



Legislative Fiscal Bureau

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December 18, 1997

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Workforce Development--Section 13.10 Request Relating to KIDS Computer System
for Child Support Enforcement--Agenda Item VIII

BACKGROUND

Under federal law, every state must have a certified statewide automated child support system in place by October 1, 1997. This date is an extension from previous federal law, which required the automated systems to be in place by October 1, 1995. The Kids Information Data System (KIDS) was developed to replace the previous automated child support system, which did not meet the federal requirements. Since January, 1993, the state has contracted with IBM Global (formerly Integrated Systems Solutions Corporation) to develop the KIDS system in Wisconsin.

State operation of the KIDS system is generally funded at a 66/34 federal/state match. Federal funding for the development and conversion of automated child support systems was available at an enhanced 90/10 federal/state match until October 1, 1997, for expenses included in advance planning documents submitted before September 30, 1995.

The 1996 federal welfare reform legislation (P.L. 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) imposed a number of new requirements on states relating to child support enforcement, some of which will necessitate changes to the KIDS system. Federal funding for system modifications required by the new law will be provided at an enhanced 80% rate until September 30, 2001. However, the enhanced funding is capped at \$400 million over this period. Allocations to states will be distributed based on a formula set in federal regulations which takes into account the relative size of state child support caseloads and the level of automation needed to meet the federal requirements.

The federal Department of Health and Human Services (HHS) is required to promulgate final regulations for implementation of the new requirements for automated systems by August 22, 1998. System modifications required by the new federal provisions must be in place by October 1, 2000. However, the October 1, 2000, deadline will be extended by one day for each day that HHS fails to meet the deadline for final regulations.

CURRENT STATUS OF THE KIDS SYSTEM

As noted, the state has contracted with IBM Global since January, 1993, to develop and implement the KIDS system in Wisconsin. After several delays, the system was implemented statewide on September 4, 1996. The state received conditional federal certification of the pre-1996 federal requirements in August, 1997.

IBM Global completed initial development of the system in December, 1995, and performed system enhancements under a warranty contract which was to expire at the end of 1996. However, the Department of Workforce Development (DWD) has extended its contract with IBM Global until June, 1998. Vendor staff will continue to modify the system to respond to county concerns, do other state-specific work (items not required by federal law) and implement the change orders required by the new federal provisions. IBM Global will also be retained during this period for ongoing maintenance of the system along with state personnel.

During deliberations on the 1995-97 biennial budget, it was uncertain whether ongoing operation of the KIDS system would be conducted by a private vendor, state staff or a combination of private and state resources. The Department now anticipates that the current contract with IBM Global will be extended beyond the June, 1998, ending date, and that ongoing maintenance of the system will continue to be performed by the vendor along with state employees and other contract staff through the 1997-99 biennium.

KIDS BUDGET UNDER ACT 27

Operation of the KIDS system is conducted by IBM Global and state staff in the Bureau of Information Technology Services (BITS) within DWD. Under 1997 Wisconsin Act 27 (the 1997-99 biennial budget), a total of \$31,589,500 (\$11,140,600 GPR and \$20,448,900 FED) in 1997-98 and \$30,547,200 (\$11,055,900 GPR and \$19,491,300 FED) in 1998-99 is provided for ongoing operation and system enhancements to the KIDS system. However, half of the state funding in 1997-98 (\$5,570,300) and all of the state funding in 1998-99 was placed in the Joint Committee on Finance's appropriation for the following reasons:

a. Usage of mainframe services for the system during 1996-97 significantly exceeded previous estimates. At the time the budget was being considered, it was uncertain as to why mainframe usage was higher than anticipated and what level of usage could be expected in the future. Also, it is possible that difficulties experienced by county staff in using the system

contributed to the higher rates. It was believed that additional experience in operating the system would allow ongoing usage rates to be estimated with greater certainty.

b. There was also uncertainty about the total cost of the system modifications required by federal law and their anticipated completion dates. DWD indicated that it was in the process of preparing a more precise work schedule and cost estimates for the welfare reform change orders.

c. The Legislative Audit Bureau (LAB) was conducting a comprehensive evaluation of the KIDS system. A discussion of the Audit Bureau's findings and recommendations is presented in a later section of this paper.

The following table shows the KIDS budget for 1997-99 under Act 27.

