the requirement to set rates at 200% of the rate that a standard risk would be charged under an individual policy providing substantially the same coverage and deductibles as provided under HIRSP or at 60% of the operating and administrative costs of the plan, whichever is less, first applies to policies issued or renewed on January 1, 1998. Also, provide that the lifetime limit of coverage of \$1,000,000, first applies to policies that are in effect January 1, 1998. Further, provide that the preexisting condition exclusion for eligible individuals, as defined by HIPAA be effective with the passage of this bill.

(12) Add a provision that the mandated insurance coverage of nervous and mental disorders and alcoholism and other drug abuse problems under s. 632.89(2) be subject to generally applicable deductibles and copayments.

## **B. HIRSP Eligibility**

Move to provide that individuals who qualify for medical assistance are not eligible for HIRSP.

## **C. Study Regarding Feasibility of HIRSP Family Plan**

Move to direct the Department of Health and Family Services (DHFS) to study the feasibility of providing a family coverage plan under HIRSP. Direct that DHFS report to the Joint Committee on Finance and the Chairpersons of the Assembly and Senate committees dealing with insurance matters by January 1, 1998, on the feasibility of providing such a plan of

coverage, including whether such a plan would comply with the federal Health Insurance Portability and Availability Act of 1996 (HIPAA) as a choice of coverage under the requirements for an acceptable alternative mechanism.

#### **D. HIRSP Program Funding and Reimbursement Rates and Cigarette Tax Increase**

(1) Delete the provisions in the bill: (a) providing for the use of the allowable charges paid under the MA program for a covered service or article by a MA licensed and certified provider to be the basis for reimbursement under the HIRSP program; and (b) requiring that the Department of Health and Family Services (DHFS) use the plan administrator selected to administer the plan to be the same fiscal agent used by DHFS for administration of the MA program;

(2) Provide \$6,000,000 GPR in 1997-98 and \$11,900,000 GPR in 1998-99 in a new annual appropriation in DHFS to be used to offset total program costs under the HIRSP program beginning January 1, 1998. Require that in computing the cost of enrollee premiums as provided for under current law, DHFS shall set the rates at an amount to cover 60% of the projected operating and administrative costs of HIRSP, after first deducting from such costs the amount to be provided to the plan from this new appropriation and except that premium rates shall not be less than 150% nor more than 200% of the rate that would be charged under an individual policy providing substantially the same coverage and deductibles as provided under the plan;

(3) Increase the cigarette tax by 3.5¢ per pack, effective on the first day of the second month beginning after publication of the budget act or September 1, 1997, whichever is earlier.

(4) Modify current law to provide that after deducting the amounts projected to be available from enrollee premiums and the amounts available from the new appropriation created under (2) above, all remaining unfunded costs of the program shall be recovered in the following manner:

(a) 50% of the amount shall be assessed against insurers writing health insurance in this state; and

(b) 50% of the amount shall be met by further reducing the rate of reimbursement, otherwise provided currently under the program, by increasing the statutory discount rate to reduce estimated plan costs by that amount. Retain the current law provision that a provider of a covered service or article under the program may not bill an eligible person who receives the service or article for any amount by which the charge is reduced as a result of the statutory discount provision.

(5) Require that DHFS set by administrative rule for each forthcoming plan year: (a) the amount of increase in the current discount rate that is estimated to be necessary to reduce the estimated unfunded costs of the plan for the forthcoming year by 50%; and (b) the amount of

monies to be levied by the Commissioner of Insurance against health insurers writing insurance in Wisconsin which is estimated to be necessary to reduce the estimated unfunded costs of the plan for the forthcoming year by 50%. Provide that DHFS may issue this rule as an emergency rule and may issue a subsequent emergency administrative rule adjusting these amounts if DHFS determines that actual plan costs are exceeding the estimated cost and that additional monies are needed for the operation of the plan. Repeal all other current language relating to assessments for plan costs.

(6) Provide that in apportioning the estimated plan costs for each forthcoming plan year, DHFS shall:

(a) Include in the setting of enrollee premiums any increase or decrease necessary to reflect the difference in the amount actually received from enrollee premiums in the prior year and the amount that should have been recovered in the prior plan year had exactly 60% of actual plan costs (after deducting the monies available from the new appropriation established under (2) above) been covered by enrollee premiums;

(b) Include in the calculation of the amounts of unfunded costs to be apportioned to insurer assessments and to the increased statutory discount rate to provider reimbursements any adjustments necessary to reflect amounts that were charged in the prior plan year to either insurer assessments or increased statutory discount amounts that were greater or lesser than the amount that should have been apportioned had those unfunded costs been apportioned at exactly a 50/50 percentage split;

(7) Provide that the HIRSP Board be further increased by three members who shall represent health care providers, with one member each to be a representative of the State Medical Society, the Wisconsin Health and Hospital Association and an integrated multidisciplinary health system. Further, provide that one of the three current public members on the Board be a representative of small businesses in this state;

(8) Require that the HIRSP Board: (a) study the operation of the HIRSP program and provide a report to the Governor and the Legislature by June 30, 1998, regarding the cost efficiency of the program and specify that the report shall include an evaluation of the impact on the HIRSP program of the greater use of managed care and case management for enrollees and the effects of the federal Health Insurance Portability and Accountability Act; and (b) that annually thereafter, the HIRSP Board provide a report to the Governor and the Legislature on the operation of HIRSP including any recommendations for changes in the program.

#### **E. Estate Recovery Program**

Move to delete the provision under SB 77 which would authorize the Department of Health and Family Services (DHFS) to implement an estate recovery program for HIRSP enrollees similar to the medical assistance estate recovery program.

Note:

**A. Health Insurance Portability and Accountability Act (HIPAA) Modifications and Other Miscellaneous Insurance Statute Modifications**

This motion would incorporate the provisions of LRBb0127/1, with one exception, as changes to SB 77 recommended by OCI in response to federal HIPPA requirements relating to the establishment of HIRSP as an acceptable alternative mechanism the Act. The exception to the provisions provided in LRBb0127/1 is that both the Governor and OCI recommended that the elimination of the preexisting condition exclusion be effective January 1, 1998. This motion provides that effective with the passage of the bill, only eligible individuals who obtain coverage under the plan may not be subject to any preexisting condition exclusions under the plan.

Further, this motion would add the provision that mandated insurance coverage of nervous and mental disorders and alcoholism and other drug abuse problems (AODA) under s. 632.89(2) would subject to generally applicable deductibles and copayments. Under current law, a group or blanket disability insurance policy that provides coverage of any inpatient and/or outpatient hospital services must provide coverage for the treatment of nervous and mental disorders and alcoholism and other drug abuse problems at certain minimum levels less copayments of up to 10% with a limit of \$7,000 for all types of treatment. Under current law, the insurer pays a maximum of the first \$7,000 in charges for these services. This motion would delete the requirement that the insurer pay the first \$7,000 in coverage and provide that an insurer could apply deductibles to these services. This provision is intended to allow persons using medical savings accounts to have coverage for mandated AODA benefits. Participation in an MSA is conditioned upon coverage under a high deductible health plan.

**B. HIRSP Eligibility**

Current law does not prohibit persons who qualify for MA from being eligible for HIRSP, however HIRSP would only pay for costs after MA payments for services are applied. This motion would provide that individuals who qualify for MA are not eligible for HIRSP. Under current law, Wisconsin residents under the age of 65 are eligible to enroll in HIRSP either as a result of having health insurance coverage rejected or limited by an insurer or as a result of suffering from certain specified diseases or from a disability. Medically uninsurable persons eligible for participation in the plan by virtue of meeting any of the above conditions may still not be able to enroll if they fall under certain specific exclusions enumerated in the statutes. For instance, a person for whom the plan has paid out a total of \$500,000 in benefits or person for whom a premium, deductible or coinsurance amount is paid or reimbursed by a federal, state,

county or municipal government is not eligible. However, this latter provision does not apply for deductibles or coinsurance amounts paid from public funds for vocational rehabilitation, for the treatment of renal disease, hemophilia or cystic fibrosis, or for maternal and child health services.

**C. Study Regarding Feasibility of HIRSP Family Plan**

Currently under HIRSP, only individual coverage is offered. This motion would direct DHFS to study the feasibility of providing coverage of all the family members of a individual who would be eligible for HIRSP under current law and whether a family plan would meet the requirements of a choice of coverage under HIPAA. DHFS would be directed to report to the Joint Committee on Finance and the Chairpersons of the Assembly and Senate Insurance Committees by January 1, 1998.

**D. HIRSP Program Funding and Reimbursement Rates and Cigarette Tax Increase**

This motion would modify the Governor's recommendations regarding HIRSP by deleting: (1) all the references to the use of MA reimbursement rates. The use by enrollees of only MA certified and licensed providers; and (3) the requirement that DHFS use the same fiscal agent used for administration of the MA program would be deleted.

Funding of \$6,000,000 GPR in 1997-98 and \$11,900,000 GPR in 1998-99 would be provided in a new annual appropriation in DHFS to be used to offset total program costs under HIRSP. This funding would be applied to HIRSP total program costs with the remainder of plan costs being funded as follows: (1) 60% of the projected operating and administrative costs of HIRSP would be funded with enrollee premiums, except that enrollee premiums could not be less than 150% or exceed 200% the rate that would be charged under an individual policy providing substantially the same coverage and deductibles as provided under the plan; (2) all program costs in excess of premiums and GPR funding would be from 50% from insurers assessments and 50% from provider statutory discounts (and providers could not bill an enrollee for any amount which is reduced under this provision).

Both the assessment against insurers and the provider discounts would be set and obtained through one annual emergency administrative rule issued by DHFS. However, DHFS could issue an additional emergency rule at any time that it determines that actual plan revenues are expected to be insufficient to meet estimated plan costs. All other assessment authority is repealed.

In addition, this motion would change the composition of the HIRSP Board of Governors by: (1) increasing the membership by three health care providers; and (2) specifying that one of the three current public members on the Board would be a representative of small businesses in this state. Further, the Board would be required to study the operation of the HIRSP program and provide a report to the Governor and the Legislature by June 30, 1998, regarding the cost

efficiency of the program and an evaluation of the impact of greater use of managed care and case management and the effects of the Health Insurance Portability and Accountability Act on HIRSP. Further, the Board would be required, annually thereafter issue a report to the Governor and Legislature making recommendations on changes in the program.

The motion would increase the cigarette tax by an additional 3.5¢ per pack, from the 49¢ recommended in the bill to 52.5¢. This rate increase is estimated to increase general fund tax revenues by \$12.3 million in 1997-98 and \$12.8 million in 1998-99. In addition, cigarette tax refunds to Native Americans would increase by an estimated \$700,000 in 1997-98 and \$900,000 in 1998-99, which would offset additional revenues generated by the rate increase. The net impact would be an increase of \$11.6 million in 1997-98 and \$11.9 million in 1998-99. It should be noted that, since consumption is expected to decline due to an increase in cigarette prices, additional increases in the cigarette tax would lower the amount of funding attributable to this motion.