TABLE 1

KIDS Budget Under Act 27

	1997-98			1998-99		
	<u>GPR</u>	<u>FED</u>	<u>Total</u>	<u>GPR</u>	<u>FED</u>	<u>Total</u>
Contractor Fees						
Ongoing system maintenance	\$2,008,300	\$3,898,400	\$5,906,700	\$2,008,300	\$3,898,400	\$5,906,700
Change orders required by federal law	760,000	3,040,000	3,800,000	576,000	2,103,400	2,679,400
Other system modifications	87,700	170,300	258,000	87,700	170,300	258,000
BITS Costs						
State staff	710,600	1,580,600	2,291,200	801,500	1,555,800	2,357,300
Capital/Installation/Infrastructure	125,900	244,500	370,400	125,900	244,500	370,400
800 Number/help desk/voice response	205,000	397,900	602,900	205,000	398,000	603,000
LAN Service	241,200	468,200	709,400	248,400	482,300	730,700
Maintenance	14,700	28,600	43,300	15,200	29,400	44,600
DWD System fee	38,500	74,700	113,200	39,600	77,000	116,600
InfoTech Charges						
Mainframe	4,479,700	6,172,300	10,652,000	4,479,700	6,172,300	10,652,000
E-Mail	34,000	66,000	100,000	23,500	45,600	69,100
Telecommunications	572,000	691,100	1,263,100	548,400	632,500	1,180,900
Supplies and Services						
Centralized mailing	1,124,100	2,182,100	3,306,200	1,157,800	2,247,600	3,405,400
Credit bureau reports	17,000	33,000	50,000	17,000	33,000	50,000
General supplies and services	<u>721,900</u>	<u>1,401,200</u>	<u>2,123,100</u>	<u>721,900</u>	<u>1,401,200</u>	<u>2,123,100</u>
Total Budget	\$11,140,600	\$20,448,900	\$31,589,500	\$11,055,900	\$19,491,300	\$30,547,200
Amount in JFC Appropriation	\$5,570,300			\$11,055,900		

CURRENT REQUEST

The Department of Workforce Development has submitted a request, under s. 13.10, to transfer \$5,231,800 GPR in 1997-98 from the Committee's appropriation for operation of the KIDS system from January, 1998, through June, 1998, and to implement change orders required by federal law. The Department now estimates that KIDS expenditures for all of 1997-98 will total \$32,744,100 (\$10,802,100 GPR and \$21,942,000 FED). The total budget is \$1,154,600 more than the Act 27 amount. However, due to an increase in the estimated amount of federal funding, the GPR share of the KIDS budget is estimated to be lower than the Act 27 figure by \$338,500. Therefore, \$338,500 GPR would remain in the Committee's appropriation in 1997-98 if this request is approved. Due to continued uncertainty regarding the cost of the system, the Department requests that this funding not be committed by the Committee for other purposes.

Table 2 shows the revised KIDS budget for 1997-98 under this request along with the differences from the amounts budgeted in Act 27. The following sections outline the Department's request and discuss items that differ from the amounts adopted in the budget bill.

TABLE 2

Revised 1997-98 KIDS Funding Request

	Revised KIDS Budget			Difference From Act 27		
	GPR	FED	Total	GPR	FED	Total
Contractor Fees						
Ongoing system maintenance	\$2,008,200	\$3,898,400	\$5,906,600	-\$100	\$0	-\$100
Change Orders required by federal law	663,100	2,652,300	3,315,400	-96,900	-387,700	-484,600
Other system modifications	1,117,700	2,169,700	3,287,400	1,030,000	1,999,400	3,029,400
BITS Costs						
State staff	662,500	1,555,200	2,217,700	-48,100	-25,400	-73,500
Capital/Installation/Infrastructure	150,000	600,000	750,000	24,100	355,500	379,600
800 Number/help desk/voice response	163,200	316,800	480,000	-41,800	-81,100	-122,900
LAN Service	138,200	268,300	406,500	-103,000	-199,900	-302,900
Maintenance	14,700	28,600	43,300	0	0	0
DWD System fee	221,100	429,300	650,400	182,600	354,600	537,200
InfoTech Charges						
Mainframe	3,951,700	6,700,300	10,652,000	-528,000	528,000	0
E-Mail	8,800	17,200	26,000	-25,200	-48,800	-74,000
Telecommunications	314,300	610,200	924,500	-257,700	-80,900	-338,600
Supplies and Services						
Centralized mailing	648,800	1,259,500	1,908,300	-475,300	-922,600	-1,397,900
Credit bureau reports	17,000	33,000	50,000	0	0	0
General supplies and services	<u>722,800</u>	<u>1,403,200</u>	<u>2,126,000</u>	<u>900</u>	<u>2,000</u>	<u>2,900</u>
Total Budget	\$10,802,100	\$21,942,000	\$32,744,100	-\$338,500	\$1,493,100	\$1,154,600
Amount Available to DWD						
Under Act 27	<u>5,570,300</u>					
Current Request	\$5,231,800					

Contractor Fees

The request includes \$12,509,400 for contractor fees. This funding would be paid to IBM Global and other contractors for maintenance of the system, change orders requested by counties and associated with the transition to the Wisconsin Works (W-2) program and change orders necessitated by the new federal provisions.