Under current law, the cigarette tax rate is generally 44¢ per pack. Cigarette tax collections totaled \$198.0 million in 1995-96 and are estimated to be \$198.0 million in 1996-97, \$196.0 million in 1997-98 and \$194.0 million in 1998-99. The Governor's 1997-99 biennial budget recommendation would increase the cigarette tax rate by 5¢ per pack, from 44¢ to 49¢. It is estimated that the rate increase would increase general fund revenue by \$18.6 million in 1997-98 and \$19.1 million in 1998-99, assuming an effective date of September 1, 1997. These figures reflect a reestimate of the amounts contained in the Governor's budget recommendation because the administration's figures did not fully account for a decrease in consumption due to the rate increase.

**E. Estate Recovery Program**

Under SB 77, DHFS would be authorized to file a claim, in certain circumstances, against the estate of a policyholder or against the estate of the surviving spouse of a policyholder who received a premium or deductible subsidy, to recover the amount of any subsidy paid after January 1, 1998, on behalf of the policyholder who dies after March 15, 1998. Under the provision, the court would be required to reduce the claim by up to \$3,000, if necessary, to allow the policyholder's heirs or beneficiaries to retain certain personal property of the decedent. In addition, DHFS would be prohibited from filing a claim if the decedent has a surviving child, under age 21 or disabled, or a surviving spouse if DHFS determines that filing a claim would result in an undue hardship in that particular case. Under the bill, all monies collected from these provisions would be deposited into an appropriation which would then be used to fund additional premium and deductible subsidies. This motion would delete these provisions from SB 77.

[Change to Bill: \$25,100,000 GPR-REV and \$19,500,000 GPR]

Motion #5040

MO# <u>5040</u>					
JENSEN	<input checked="" type="checkbox"/>	N	A	BURKE	<input checked="" type="checkbox"/> N A
OURADA	<input checked="" type="checkbox"/>	N	A	DECKER	<input checked="" type="checkbox"/> N A
HARSDORF	<input checked="" type="checkbox"/>	N	A	GEORGE	<input checked="" type="checkbox"/> N A
ALBERS	<input checked="" type="checkbox"/>	N	A	JAUCH	<input checked="" type="checkbox"/> N A
GARD	<input checked="" type="checkbox"/>	N	A	WINEKE	<input checked="" type="checkbox"/> N A
KAUFERT	<input checked="" type="checkbox"/>	N	A	SHIBILSKI	<input checked="" type="checkbox"/> N A
LINTON	<input checked="" type="checkbox"/>	N	A	COWLES	<input checked="" type="checkbox"/> N A
COGGS	<input checked="" type="checkbox"/>	N	A	PANZER	<input checked="" type="checkbox"/> N A
				AYE <u>11</u>	NO <u>5</u> ABS

# Workforce Development

## Economic Support and Child Care

(LFB Budget Summary Document: Page 675)

### LFB Summary Items for Which Issue Papers Have Been Prepared

<u>Item #</u>	<u>Title</u>
-	Public Assistance Funding Overview (Paper #970)
1,2&11	Appropriation Structure and Base Funding for Public Assistance Programs (Paper #971)
1&3	Subsidized Employment Under W-2 (Paper #972)
-	SSI Administration and Benefits (Paper #973)
9	Copayments and Income Eligibility Limit for W-2 Child Care (Paper #974)
-	Minor Policy and Technical Changes -- W-2 Child Care Eligibility (Paper #975)
1	Employment Skills Advancement Grants (Paper #976)
1	Employment Transportation Under W-2 (Paper #977)
1	Evaluation of the W-2 Program (Paper #978)
4	Assignment of Child Support Under W-2 (Paper #979)
24	New Hope Project (Paper #980)
5	Work Requirement for Two-Parent Families Under W-2 (Paper #981)
-	18- and 19-Year Old Parents Under W-2 (Paper #982)
6	Time Limit for Participation in W-2 (Paper #983)
7	W-2 Dispute Resolution (Paper #984)
16	Aid to 18-Year-Old Students (Paper #985)
17	Public Assistance: Drug-Related Convictions and Drug Testing (Paper #986)
25f	Food Stamp Sanctions (Paper #987)
28d	Release of Information Regarding Food Stamp Recipients (Paper #988)
-	Food Stamp Waiver (Paper #989)
-	Minor Policy and Technical Changes -- Food Stamp and MA Administration by W-2 Agencies (Paper #995)

To: Joint Committee on Finance

From: Bob Lang, Director  
Legislative Fiscal Bureau

## ISSUE

### Public Assistance Funding Overview (Workforce Development--Economic Support and Child Care)

## DISCUSSION POINTS

### State and Federal Funding Sources

1. The Wisconsin Works (W-2) program was created under 1995 Wisconsin Act 289 to replace the current aid to families with dependent children (AFDC) program in Wisconsin. Under Act 289, the Department of Workforce Development (DWD) must implement W-2 statewide by October 1, 1997. The Department intends to implement the program one month earlier, on September 1, 1997. The basic AFDC program and related programs will sunset six months after the statewide start-up of W-2.
2. On August 22, 1996, President Clinton signed the federal personal responsibility and work opportunity reconciliation act of 1996 (P.L. 104-193), which replaces the federal AFDC provisions and related provisions with a block grant program called temporary assistance to needy families (TANF). Under the TANF program, public assistance benefits are no longer funded with a state/federal matching arrangement. Instead, federal block grants are provided to eligible states, with a required contribution of state funds under maintenance of effort provisions. The federal legislation also consolidated the federal child care funding sources for AFDC recipients and at-risk families with the child care development block grant. In addition, federal law establishes certain requirements that state programs must meet in order to receive funding, including work participation requirements for recipients.
3. The current state AFDC program, the W-2 program and several related programs will be funded with federal TANF and child care block grants along with existing state appropriations. Other revenue sources for these programs are federal funds for the food stamp

employment and training program and child support assigned to the state by recipients of public assistance. As outlined in Table 1, it is estimated that revenues from these sources will total \$694.5 million in 1997-98 and \$613.8 million in 1998-99. Funding that is not expended in 1997-98 may be carried over to 1998-99.

**TABLE 1**

**Estimated Revenues Available for Public Assistance Programs  
(In Millions)**

	<u>1997-98</u>	<u>1998-99</u>
Current GPR Funds for AFDC	\$147.3	\$147.1
Current GPR Funds for Child Care	18.4	18.4
Current GPR Funds for W-2 Related FS/MA	5.2	7.0
Federal TANF Block Grant	317.6	317.0
Federal Child Care Block Grant	54.5	56.5
Food Stamp Employment and Training	7.0	7.0
Federal W-2 Related FS/MA	5.2	7.0
Carryover of TANF from 1996-97	83.5	0.0
Child Support Collections	<u>55.8</u>	<u>53.8</u>
<b>Total</b>	<b>\$694.5</b>	<b>\$613.8</b>

4. The Committee will be reviewing a number of papers regarding funding levels for public assistance programs. In past years, options considered by the Committee for the AFDC program indicated a GPR share and FED share of the total cost of the alternative. For example, an option to provide an additional \$10 million for AFDC benefits would have been funded with approximately \$4 million GPR and \$6 million in federal matching funds. Under the new block grant arrangement, it is no longer accurate to assign a state and federal split in funding for individual expenditure decisions. Therefore, alternatives in the papers relating to programs that are funded with TANF assistance will indicate an "ALL FUNDS" cost of the option rather than separate GPR and FED funding amounts.

5. Under the old matching arrangement, incremental increases in program expenditures resulted in increased federal funds to cover a portion of the higher costs. With federal block grants, this is no longer the case. Therefore, if expenditures for W-2, AFDC and other programs funded with TANF assistance exceed the available funding amounts shown in Table 1, any additional costs must be funded entirely with state revenues; additional federal funds will not be available.

## Maintenance of Effort Requirement

6. Under the new federal law, beginning in federal fiscal year 1998, the basic TANF grant will be reduced by the amount, if any, by which qualified state expenditures for public assistance programs in the previous year are less than the maintenance of effort (MOE) requirement. The MOE requirement is 75% of historic state expenditures if the state meets the federal mandatory work requirements or 80% if the state does not meet these requirements. "Historic state expenditures" generally means FFY 1994 expenditures for AFDC, JOBS, AFDC-emergency assistance, AFDC-related child care and at-risk child care.

7. If the TANF grant is reduced in a fiscal year under this provision, the state must expend additional state revenues in the following year equal to the amount of the reduction. States also must incur a specified level of child care expenditures in order to obtain federal matching funds for child care.

8. Because of the work requirements under W-2, it is believed that the state will meet the federal work participation requirements and that the 75% maintenance of effort provision will apply. This results in required state expenditures of \$169 million annually to meet the TANF requirement. In addition, the state must spend approximately \$11 million on child care assistance in order to obtain federal matching funds, for a total state contribution of \$180 million. With the current appropriations for public assistance, the Department has identified qualified state expenditures of approximately \$190 million annually, which would exceed the MOE requirement by \$10 million. The Department's estimates include expenditures for the state earned income tax credit and the homestead tax credit for W-2 recipients who move into the work force.

9. Although it is estimated that the state will have qualified expenditures in excess of the MOE requirement, it is uncertain whether all of the state expenses identified by the administration may be counted toward the MOE requirement. Also, if the state does not meet the federal work participation requirements, the TANF maintenance of effort requirement would be 80%, which would increase the total state contribution (including child care matching funds) from \$180 million to approximately \$191 million.

10. Because it is estimated that state funding is relatively close to the federal maintenance of effort requirement and there is uncertainty regarding the inclusion of certain expenditures in determining if the state will meet the MOE, any reductions in public assistance expenditures should be counted as federal TANF funds rather than state GPR. If GPR appropriations were reduced significantly, the state would risk being out of compliance with the MOE provision. Unexpended TANF funds could be reallocated for other purposes allowed under the federal legislation or carried forward to the 1999-01 biennium.

Prepared by: Rob Reinhardt

Workforce Development -- Economi

MO# \_\_\_\_\_

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 \_\_\_\_\_

r #970)

To: Joint Committee on Finance  
From: Bob Lang, Director  
Legislative Fiscal Bureau

## ISSUE

### **Appropriation Structure and Base Funding for Public Assistance Programs (Workforce Development--Economic Support and Child Care)**

[LFB Summary: Page 675, #1; 682, #2; 691, #11]

## INTRODUCTION

The purpose of this paper is to establish a base funding level in the 1997-99 biennium for the Wisconsin Works (W-2) program under the current statutory provisions. The Committee has elected to work from base funding amounts and the current statutes, rather than the Governor's recommended funding levels and statutory modifications in Senate Bill 77, for items relating to public assistance programs. However, the current appropriation schedule in the statutes includes funding amounts that are based on the aid to families with dependent children (AFDC) program rather than W-2. The alternatives included in this paper would modify the current appropriation structure and funding amounts to establish a structure and base funding levels that are appropriate for the current W-2 provisions. Additional papers address modifications that could be considered by the Committee in establishing the budget for W-2, including items recommended by the Governor in SB 77. The funding amounts shown in the other papers represent incremental changes to the base funding levels established in this paper.

The first several sections of this paper address the base funding level for W-2, and the following sections address the appropriation structure.

## **BASE FUNDING**

### **Current Law**

As noted, the current appropriation schedule in the statutes includes funding amounts that are based on the AFDC program rather than the Wisconsin Works program. Under 1995 Wisconsin Act 289, the Department of Workforce Development (DWD) is required to implement the W-2 program statewide by October 1, 1997. The Department is currently operating W-2 on a pilot basis in Fond du Lac and Pierce Counties and expects to implement the program statewide beginning September 1, 1997. The basic AFDC program and related programs will sunset six months after the statewide starting date for W-2.

### **Governor**

Increase base funding by \$96,514,100 in 1997-98 (\$96,099,700 FED and \$414,400 PR) and \$96,891,000 in 1998-99 (\$95,421,200 FED and \$1,469,800 PR) for the AFDC and W-2 programs. The Governor's recommendation would provide funding for the current AFDC and job opportunity and basic skills (JOBS) programs during the first several months of 1997-98 and for the cost of implementing W-2 in the Fall of 1997.

Under the 1996 federal welfare reform legislation, the AFDC and JOBS programs were replaced with a block grant program called temporary assistance to needy families (TANF). Under the TANF program, public assistance benefits and administrative costs are no longer funded with a federal/state matching arrangement. Instead, federal block grants are provided to eligible states, with a required contribution of state funds under maintenance of effort provisions. The federal legislation also consolidates the federal child care funding sources for AFDC recipients and at-risk families with the child care development block grant (CCDBG).

The federal amounts shown above represent the difference between the dollars the state received under the matching arrangement for AFDC and the amounts the state receives under the federal block grants. The program revenue amounts shown above represent estimated job access loan repayments for each fiscal year. Current GPR funding levels for public assistance programs would not be modified. However, GPR funds would be reallocated to reflect the conversion from AFDC to W-2.

Table 1 shows the administration's estimates of revenues and expenditures for the W-2 program under Senate Bill 77, excluding health care. The expenditure amounts are all funds.

**TABLE 1**

**Public Assistance Revenues and Expenditures Under Governor's Budget Bill**

	<u>1997-98</u>	<u>1998-99</u>
<b>Revenues</b>		
Current GPR Funds for AFDC	\$148,049,900	\$150,812,200
Current GPR Funds for Child Care	18,357,200	18,357,200
Federal TANF Block Grant	318,188,400	318,188,400
Federal Child Care Block Grant	54,464,600	56,544,200
Food Stamp Employment and Training (FSET)	7,000,000	7,000,000
Carryover of TANF and FSET From Prior Year	89,125,600	18,483,300
Child Support Collections	<u>37,254,700</u>	<u>37,993,800</u>
<b>Total Revenues</b>	<b>\$672,440,400</b>	<b>\$607,379,100</b>
<b>Expenditures</b>		
<b>Current Programs</b>		
AFDC Benefits	\$32,589,400	\$0
JOBS Services	27,079,800	0
County Income Maintenance Administration	6,665,600	0
<b>Ongoing Expenditures</b>		
State Administration	26,776,400	26,992,300
Emergency Assistance	3,300,000	3,300,000
Burials	3,300,000	3,300,000
Learnfare Case Management Services	2,619,100	2,619,100
Local Learnfare Projects	2,250,000	0
Children First	1,316,400	1,316,400
County Fraud and Front-End Verification	588,000	588,000
<b>Cash Assistance Under W-2</b>		
Subsidized Employment	179,926,400	184,442,800
Kinship Care Assistance	15,720,400	22,116,400
Children of SSI Parents (TANF Share)	1,576,500	2,109,300
Job Access Loans	3,645,600	866,900
Employment Skills Advancement Grants	833,300	1,000,000
<b>Child Care</b>		
Direct Child Care Services	158,500,000	180,200,000
Indirect Child Care Services	6,002,400	6,002,400
W-2 Local Office Costs	108,048,300	94,106,700
<b>Other Expenditures</b>		
Child Support Payments	35,269,000	39,768,200
Partnership for Full Employment	3,898,400	3,513,300
School-to-Work	245,100	280,000
Employment Transportation	<u>1,000,000</u>	<u>2,000,000</u>
<b>Total Expenditures</b>	<b>\$621,150,100</b>	<b>\$574,521,800</b>
<b>Balance Before Transfers</b>	<b>\$51,290,300</b>	<b>\$32,857,300</b>
<b>Other TANF Expenditures</b>	<b>\$32,807,000</b>	<b>\$32,802,100</b>
<b>Net Ending Balance</b>	<b>\$18,483,300</b>	<b>\$55,200</b>

## REVISED FUNDING AMOUNTS

Table 2 shows revised estimates of the amounts of funding that would be needed to cover the costs of the current AFDC program and the W-2 program in the 1997-99 biennium under the current statutory provisions. Some of these figures differ from the Governor's recommendation because of prior actions by the Committee, revised estimates of the AFDC and W-2 caseloads and technical adjustments. Other funding amounts recommended by the Governor are not included in Table 2 because they are addressed in separate papers. These funding amounts are shown in Table 3.

As Table 2 indicates, W-2 related expenditures would total \$599.3 million in 1997-98 and \$560.2 million in 1998-99. In addition, the Committee has already approved expenditures of TANF block grant funds for other activities totalling \$32.0 million in 1997-98 and \$32.1 million in 1998-99. These include: (a) a transfer of \$31.8 million in each year to the Social Services Block Grant; (b) funding of \$104,000 in 1997-98 and \$108,100 in 1998-99 for a Milwaukee County Child Welfare Liaison position; and (c) \$54,000 in 1997-98 and \$144,000 in 1998-99 for hospital-based paternity establishment incentives. The 1998-99 ending balance in TANF revenues after these expenditures is \$84.7 million.

In addition, the Governor's recommendation includes several TANF expenditure items that will be addressed in separate issue papers, which are shown in Table 3. These items would not be included in the base funding levels established in this paper. The total funding for these expenditures would be \$19.9 million in 1997-98 and \$26.9 million in 1998-99. Should the Committee approve these items with no modifications, the remaining balance at the end of the biennium would decrease from the \$84.7 million amount shown in Table 2 to \$37.9 million.

Item	1997-98	1998-99
W-2 related expenditures	\$599.3 million	\$560.2 million
TANF block grant funds for other activities	\$32.0 million	\$32.1 million
Transfer to Social Services Block Grant	\$31.8 million	\$31.8 million
Milwaukee County Child Welfare Liaison position	\$104,000	\$108,100
Hospital-based paternity establishment incentives	\$54,000	\$144,000
1998-99 ending balance in TANF revenues		\$84.7 million
Additional TANF expenditure items	\$19.9 million	\$26.9 million
Remaining balance at the end of the biennium		\$37.9 million

**TABLE 2**

**Estimated Revenues and Base Funding for Public Assistance Programs**

	<u>1997-98</u>	<u>1998-99</u>
<b>Revenues</b>		
Current GPR Funds for AFDC	\$147,260,800	\$147,067,500
Current GPR Funds for Child Care	18,357,200	18,357,200
Current GPR Funds for W-2 Related FS/MA	5,242,100	6,995,100
Federal TANF Block Grant	317,598,200	316,963,900
Federal Child Care Block Grant	54,464,600	56,544,200
Food Stamp Employment and Training	7,000,000	7,000,000
Federal W-2 Related FS/MA	5,242,100	6,995,100
Carryover of TANF from Prior Year	83,526,600	63,261,400
Child Support Collections	<u>55,818,000</u>	<u>53,798,900</u>
<b>Total Revenues</b>	<b>\$694,509,600</b>	<b>\$676,983,300</b>
<b>W-2 Related Expenditures</b>		
<b>Current Program Expenditures</b>		
AFDC Benefits	\$28,400,000	\$0
JOBS Services	15,079,800	0
IM County Administration and Overmatch	6,665,600	0
<b>Ongoing Expenditures</b>		
State Administration	33,306,000	30,544,800
Emergency Assistance	3,300,000	3,300,000
Burials	3,300,000	3,300,000
Learnfare Case Management Services	2,619,100	2,619,100
Local Learnfare Projects	450,000	0
Children First	1,316,400	1,316,400
County Fraud and Front-End Verification	588,000	588,000
<b>Cash Assistance Under W-2</b>		
Subsidized Employment	155,375,100	158,678,000
Job Access Loans	3,645,600	866,900
Employment Skills Advancement Grants	333,300	1,000,000
<b>Child Care</b>		
Direct Child Care Services	158,500,000	180,200,000
Indirect Child Care Services	6,002,400	6,002,400
<b>W-2 Agency Related Costs</b>		
W-2 Office Costs	104,117,000	115,293,800
Long-Term and Refugee Supplement	8,200,000	9,800,000
Contingency Fund	25,000,000	0
Milwaukee PIC	1,000,000	1,000,000
<b>Other Expenditures</b>		
Child Support Payments	37,929,600	41,865,500
Partnership for Full Employment	3,898,400	3,513,300
School-to-Work	<u>245,100</u>	<u>280,000</u>
<b>Total W-2 Related Expenditures</b>	<b>\$599,271,400</b>	<b>\$560,168,200</b>
<b>Other TANF Expenditures Approved by the Committee</b>	<b><u>\$31,976,800</u></b>	<b><u>\$32,070,900</u></b>
<b>Ending Balance</b>	<b>\$63,261,400</b>	<b>\$84,744,200</b>

**TABLE 3**

**Additional Expenditures Recommended by the Governor  
for Public Assistance Programs**

	<u>1997-98</u>	<u>1998-99</u>
Kinship Care Assistance	\$15,720,400	\$22,116,400
Children of SSI Parents (TANF Share)	1,576,500	2,109,300
New Hope	1,560,000	690,000
Employment Transportation	<u>1,000,000</u>	<u>2,000,000</u>
Total	<u>\$19,856,900</u>	<u>\$26,915,700</u>

The following sections describe the items in Table 2 that differ from the Governor's proposal and provide additional information regarding some of the revenue and expenditure estimates.

*Current GPR for AFDC.* In Table 2, the amounts of existing GPR funding allocated to AFDC are lower than those in the Governor's recommendation due to revised estimates of costs that would be allocated to the food stamp and MA programs and state child support enforcement programs.

*Current GPR and FED for W-2 FS/MA.* Revenues include \$10.4 million in 1997-98 and \$14.0 million in 1998-99 in GPR and FED administrative funding for W-2 recipients who also receive food stamps and MA. These revenues were inadvertently omitted from the Governor's proposal.

*Federal TANF Block Grant.* Under federal law, tribal organizations in a state may elect to operate a separate tribal public assistance program. For a tribe that submits an acceptable plan, the federal government will provide to the tribe an amount equal to expenditures by the state for federal fiscal year 1994 for families residing in the tribe and the state's TANF block grant will be reduced by an equivalent amount. The Department has indicated that four tribes in 1997-98 and five tribes in 1998-99 are expected to operate separate programs in Wisconsin as permitted under federal law. Therefore, the TANF block grant should be reduced by \$590,200 in 1997-98 and \$1,224,500 in 1998-99 to reflect the separate tribal plans.

*Food Stamp Employment and Training.* The 1996 federal welfare reform legislation allows states to expend federal food stamp employment and training dollars on W-2 recipients in an amount equal to 1995 expenditures for AFDC recipients. The state must match these funds. The federal government has approved a state plan that estimates that Wisconsin may use \$11.0 million in federal FSET dollars on W-2 recipients on an ongoing basis if an acceptable cost allocation formula is developed. However, the federal government indicated that this amount may be subject to change if it is determined that some of the costs used to arrive at the \$11.0 million estimate are not allowable.

Due to the uncertainty surrounding the availability of these funds, the administration included only \$7 million in estimated revenues for this program. Matching GPR funds are included in the expenditures. It should be noted that GPR used as a match for this program would not be available to the state for meeting the TANF maintenance of effort requirement.

*Carryover of TANF and FSET.* The amount shown in Table 2 for 1997-98 has been reduced by \$5.6 million compared to the Governor's recommendation. This modification reflects: (a) a decrease of \$17.6 million to account for additional expenditures for 1996-97 that were approved at the Committee's s. 13.10 meeting in May, 1997; and (b) an increase of \$12 million based on a reduced estimate of child care expenditures in 1996-97. The child care estimate reflects county data through April.

*Child Support Collections.* Child support collections shown in Table 2 are higher than the amounts shown in the Governor's recommendation by \$18.6 million in 1997-98 and \$15.8 million in 1998-99. This change is largely due to more recent data regarding actual child support collections. This data indicates that child support collected per case is significantly higher than previously anticipated. Also, the Governor's proposal did not adjust the amounts in the appropriation schedule to reflect estimated child support collections. This adjustment should be made.

*AFDC Payments.* Funding for AFDC payments is lower compared to the Governor's recommendation by \$4.2 million in 1997-98. This difference is primarily due to a revised caseload estimate and the conversion of certain AFDC cases to kinship care.

*JOBS Services.* At the Committee's May, 1997, s. 13.10 meeting, \$12.0 million in JOBS funding was approved for W-2 start-up activities in 1996-97. The \$12.0 million was to be a reallocation of existing JOBS contracts from the fourth quarter of 1997. The funding amount shown in Table 2 is lower than the Governor's recommendation to reflect this reallocation of fourth quarter funding from the JOBS contracts.

*State Administration.* Funding for state administration in Table 2 is higher than the Governor's recommendation by \$6.5 million in 1997-98 and \$3.6 million in 1998-99. This is due to several modifications:

- The Governor's recommendation inadvertently omitted costs related to the JOBS program that should have been included in base funding for state administration. This modification was approved for 1996-97 at the Committee's May, 1997, s. 13.10 meeting. The amounts in Table 2 reflect this modification.

- The administration has indicated that a greater share of department-wide administrative costs would be allocated to the Division of Economic Support than previously anticipated. The amount for state administration in Table 2 reflects this change.

- The Governor's recommendation included funding for costs related to the CARES computer system that were partially allocated to the food stamp and medical assistance programs.

However, because these costs are related only to the W-2 program, they should not be allocated to food stamps and MA. This increases funding for state administration.

- The Governor's proposal included \$1.5 million each year for evaluations. Under current law, the Department is required to contract with the Legislative Audit Bureau (LAB) for an evaluation of the W-2 program. This evaluation must be completed by July 1, 2000. According to the administration, the Department is still negotiating the terms of the evaluation contract with the LAB. Therefore, a portion of the funding for evaluations has been taken out of state administration. The issue of evaluations is discussed in a separate paper.

*Local Learnfare Projects.* Funding for local learnfare projects as shown in Table 2 is \$1.8 million lower than the Governor's recommendation. The Committee approved an increase of funding in 1996-97 of \$1.8 million at its May, 1997, s. 13.10 meeting. The Department has indicated that these Learnfare projects will be terminated and, therefore, an equivalent amount of funding should be reduced in the 1997-99 biennium.

*Subsidized Employment and W-2 Agency Related Costs.* The Governor's recommendation included \$288 million in 1997-98 and \$278.5 million in 1998-99 for subsidized employment and W-2 office costs. These amounts included: (a) a contingency fund of \$25 million in 1997-98; (b) funding for long-term and refugee cases of \$8.2 million in 1997-98 and \$9.8 million in 1998-99; and (c) \$1 million each year for a contract with the Milwaukee PIC for the administration of W-2 in Milwaukee County. However, the Governor's proposal did not separately identify these expenditures. Instead, only two expense categories (subsidized employment and office costs) were shown.

In August, 1996, the Department issued a request for proposals (RFP) for potential W-2 agencies. The RFP contained maximum amounts for W-2 office costs and benefits that would be provided to each agency by county. The amounts shown in Table 2 for subsidized employment for W-2 agencies reflect anticipated amounts statewide for contracts with W-2 agencies, except for the treatment of tribal benefits. As noted above, tribes have the option of operating a separate TANF program.

The funding amounts shown in Table 2 for subsidized employment, W-2 office costs, the long-term and refugee supplement, the contingency fund and the Milwaukee PIC total \$293.7 in 1997-98 and \$284.8 million in 1998-99. These amounts are higher than the Governor's budget due to two offsetting factors. First, the Governor's recommendation inadvertently omitted administrative expenditures for medical assistance and food stamps by W-2 agencies. Second, as noted above, the amounts for subsidized employment have been reduced by estimated tribal benefits for tribes operating separate public assistance programs.

*Employment Skills Advancement Grants.* The Governor's recommendation included funding for employment skills advancement grants beginning September 1, 1997. However, under current law, this program is not authorized to begin until six months after the starting date for W-2 (March 1, 1997). Therefore, funding for 1997-98 as shown in Table 2 reflects the later start date.

*Child Support Payments.* Estimated child support distributions have been modified to reflect a revised estimate of child support collections on behalf of W-2 recipients and the implementation of the child support demonstration waiver.

*Expenditures for New Hope.* Table 3 shows expenditures for the New Hope project that differ from the Governor's recommendation in SB 77. The amounts shown in Table 3 reflect requirements of the child support demonstration project as discussed at the Committee's May, 1997, s. 13.10 meeting. The issue of funding for the New Hope project is discussed in a separate paper.

## **APPROPRIATION STRUCTURE**

### **Current Law/Governor**

The Governor's proposal would modify the appropriation schedule related to public assistance programs as follows:

*Public Assistance Benefits and Administration.* The bill would eliminate the current GPR appropriations for: (a) income maintenance payments to individuals; (b) income maintenance county administration; (c) employment and training programs; and (d) services for learnfare pupils.

These appropriations would be combined into a single annual GPR appropriation that would include amounts for: (a) administration and benefits payments for the AFDC program, related programs and all components of the W-2 program; (b) Children First; (c) the food stamp employment and training (FSET) program; (d) funeral expenses for participants in W-2 employment positions and public assistance recipients; and (e) AFDC-related child care. The bill would specify that moneys in this appropriation could be used to match any federal funds. The Department would be authorized to transfer funds between fiscal years under this appropriation. The bill would specify that all funds allocated by the Department but not encumbered by December 31 of each year lapse to the general fund on the next January 1 unless transferred to the next calendar year by the Joint Committee on Finance.

These GPR funds, along with federal block grants, would fund most components of the W-2 program. As described below, separate state appropriations would be provided for child care and certain other components of W-2.

*Child Care Appropriations.* The bill would consolidate GPR funding for AFDC-related child care and at-risk and low-income child care into two annual appropriations: (a) a separate W-2 child care appropriation; and (b) the consolidated appropriation for W-2 administration and benefits described above. In addition to these state appropriations, federal child care and TANF block grant funds would be used for child care assistance. Specific allocations of funding for nondirect child care services would be provided in the statutes.

*Other State Appropriations.* The bill would create a separate PR appropriation for job access loan repayments and a separate GPR appropriation for employment skills advancement grants. As under current law, emergency assistance would be funded through a separate GPR appropriation along with federal revenues.

*Federal Appropriations.* Federal funding for public assistance programs would be provided primarily from two appropriations (one for aids and one for operations) for federal block grant funds, which include the federal TANF and child care block grants. In addition, the bill would specify that the current federal appropriations for employment programs administration and aids be used only to carry out the FSET program. The bill would eliminate the provisions that federal moneys in these appropriations be used for Learnfare, JOBS and the parental and family responsibility pilot program. Federal funding for these other employment programs would be provided from the TANF block grant appropriations.

*Kinship Care.* The bill would eliminate the separate GPR appropriation for kinship and foster care assessments, and, instead, modify the federal block grant aids appropriation to include all moneys transferred to and from the DHFS appropriations for kinship care and foster care. TANF block grant funds would be provided to DHFS for kinship care assessments and payments for kinship care.

*Income Augmentation Services.* The bill would create a new federal appropriation for income augmentation services receipts. The administration indicates that DHFS has contracted with a private consulting firm to examine programs such as AFDC to determine if additional federal funds might be available to the state. This appropriation would include federal moneys received as a result of this contract.

*Welfare Fraud Activities.* The bill would clarify that funding for fraud investigations be provided from TANF block grant funds, in addition to GPR, PR and other federal funds.

#### **Potential Modification to the Governor's Proposal**

As noted, the Governor's recommendation would combine a number of separate GPR appropriations for public assistance into one consolidated appropriation which would fund most of the state costs of W-2 and other public assistance programs. Federal funding would come primarily from two appropriations for TANF block grants. Tables 1 and 2 show estimated expenditures for various components of the AFDC and W-2 programs; however, these specific expenditure items would not be identified in the statutes.

There are two advantages to the Governor's proposal. First, with the conversion from a federal matching arrangement to the use of federal block grants, it is difficult to assign accurate GPR/FED funding splits to individual expenditure items. Second, the W-2 program represents a significant departure from the AFDC program, which has been in existence for over 60 years. As a result, actual expenditures for the new program may differ from the budget estimates. The

consolidated appropriation structure recommended by the Governor would give DWD flexibility in allocating resources among the various components of the W-2 program.

A significant disadvantage of the Governor's proposal is that the Legislature would have less assurance that the Department is spending the appropriated funds according to the budget estimates.

One option that the Committee could consider would be to adopt the consolidated appropriation structure recommended by the Governor, but specify in the statutes the maximum amounts that could be expended from the state and federal appropriations for specific components of the AFDC and W-2 programs. Further, the Department could be permitted to transfer up to 10% of the amount specified for each component of W-2 to another component. If the Department wished to transfer additional funds, it would have to submit a request to the Committee, which would be subject to a 14-day passive review process similar to section s. 16.515 requests.

The specific expenditure categories would generally be the same as those outlined in Table 2. The funding amounts would depend on other actions taken by the Committee and the full Legislature. The statutory allocations of nondirect child care expenditures would not be modified.

## **SUMMARY**

As noted above, the existing appropriation structure and base funding amounts reflect the current AFDC program, which will be replaced by W-2 in the Fall of 1997. Therefore, the base level appropriations must be modified in order to support the W-2 program in the 1997-99 biennium. If the current appropriation structure is not adjusted, the Department would have sufficient funding to implement W-2, but these funds would not be in the correct appropriations and would not be accessible for certain components of W-2. As mentioned, current state law requires DWD to implement the W-2 program statewide by October 1, 1997. Therefore, it is necessary for the appropriation schedule to be converted to accommodate the new program prior to that date.

The revised figures shown in Table 2 represent the most recent estimates by this office and the administration of the funding amounts that will be needed for the AFDC and W-2 programs in 1997-99 under the current statutory provisions. The table does not include funding for new initiatives proposed by the Governor in SB 77. These items and other potential modifications to the W-2 program are addressed in separate papers.

**ALTERNATIVES TO BASE**

**Base Funding for Public Assistance Programs**

In order to establish a base funding level, provide \$599.3 million in 1997-98 and \$560.2 million in 1998-99 shown in Table 2 for W-2 related programs

**Public Assistance Appropriation Structure**

1. Approve the appropriation structure recommended by the Governor.
2. Modify the Governor's recommendation to specify in the statutes the maximum amounts that could be expended from the state and federal appropriations for specific components of the AFDC and W-2 programs, as outlined in Table 2. The maximum expenditure amounts would be based on the figures shown in Table 2 and any modifications adopted by the Committee. Under this option the Department would be authorized to transfer up to 10% for the amount specified for each component of W-2 to another component. If the Department wished to transfer additional funds, it would have to submit a request to the Committee, which would be subject to a 14-day passive review process similar to section s. 16.515 requests.

*see option (b) 51*

Prepared by: Joanne Simpson

*BASE Funding For Public Assistance Programs*

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

MO# \_\_\_\_\_

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 \_\_\_\_\_

AYE 16 NO 0 ABS \_\_\_\_\_

## WORKFORCE DEVELOPMENT

### Public Assistance Appropriation Structure

Motion:

Move to specify in the statutes the maximum amounts that could be expended from the state and federal appropriations for specific components of the AFDC and W-2 programs, as outlined in Table 2 of Paper #971. Specify that the maximum expenditure amounts would generally be based on the figures shown in Table 2 and any modifications adopted by the Committee, except that a single category of expenditures would be identified for amounts allocated to W-2 agencies for office costs, the long-term and refugee supplement and subsidized employment benefits.

Authorize the Department to transfer up to 10% of the amount specified in the statutes for each component of W-2 to another component. Provide that, if the Department wished to transfer more than 10% of the amount specified, it would have to submit a request to the Committee, which would be subject to a 14-day passive review process similar to section s. 16.515 requests.

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Note:

Under SB 77, a number of separate GPR appropriations for public assistance would be combined into one consolidated appropriation which would fund most of the state costs of W-2 and other public assistance programs. Federal funding would come primarily from two appropriations for TANF block grants.

Under this motion, the appropriation schedule recommended by the Governor would be adopted. However, the statutes would specify the maximum amounts that could be expended from the state and federal appropriations for specific components of the AFDC and W-2 programs. The Department would be permitted to transfer up to 10% of the amount specified for each component of W-2 to another component. If the Department wished to transfer additional funds it would have to submit a request to the Committee, which would be subject to a 14-day passive review process, similar to section s. 16.515 requests.

VOTE OVER →

MO#

6051

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

AYE 16 NO 0 ABS

To: Joint Committee on Finance  
From: Bob Lang, Director  
Legislative Fiscal Bureau

## ISSUE

### **Subsidized Employment Under W-2 (Workforce Development -- Economic Support and Child Care)**

[LFB Summary: Page 675, #1 and Page 684, #3]

## INTRODUCTION

This paper addresses the issue of cash assistance for participants in community service jobs (CSJs) and transitional placements under the Wisconsin Works (W-2) program created in 1995 Wisconsin Act 289. The first sections of the paper describe the cash benefits and work requirements under the current provisions for W-2 and the Governor's proposal in Senate Bill 77 to increase the cash grants for CSJs and transitional placements. This is followed by information regarding a proposal to establish an optional wage-paying CSJ placement for W-2 participants, including estimates of the cost of providing the state earned income tax credit (EITC) and homestead credit to such participants. Finally, the issue of funding amounts provided to local W-2 agencies for cash benefits is addressed.

## CURRENT LAW

### **W-2 Work Programs**

Participants in the W-2 program will be assigned to either unsubsidized employment or one of three types of subsidized employment. Subsidized employment includes trial jobs, CSJs and transitional placements. W-2 agencies must give priority to placement in unsubsidized employment first, followed in order by trial jobs, CSJs and transitional placements.

Trial jobs will provide work experience and training to assist participants to move into unsubsidized employment. The W-2 agency will pay a wage subsidy to an employer that employs a participant in a trial job and agrees to make good faith efforts to retain the participant as a permanent employee after the wage subsidy is terminated.

Individuals who cannot find unsubsidized employment or work in a trial job may be eligible for a CSJ or transitional placement. A community service job provides work experience and training to assist participants to move into unsubsidized employment or a trial job. A transitional placement position would be available for individuals who are incapacitated, needed in the home due to the illness or incapacity of another member of the group or are otherwise incapable of performing a trial job or CSJ.

### **Cash Benefits for CSJs and Transitional Placements**

Under current law, participants in CSJs will receive a monthly grant of \$555 and transitional placements will receive a monthly grant of \$518; both of these grants will be paid by the W-2 agency. For every hour that these participants miss required work or educational activities without good cause, the grant will be reduced by \$4.25. Good cause will be determined by the agency's financial and employment planner in accordance with rules promulgated by the Department. In addition, participants in W-2 may become ineligible if they fail three times to participate in required activities without good cause, and may receive a monetary penalty if a child in the W-2 group fails to meet the Learnfare attendance requirements.

A participant who meets the nonfinancial and financial eligibility requirements for a W-2 employment position and who is a custodial parent of a child who is 12 weeks old or less may receive a monthly grant of \$555. The W-2 agency may not require such individuals to participate in a W-2 employment position.

### **Work and Education Requirements**

The local W-2 agency may require a CSJ participant to work up to 30 hours per week in the CSJ and to participate in educational and training activities for up to 10 hours per week, for a total of 40 hours per week. Transitional placements may be required to engage in work activities (including certain AODA, mental health, counseling and physical rehabilitation activities) for up to 28 hours per week and to participate in specified education and training activities for up to 12 hours per week, for a total of 40 hours per week. The education and training activities will have to be assigned as part of an employability plan developed by the W-2 agency.

W-2 agencies may also require individuals to participate in an initial two-week assessment and motivational training program, including training on parenting skills, as part of the required activities for participants in CSJs and transitional placements.

## **Time Limits**

A W-2 participant may participate in a CSJ for a maximum of six months, with an opportunity for a three-month extension under circumstances approved by the Department. An individual may participate in more than one CSJ, but generally may not exceed a total of 24 months of participation in all CSJ placements. The 24-month time limit also applies to transitional placements. Further, Act 289 establishes a 60-month time limit for participation in all employment positions. The 24-month and 60-month limits may be extended under certain circumstances.

## **EITC and Homestead Tax Credit**

It is not certain whether CSJ participants and transitional placements will be eligible for the federal and state EITC under current law. The state EITC is generally available to state residents who claim the federal EITC. There is no specific provision under current law to allow or prohibit CSJ and transitional participants under W-2 from claiming the state EITC. If the federal Internal Revenue Service (IRS) determines that such individuals are eligible for the federal EITC, they would also be eligible for the state credit. Since the W-2 legislation was introduced in the Fall of 1995, it has been assumed for budgeting purposes that CSJ and transitional participants would not be eligible for these credits.

State law provides that property taxes or rent under the homestead credit will be reduced by one-twelfth for each month or portion of a month that a claimant participated in a CSJ or transitional placement.

## **Funding**

The current appropriation structure is based on the aid to families with dependent children (AFDC) program rather than W-2. Therefore, there is no base funding level for W-2 cash grants. The Department indicates that the W-2 agency contracts will include net funding of \$155.4 million in 1997-98 and \$158.7 million in 1998-99 for subsidized employment. These figures include CSJ and transitional grants, as well as the subsidies paid to employers for trial job participants, and are net of sanctions and benefits paid under separate tribal programs. The net contract amounts have been included as base funding for subsidized employment in Paper #971.

Based on current caseload projections, it is estimated that the cost of providing these benefits will be \$114.7 million in 1997-98 and \$130.5 million in 1998-99. These figures are lower than the contract amounts by \$40.7 million in the first year and \$28.2 million in the second year. The issue of the appropriate amount of funding that should be provided to W-2 agencies is addressed in a later section of this paper.

## GOVERNOR

The Governor recommends increasing the monthly CSJ grant to \$673 and increasing the grant for transitional placements to \$628 per month. The hourly sanction amount for noncompliance with work and education requirements would be increased to \$5.15. In addition, the grant for custodial parents of infants would be increased to \$673 per month.

Under current law, the cash grants of \$555 for CSJs and \$518 for transitional placements are equivalent to a wage of \$4.25 per hour, if the 30-hour and 28-hour maximum weekly work requirements are considered. This was the minimum wage that was in effect when Act 289 was passed. Since that time, the federal hourly minimum wage has been increased to \$4.75. On September 1, 1997, (the anticipated statewide starting date for W-2), the minimum wage will increase to \$5.15 per hour. The cash grants proposed by the Governor would be equivalent to an hourly wage of approximately \$5.15, to account for the higher minimum wage. Likewise, the hourly sanction would be increased from \$4.25 to \$5.15.

Table 1 shows the estimated disposable income for a single parent with two children under current law and the Governor's proposal. As indicated in the table, the Governor's recommendation would increase the disposable income of such W-2 participants by several hundred dollars per year. Because the higher grant amount would be counted as unearned income, food stamp benefits would be reduced, which would partially offset the increased grant amount.

**TABLE 1**

**Comparison of Annual Disposable Income  
Cash Grants Under Current Law and SB 77  
Single Parent with Two Children**

	<u>Community Service Job</u>			<u>Transitional Placements</u>		
	<u>Current Law</u>	<u>SB 77</u>	<u>Difference</u>	<u>Current Law</u>	<u>SB 77</u>	<u>Difference</u>
Cash Grant or Wage	\$6,660	\$8,076	\$1,416	\$6,216	\$7,536	\$1,320
Food Stamps	3,225	2,588	-637	3,398	2,831	-567
Child Care Copayment	<u>-336</u>	<u>-336</u>	<u>0</u>	<u>-336</u>	<u>-336</u>	<u>0</u>
Disposable Income	\$9,549	\$10,328	\$779	\$9,278	\$10,031	\$753
Percent of Poverty	71.6%	77.5%	5.9%	69.6%	75.3%	5.7%

Based on current caseload projections, it is estimated that the cost of providing benefits to W-2 recipients under the cash grants proposed by the Governor would be \$136.7 million in 1997-98 and \$154.2 million in 1998-99. Compared to the cash grants under current law, the

Governor's recommendation would increase costs for W-2 cash assistance by \$22.0 million in 1997-98 and \$23.7 million in 1998-99. The Governor's recommendation would not provide increased funding to W-2 agencies to account for the higher benefits.

## **PROPOSAL TO CREATE A WAGE-PAYING CSJ PLACEMENT**

### **Summary of Proposal**

Several legislators have expressed interest in a proposal to provide wage-paying jobs to CSJ participants. Under this proposal, the system of paying cash grants to individuals in these employment positions would not be replaced. Rather, W-2 agencies would have the option to either place CSJ participants in wage-paying jobs or provide them with a grant.

A participant in a wage-paying CSJ would be paid minimum wage for every hour worked in required activities under the CSJ employment position. If an individual in a wage-paying CSJ failed to perform the required work activities, the individual would not be paid.

In order to limit the cost of the proposal and provide time for job search activities, the number of hours that an individual could work in a wage-paying CSJ would be restricted. As under current law, a W-2 participant could participate in a wage-paying CSJ for up to six months, with an opportunity for a three-month extension. An individual could participate in more than one CSJ, but generally could not exceed a total of 24 months of participation in all CSJ placements. The 24-month limit would apply to the combined participation in both grant-paying and wage-paying CSJs.

The current work and education requirements would continue to apply to participants placed in a grant-paying CSJ. Individuals in wage-paying CSJs would not be required to participate in additional education and training activities, nor would education and training be included in allowable work activities unless prescribed by the employer as an integral part of the work performed in a CSJ. However, in addition to the child care assistance provided for work activities, child care assistance would be provided for the individual to engage in educational or job search activities.

As under current law, the community service job would be limited to projects that the Department determines would serve a useful public purpose. Individuals would be placed with existing private or public employers who would set hours and supervise the W-2 participant. The participant would receive a paycheck from the employer. The participant would be considered an employee of the W-2 agency or of a person with whom the W-2 agency contracts to provide employment to the individual. Participants would not be eligible for overtime pay or paid vacations.

Based on a letter dated March 27, 1997, from the Office of the Chief Counsel of the IRS and information regarding a similar program in Vermont, it appears that participants in wage-paying community service jobs would be eligible for the federal EITC. Further, if the IRS determines that CSJ wages under this proposal are taxable earnings, both the employer and the W-2 participant would be required to pay federal payroll taxes. Under the proposal, instead of paying a grant to the participant, the state would reimburse the employer for wages paid to the participant and for the employer's share of federal payroll taxes. The participant would be required to pay his or her share of federal payroll taxes, along with federal and state income taxes.

As noted above, under the W-2 program, individuals may be eligible for a transitional placement employment position if they are incapacitated, needed in the home due to the incapacity of another member of the W-2 group, or are otherwise incapable of performing a CSJ or trial job. Because these employment positions are for individuals who have significant barriers to work and required activities may include counseling and rehabilitation services, individuals in transitional placements would not be eligible for a wage-paying job under this proposal.

### **Fiscal Effect**

The fiscal effect of this proposal would depend upon several factors: (a) the number of CSJ participants who would be placed into wage-paying slots instead of grant-paying slots; (b) the number of hours that participants would be allowed to work in a wage-paying CSJ; and (c) the participants' eligibility for the state EITC and homestead credit. The participation rate would depend upon how the program is structured and implemented, and is difficult to estimate. For purposes of the estimates provided below, it is assumed that 50% of all CSJ participants would be placed in wage-paying slots during the 1997-99 biennium. The other two factors (limits on work hours and eligibility for EITC and homestead) would be established in state law as part of the proposal. These factors would also influence the amount of disposable income that a participant would receive under this proposal.

The following sections outline four alternative structures that could be considered for this proposal and their estimated fiscal effects. Two of these options assume that the current grant amounts would be retained for transitional placements and grant-paying CSJs. The other two alternatives assume that the higher grants recommended by the Governor would be adopted. The fiscal estimates shown below are compared to the estimated actual costs of providing the current grant amounts (\$114.7 million in 1997-98 and \$130.5 million in 1998-99) rather than the benefit allocation included in the agency contracts.

**Option 1: 30-Hour Work Requirement; Current Grant Amounts.** One option would be to allow W-2 agencies to place individuals into wage-paying CSJs for up to 30 hours per week for the entire year. This is similar to the work requirement for grant-paying CSJs under current law. Table 2 shows the estimated fiscal effect of this alternative compared to current law. These

figures assume that the current grant amounts for other CSJ participants and transitional placements would be maintained.

**TABLE 2**

**Fiscal Effect of Option 1  
30-Hour Work Requirement; Current Grant Amounts  
(Millions)**

	<u>1997-98</u>	<u>1998-99</u>
Total Cost of Option 1 (excluding EITC and Homestead)	\$127.8	\$141.2
Subsidized Employment Under Current Law	<u>114.7</u>	<u>130.5</u>
Additional Cost (excluding EITC and Homestead)	\$13.1	\$10.7
EITC	\$3.2	\$2.7
Homestead	5.3	4.3

As shown in Table 2, this option is estimated to exceed the cost of the current provisions by \$13.1 million in 1997-98 and \$10.7 million in 1998-99, if the state EITC and homestead credits are not provided. Including the EITC and homestead credits would increase costs by an additional \$8.5 million in the first year and \$7.0 million in the second year.

Compared to the higher grants proposed by the Governor, this option would cost less. Costs would be \$8.9 million lower in 1997-98 and \$13.0 million lower in 1998-99 if the EITC and homestead were not included; and \$0.4 million lower in 1997-98 and \$6.0 million lower in 1998-99 if these credits were provided.

The attachment shows the estimated disposable income for a single parent with two children under current law, the increased CSJ grants proposed by the Governor, this option and the other options for a wage-paying CSJ described below. As indicated in the table, under this option, CSJ participants would have additional disposable income compared to current law and compared to the Governor's recommendation, even if the state EITC and homestead are not provided. This occurs because it is assumed that these recipients would be eligible for the federal EITC. Disposable income would be even higher if participants were allowed to claim the two state credits. The impact on families with one child would be less because the EITC would be lower. If the state EITC were provided, the impact on larger families would be greater, because a significantly higher state credit is provided to families with three or more children.

**Option 2: 30-Hour Work Requirement; Increased Grant Amounts.** This alternative is the same as Option 1 except that the monthly benefits for grant-paying CSJs and transitional

placements would be increased as recommended by the Governor. Table 3 shows the estimated fiscal effect of this alternative compared to current law.

**TABLE 3**

**Fiscal Effect of Option 2  
30-Hour Work Requirement; Increased Grant Amounts  
(Millions)**

	<u>1997-98</u>	<u>1998-99</u>
Total Cost of Option 2 (excluding EITC and Homestead)	\$140.4	\$157.3
Subsidized Employment Under Current Law	<u>114.7</u>	<u>130.5</u>
Additional Cost (excluding EITC and Homestead)	\$25.7	\$26.8
EITC	\$3.2	\$2.7
Homestead	5.3	4.3

As Table 3 indicates, this option is estimated to exceed the cost of the current provisions by \$25.7 million in 1997-98 and \$26.8 million in 1998-99, if the state EITC and homestead credits are not provided. Including the EITC and homestead credits would increase costs by an additional \$8.5 million in the first year and \$7.0 million in the second year.

Compared to the cost of the higher grants proposed by the Governor, this option would increase costs by \$3.7 million in 1997-98 and \$3.1 million in 1998-99 if the EITC and homestead were not included. If these credits were provided, total costs for wages, FICA, EITC and homestead would be \$12.2 million in 1997-98 and \$10.1 million in 1998-99 higher than the cost of providing the cash grants proposed by the Governor.

The disposable income amounts for families in the wage-paying CSJs would be the same as the figures for Option 1.

**Option 3: Cost-Neutral Compared to Current Law.** The annual hours of work that would be allowed for wage-paying CSJs could be reduced so that the cost of reimbursing employers for the participant's wages and the employer's share of payroll taxes is approximately equal to the cost of providing the current \$555 monthly grant. This could be accomplished by decreasing the number of weekly work hours, the number of weeks that a participant can work in a wage-paying CSJ during the year, or both of these factors so that the total number of hours per year does not exceed 1,200.

One option would be to specify that a participant could work in a wage-paying CSJ for up to 30 hours per week for the entire year, with an additional restriction that the total number

of work hours for a year could not exceed 1,200. This would allow the W-2 agency and participant flexibility in designing work schedules. For example, the participant could be allowed to participate for 30 hours per week for 40 weeks per year; 24 hours per week for 50 weeks per year; or any other combination such that the total number of hours per year does not exceed 1,200. The current benefit amounts for grant-paying CSJs and transitional placements would be retained.

As noted, the cost of this proposal would be approximately equal to the cost of providing the current \$555 CSJ grant, if reimbursements to the employer for wages and payroll taxes are considered. If the EITC and homestead credit were also provided, the cost would increase by \$7.8 million in 1997-98 (\$2.5 million for the EITC and \$5.3 million for homestead) and \$6.4 million in 1998-99 (\$2.1 million for the EITC and \$4.3 million for homestead).

Compared to the cash grants proposed by the Governor, this option would cost less: \$22.0 million in the first year and \$23.7 million in the second year, if the EITC and homestead are not considered. If these credits were provided, the savings would fall to \$14.2 million in 1997-98 and \$17.3 million in 1998-99.

The financial impact on a single parent with two children under this option is shown in Attachment 1.

**Option 4: Cost-Neutral Compared to Governor's Proposal.** The proposal could be structured so that the cost of reimbursing employers for the participant's wages and the employer's share of payroll taxes is approximately equal to the cost of providing the \$673 grant recommended by the Governor. Under this option, the number of hours of work per year could not exceed 1,450. For example, the W-2 agency and participant could establish a work schedule of 28 hours per week for 50 weeks per year. Under this alternative, the higher grants recommended by the Governor for other CSJ participants and transitional placements would be adopted.

The cost of employer reimbursements for wages and payroll taxes under this option would exceed the cost of providing the current \$555 CSJ grant by \$22.0 million in 1997-98 and \$23.7 million in 1998-99. If the EITC and homestead credit were also provided, the cost would increase by an additional \$8.3 million in 1997-98 (\$3.0 million for the EITC and \$5.3 million for homestead) and \$6.8 million in 1998-99 (\$2.5 million for the EITC and \$4.3 million for homestead).

As mentioned, this alternative would be cost-neutral compared to the Governor's proposal, if the EITC and homestead are not considered. If these credits were provided, there would be increased costs of \$8.3 million in 1997-98 and \$6.8 million in 1998-99.

The difference in disposable income for a single parent with two children under this option is shown in the attachment.

**Other Options.** A number of other options could be considered by the Committee regarding this proposal. For example, the proposal could be structured so that the cost of providing the wage-paying CSJ component along with state EITC and/or the homestead credit would be approximately equal to the cost of providing the current \$555 cash grant. If only the EITC were provided, the maximum work hours would have to be set at 1,135 per year. In order to also provide the homestead tax credit, the work limit would need to be reduced further so that the total number of hours does not exceed 1,000 per year. The current benefits for grant-paying CSJs and transitional placements would not be modified.

Similarly, the proposal could be structured so that the cost of providing wage-paying CSJs and the state credits would be approximately equal to the cost of providing the \$673 grant recommended by the Governor. If only the state EITC were provided, the annual limit on the hours worked in the CSJ would be set at 1,375. If the homestead credit was also provided, the work limit would need to be reduced to 1,240 per year. Benefits for grant-paying CSJs and transitional placements would be increased as proposed by the Governor.

**Assumptions.** As noted, the fiscal estimates provided above assumed that 50% of CSJ participants would be placed into the wage-paying slots. This assumption should be considered speculative. Because wage-paying CSJs would be funded with federal TANF dollars, it was assumed that participants would be eligible for medical assistance. Under current law, the state must provide payment of workers compensation premiums for W-2 participants in CSJs. Therefore, it is assumed that there would be no additional costs to the state or to employers under the wage-paying CSJ proposal for workers compensation.

Federal law provides an exemption from unemployment insurance (UI) coverage for work relief or work training programs. However, it is unclear if participants in the W-2 wage-paying CSJs would qualify for this exemption. In order to be exempt from unemployment compensation under the work relief or work training provision, a program must take into account the economic status of the applicant. Further, activities performed must primarily benefit community or participant needs, and services must not otherwise be normally provided by other employes. However, a program may not qualify for the exemption if it offers wages, hours and conditions of work of a standard comparable to those prevailing in the locality for similar work. In addition, the exemption does not apply to the private sector. The options outlined above assumed that the employer would be responsible for UI, if such coverage is required.

As outlined below, establishment of wage-paying CSJs could result in behavioral changes on the part of participants and employers. However, because it is not possible to accurately predict the direction and magnitude of such changes, the estimates have not been adjusted to account for these factors.

## **POLICY CONSIDERATIONS**

The following sections outline a number of policy arguments and other considerations regarding the current CSJ structure and the proposal to create a wage-paying option.

### **Effective Wage Rate; Participants with Part-Time Employment**

The current CSJ structure can result in benefits that are in excess of minimum wage. This could occur if an individual is assigned to fewer than 30 hours of work per week. Under current law and the Governor's proposal, the monthly grant may not be prorated to account for a reduced work assignment. Therefore, a CSJ participant who is assigned to 20 hours of work per week would be paid the equivalent of \$6.40 per hour under current law and \$7.76 per hour under the Governor's proposal. This could provide an incentive for CSJ participants to remain in the W-2 program longer than they otherwise would.

This consideration is particularly important for CSJ participants who also have part-time unsubsidized jobs. In these cases, the W-2 agency could be faced with a difficult choice. If the agency requires 30 hours of work per week in the CSJ, it could jeopardize the participant's ability to maintain the unsubsidized job. If fewer hours are required for the CSJ, the equivalent wage could increase to the point where the CSJ is more attractive than additional unsubsidized work. Both of these outcomes would be contrary to the intent of the W-2 program.

It is argued that the wage-paying approach would address this situation because a participant would only be paid for each hour of satisfactory work. Therefore, CSJ wages could not exceed minimum wage. However, the issue of participants who have part-time jobs could also be addressed by modifying the current statutes to allow W-2 agencies to provide a prorated grant amount if an individual is assigned to fewer than 30 hours of work per week because the participant also has an unsubsidized job. If the Committee elects to continue the grant approach, it may wish to make this modification.

### **Use of Wage-Paying CSJs for Job-Ready Individuals**

Under Act 289, W-2 agencies must provide community service jobs for individuals who are unable to obtain employment, as determined by the agency. A participant may be unable to obtain a job because the person lacks the necessary basic skills and work habits for employment or because sufficient unsubsidized jobs are not available in the area where the participant resides. It has been suggested that wage-paying CSJ placements would be preferable to grant-paying slots for individuals who are "job-ready" but are unable to find employment. It is argued that a wage-paying CSJ would be more similar to an unsubsidized job than a grant-paying CSJ.

The counter argument is that the state has a very low unemployment rate and that jobs are plentiful in the current economy. Therefore, individuals who are job-ready should be able to find unsubsidized employment, especially since W-2 agencies will be allowed to provide

transportation assistance to participants. However, it is likely that, over time, the state will experience higher unemployment rates.

### **Financial Benefits for Participants**

As noted above, participants in a wage-paying CSJ would benefit financially because they would likely be eligible for the federal EITC. Additional financial benefits would be provided if CSJ participants were allowed to claim the state EITC and homestead credit. As a result, the well-being of these families would be enhanced while they are participating in the CSJ. It can also be argued that the infusion of federal revenues from the EITC would provide an economic benefit to the communities in which participants reside.

On the other hand, the current grant structure provides a significant financial incentive for participants to seek unsubsidized jobs. It is argued that making CSJ placements more attractive financially would decrease the incentive for participants to move off of the W-2 program and into unsubsidized jobs. Also, some of the options outlined above for wage-paying CSJ placements would have significantly reduced work requirements compared to current law. This could also make participation in W-2 more attractive.

### **Behavioral Impact**

It has been suggested that treating individuals like wage earners who receive a paycheck and pay taxes may lessen the psychological barrier to obtaining a private sector job. However, as mentioned, a wage-paying CSJ may not provide enough of a distinction between W-2 and private sector jobs, thus decreasing the incentive to move into the private sector. It should also be noted that the time limits for participation in W-2 employment positions would apply under both the grant-paying and wage-paying approaches. In addition, W-2 agencies will have a financial incentive to move participants into unsubsidized employment. These provisions also establish an incentive for W-2 participants to seek unsubsidized employment.

### **Impact on Trial Jobs**

In addition to CSJs and transitional placements, the W-2 program includes a trial job component which will provide a subsidy of up to \$300 per month for employers who hire and train W-2 participants. Trial job employers will be required to pay at least minimum wage to participants and will be responsible for providing worker's compensation coverage and paying the employer's share of payroll taxes. The budget estimates assume that 10% of W-2 participants will be placed into trial jobs.

It can be argued that creation of a wage-paying CSJ placement would lead to decreased participation in the trial job component of the W-2 program, because wage-paying CSJs would be significantly more attractive to employers. As noted, under the wage-paying CSJ, an employer would be reimbursed for 100% of the employee's wages (\$618 per month assuming 30 hours per

week) and for the employer's share of payroll taxes (an additional \$47 per month). The state would also pay for the participant's workers compensation coverage. From the employer's perspective, this package of benefits would be preferable to the \$300 wage subsidy provided for trial job participants. Therefore, it is possible that employers would elect to participate in this component rather than in the trial job component.

This factor could increase the costs of the wage-paying CSJ proposal, because it would be significantly more expensive for the state to place an individual in a wage-paying CSJ than in a trial job. For example, if 25% of the participants who are currently assumed to be placed into trial jobs were instead placed into wage-paying CSJs, program costs would increase by an estimated \$5.3 million in 1997-98 and \$8.6 million in 1998-99 compared to the estimates outlined in the previous sections.

### **Implementation**

The W-2 program is currently scheduled to be implemented September 1, 1997. It can be argued that modifying the structure of the program by adding a wage-paying CSJ employment position could create added difficulties in finalizing contracts with W-2 agencies and preparing for the implementation of the program.

### **Federal Fair Labor Standards Act**

On May 16, 1997, the executive branch of the federal government announced a preliminary decision that the Fair Labor Standards Act and its minimum wage requirements would apply to welfare recipients in public service jobs. The federal Department of Labor has released guidelines relating to this decision. The guidelines indicate that it may be possible to include a family's food stamp allotment in determining if benefits for the family exceed minimum wage. In addition, W-2 recipients may become eligible for the federal EITC and the state could be required to pay the employer's share of payroll taxes for these individuals. It is also possible that recipients would be eligible for unemployment compensation. However, the guidelines indicate that these issues would be resolved on a case-by-case basis.

Should the federal government require the minimum wage to be paid to welfare recipients, establishing an option for wage-paying community service jobs would provide more assurance that the state is in compliance with federal provisions. With the current \$555 cash grant and work requirement of 30 hours per week, the equivalent hourly wage is less than the \$5.15 minimum wage that will take effect on September 1. With the cash grant of \$673 proposed by the Governor, the equivalent hourly wage would be slightly above minimum. However, CSJ participants may be sanctioned if they fail to meet assigned hours of education and training as well as the 30-hour work requirement. Therefore, if an individual met the 30-hour work requirement, but was sanctioned for failing to participate in education and training, the equivalent hourly wage would be reduced below the \$5.15 minimum wage. This could potentially be problematic under a federal requirement to provide the minimum wage for every hour worked.

At this time, it is difficult to determine if a federal requirement to pay minimum wage is a serious concern for Wisconsin. As noted, the federal government has indicated that the impact of such a requirement may need to be determined on a case-by-case basis and according to the facts of a particular situation. It is also possible that this issue will be addressed through federal legislation to eliminate the minimum wage requirement for welfare recipients.

### **Calculation of the State EITC**

Under current law, calculation of the state EITC is straightforward: the claimant simply multiplies the federal credit by the appropriate state percentage (4% for one child, 14% for two children or 43% for three or more children).

As noted, the wage-paying CSJ proposal could be structured so that wages paid for the CSJ would not count as earnings for the state EITC. If the IRS determines that these wages may be included for purposes of the federal EITC, W-2 participants who have earnings from both unsubsidized employment and a CSJ would have to calculate their state EITC separately using only the unsubsidized wages, rather than calculating the credit as a percentage of the federal credit. A separate schedule on the state income tax form would be needed for this calculation. Claimants who do not receive income from CSJs would continue to calculate the state EITC as a percentage of the federal credit.

Because of the structure of the EITC, this provision could result in a state credit that is higher or lower than the amount of credit that would be allowed if both the W-2 wages and unsubsidized earnings were counted, depending on the individual's overall level of income.

### **W-2 AGENCY CONTRACT AMOUNTS; FUNDING FOR W-2 CASH BENEFITS**

The previous sections of this paper addressed the structure of CSJ placements and the amount of cash benefits that should be provided for CSJ participants and transitional placements under W-2. A related issue is whether the proposed W-2 agency contract amounts should be adjusted if higher cash grants are adopted.

#### **Expected W-2 Agency Contract Amounts**

According to DWD, the following amounts (in millions) will be included in the W-2 agency contracts, which are scheduled to be provided to the W-2 agencies by June 30, 1997:

	<u>1997-98</u>	<u>1998-99</u>
Cash Benefits and Trial Job Subsidies*	\$155.4	\$158.7
W-2 Office Costs and Ancillary Benefits	104.1	115.3
Refugee and Long-Term Case Supplement	8.2	9.8
Contingency Fund	<u>25.0</u>	<u>0.0</u>
<b>Total</b>	<b>\$292.7</b>	<b>\$283.8</b>

\*These figures are net of sanctions and amounts paid under separate tribal programs. DWD indicates that the amounts that will appear in the contracts will total \$160.6 million statewide in the first year and \$164.9 million in the second year. The higher amounts in the contracts include sanctions and tribal benefits. However, the amounts for sanctions and tribal benefits (\$5.2 million in 1997-98 and \$6.2 million in 1998-99) will not be made available to the agencies.

As shown above, the net contract amounts for W-2 agencies will provide \$292.7 million in 1997-98 and \$283.8 million in 1998-99 for cash benefits and trial job subsidies, W-2 office costs and ancillary benefits, a special supplement for counties that have a high number of long-term and refugee cases and a contingency fund of \$25.0 million. The contingency fund will be held by DWD and made available to local agencies in case of an economic downturn. Funding for subsidized employment and office costs do not include funds for tribal agencies that are expected to conduct a separate program as permitted under the federal TANF provisions.

In August, 1996, the Department issued a request for proposals (RFP) for potential W-2 agencies. The RFP contained maximum amounts for W-2 office costs and benefits that would be provided to each agency by county. The contract amounts shown above are the same amounts as were in the RFP, except for the treatment of sanctions and tribal benefits. These amounts were based on an estimated starting caseload of 48,800 in September, 1997. Benefit amounts were based on the current cash grants of \$555 for CSJ participants and \$518 for transitional placements.

According to the Department, agencies will have access to all of their allocation. To the extent that the agency has excess savings from benefits, those amounts would be available to be used for allowable administrative costs. The Department anticipates that in December of 1998 and 1999, a calculation of any unused benefit and office costs will be made, and any unexpended balance will be divided between the agency, the state and invested in the community by the agency. The W-2 agency would be authorized to retain savings up to 7% of the contract amount. Any additional savings above 7% would be shared as follows: (a) 10% of the excess would be available for unrestricted use by the W-2 agency; (b) 45% would be retained by the state to reduce state costs; and (c) 45% would be retained by the agency for investment in the community, under a plan approved by DWD.

## **Funding for Higher Grant Amounts**

The Governor's proposal would provide no additional funding to W-2 agencies to account for the payment of higher grants to participants. According to the administration, although the W-2 agencies would be required to provide higher benefits to CSJ and transitional placements, agencies also will be serving a lower caseload than previously anticipated. As noted, the RFP was based on an estimated starting caseload of 48,800. In March, 1997, the current AFDC caseload was 41,898, including approximately 10,800 cases involving individuals who will not be eligible for W-2 employment positions (non-legally responsible relatives, individuals who are on AFDC for the sole reason that they are pregnant, and children whose parents receive SSI). Assuming further declines in the caseload in the next several months, the starting caseload for W-2 is currently projected at 29,200, a reduction of 40% from the caseload estimated in the RFP.

Furthermore, it is estimated that, on a statewide basis, the contract amounts would be sufficient to cover the higher grants. As noted, based on current caseload projections, cash benefits under W-2 are estimated at \$136.7 million in 1997-98 and \$154.2 million in 1998-99 with the higher grants recommended by the Governor. These estimates are lower than the net contract amounts for subsidized employment by \$18.7 million in the first year and \$4.5 million in the second year. Therefore, it appears that sufficient funding will be provided to W-2 agencies, even with the higher grant amounts. If the current grants were retained, the contract amounts would be higher than estimated benefit costs by \$40.7 million in the first year and \$28.2 million in the second year.

From the perspective of the W-2 agencies, however, it could be argued that caseload declines were anticipated when the bids for agency contracts were submitted to DWD, and that the lower caseloads were factored into the agencies' bids. If agencies structured their bids based on the assumption that caseloads would continue to fall, increasing the grant amounts after the contract bids were received could be viewed as inappropriate. Therefore, it could be argued that, if the grant amounts are increased (with or without the wage-paying CSJ option), then additional funding should be provided to agencies to cover the additional expenses.

If the Committee chose to provide the full additional cost of the higher grants recommended by the Governor, additional funding of \$22.0 million in 1997-98 and \$23.7 million in 1998-99 would be needed. If Option 2 regarding the wage-paying CSJ proposal were also adopted, additional funds of \$3.7 million in 1997-98 and \$3.1 million in 1998-99 would be needed. If additional funding is provided, the Committee could direct the Department to ensure that funding for the increased grants is allocated to W-2 agencies according to need.

### **Reserve for Milwaukee County**

As noted above, it appears that, statewide, there is sufficient funding in the current anticipated contract amounts for W-2 agencies to fund the proposed increase in benefits. However, because the caseload decline in Milwaukee County has been lower than for other

counties, it is estimated that the amount that will be allocated to Milwaukee County for cash benefits will not be sufficient to cover the costs of the higher grant amounts. Specifically, it is estimated that Milwaukee County providers would incur costs of \$8.9 million in 1997-98 and \$19.8 million in 1998-99 above the contract amounts if the CSJ and transitional grants were increased as proposed by the Governor.

In a letter to the Joint Committee on Finance, the administration has proposed the creation of a reserve fund of \$11 million in 1997-98 and \$10 million in 1998-99 for Milwaukee County to help offset the costs of the increased grants proposed by the Governor. The administration's proposed reserve fund is \$7.7 million lower in the biennium than the estimated cost to Milwaukee County agencies of providing higher grants. However, the administration has indicated that Milwaukee County would be allocated 78% of the supplement for long-term and refugee cases, and would also be allocated approximately 40% of the contingency fund. In addition, based on assumptions of a lower caseload, office costs should decline. This could provide another source of funding to offset the costs of providing increased grants. Finally, the administration indicates that providing \$21 million in the biennium would create an incentive to the W-2 agencies to further reduce caseloads. The reserve fund could be increased if Option 2 regarding wage paying CSJ placements is adopted.

The contract amounts would be sufficient to fund the costs of providing the current grants in Milwaukee County. Therefore, if the Committee does not approve the increased grants proposed by the Governor, the Milwaukee County reserve fund would not be needed.

#### **Use of Amounts Returned to DWD**

As discussed above, if W-2 agencies have excess funds at the end of the calendar year, some of those proceeds may be retained by DWD. Because these savings may or may not be realized, they have not been included as revenue for the W-2 program. The Committee may wish to modify the statutes to specify that the Department could not expend such funds, and would be required to add them to the balance of unexpended TANF revenues that would be carried forward to the next fiscal year.

#### **ALTERNATIVES TO BASE**

The following are alternatives regarding cash assistance for CSJ and transitional placements, including an optional wage-paying CSJ placement. The funding amounts for cash assistance paid under the W-2 program are shown as ALL FUNDS; these costs would be funded with a combination of federal TANF revenues and state GPR. As under current law, the options to provide the state EITC and homestead credit to W-2 participants would be funded entirely with state GPR and would be paid from the existing sum sufficient appropriations for these programs.

**A. Cash Benefits for CSJs and Transitional Placements; Agency Funding**

**Alternative 1**

Adopt the Governor's recommendation to increase benefits to \$673 for CSJs, \$628 for transitional placements, and \$673 for custodial parents of infants and adopt one of the following options regarding W-2 agency funding:

a. *Pass* Do not provide increased funding over the contract amounts to W-2 agencies to reflect the increased grants.

b. Provide \$11 million in 1997-98 and \$10 million in 1998-99 to create a reserve fund in Milwaukee County.

Alternative 1b	ALL FUNDS
1997-99 FUNDING (Change to Base)	\$21,000,000
[Change to Bill]	\$21,000,000]

c. Provide \$22.0 million in 1997-98 and \$23.7 million in 1998-99 to increase funding amounts for all W-2 agencies to cover the costs of the higher grants.

Alternative 1c	ALL FUNDS
1997-99 FUNDING (Change to Base)	\$45,700,000
[Change to Bill]	\$45,700,000]

*Dec Motion #5064 (FAIL)  
#3212 (FAIL)  
#5070 (PASS)*

MO# Alt #1a

ZJENSEN	<del>Y</del>	N	A
OURADA	<del>Y</del>	N	A
HARSDORF	<del>Y</del>	N	A
ALBERS	<del>Y</del>	N	A
GARD	<del>Y</del>	N	A
KAUFERT	<del>Y</del>	N	A
LINTON	<del>Y</del>	N	A
COGGS	Y	<del>N</del>	A
BURKE	Y	<del>N</del>	A
DECKER	<del>Y</del>	N	A
GEORGE	<del>Y</del>	N	A
JAUCH	Y	<del>N</del>	A
WINEKE	Y	<del>N</del>	A
SHIBILSKI	<del>Y</del>	N	A
COWLES	<del>Y</del>	N	A
PANZER	<del>Y</del>	N	A

AYE 12 NO 4 ABS