Ongoing Systems Maintenance. Funding for systems maintenance is \$5,906,600 (\$2,008,200 GPR and \$3,898,400 FED), which is the same amount approved for 1996-97 at the Committee's December, 1996, s. 13.10 meeting. This funding would be paid to IBM Global for ongoing maintenance of the system, along with BITS staff and other contract staff, and is based

on the current contract with IBM Global. As noted, the Department expects to extend its contract with IBM Global to provide these services through the 1997-99 biennium.

As outlined below, the Legislative Audit Bureau believes that savings could be realized if maintenance of the system was performed by state staff rather than a private vendor, and recommends that DWD establish a deadline by which state staff will assume complete responsibility for the maintenance of KIDS.

Welfare Reform Change Orders. The request includes \$3,315,400 (\$663,100 GPR and \$2,652,300 FED) for change orders to make the system conform with the new federal requirements. The change orders would be performed by IBM Global under its contract with the Department. The total contract is \$9,222,000 annually. The \$3,315,400 amount is the remainder of the contract after the funding of \$5,906,600 is allocated for ongoing system maintenance. If less funding is needed for maintenance of the system, the amount that could be devoted to completing the welfare reform change orders could be increased.

In its December, 1996, request, the Department estimated that the new federal provisions would require change orders to the KIDS system costing approximately \$11,500,000 all funds over three years (1996-97 through 1998-99). Three areas of federal law accounted for about \$8,700,000 of this total: the requirement for a state directory of new hires, modifications regarding the distribution of child support (including required centralized receipt and disbursement) and the requirement for states to enter into agreements with financial institutions to develop an automated data match system to be used in securing the assets of delinquent child support obligors. The remaining \$2,800,000 in change orders related to a number of other new federal provisions, including requirements regarding the collection and use of social security numbers, denial and suspension of drivers' licenses and professional licenses and procedures regarding paternity establishment.

Many of the federal requirements have short time frames. For example, the state directory of new hires must be established and operational by April 1, 1998. By May 1, 1998, each state directory must conduct automated matches of the social security numbers of reported employees against the social security numbers of records in the state child support case registry and report specified information to the state child support agency. A centralized receipt and disbursement system must be in effect by October 1, 1999. Federal law requires most of the other new provisions to be in effect by April 1, 1998.

In December, 1996, funding of \$5,000,000 was provided in 1996-97 to begin implementing these change orders. Half of this funding was placed into unallotted reserve because it was not certain how much the change orders required by federal law would cost and how much of this work could be completed during the last six months of 1996-97.

To date, the Department has not made significant progress in implementing the federal change orders, and the \$5 million that was appropriated in 1996-97 has not been expended for these items. The Department indicates that the reason for this delay is that its efforts throughout

1996-97 were primarily directed toward achieving federal certification of the pre-1996 requirements by the October, 1997, deadline. At this time, the total cost of these change orders remains uncertain, as do scheduled completion dates. Although it is clear that significant amounts of funding will be needed, it is difficult to precisely estimate the cost of these modifications. As outlined below, the Audit Bureau recommends that DWD include in its 1998-99 KIDS funding request a report that addresses: (a) progress made toward modifying KIDS in order to meet current state and federal requirements; (b) any unexpected problems encountered in modifying the system, steps taken to address these problems and the associated costs; and (c) plans for implementing centralized receipt and disbursement of child support payments. The Committee could approve the requested funding for 1997-98 and direct the Department to report the information recommended by the Audit Bureau in its 1998-99 request.

Other System Modifications. The request includes \$3,287,400 (\$1,117,700 GPR and \$2,169,700 FED) for payments to vendors for other enhancements to the system. As under Act 27, funding of \$258,000 would be provided for modifications to the CARES computer system for economic support programs. These changes are intended to ensure that the CARES system is compatible with the KIDS system. The funding amount reflects the cost of two programmers from the CARES contractor (Deloitte and Touche) for 2,016 hours per year at \$64 per hour.

Three new contracts are also included in this funding amount. First, \$1,040,600 would be provided to System and Processing Resources (SPR) for testing, maintenance of data tables used by the system and support services to counties. In addition, \$300,000 would be provided to a vendor for preliminary design work for feeder data bases which transfer information from other state agencies to the KIDS system. Also, \$100,000 would be provided for data "clean-up" services. The Department currently has a contract with SPR; the other two contractors have not been selected at this time.

The request also includes \$1,588,800 for costs of developing and implementing the new hire reporting system required by federal law. Total development costs through 1997-98 are estimated at \$1.7 million. However, about \$43,000 of this amount is accounted for in other parts of DWD's overall budget and funding of approximately \$860,000 is available from previous encumbrances. Therefore, the 1997-98 KIDS share of development costs is \$806,900. In addition, \$781,900 is requested for implementation of the system beginning January 1, 1998. Implementation costs in future years will be approximately double this amount to reflect a full year of funding.

BITS Costs

State Staff. The request includes \$2,217,700 (\$662,500 GPR and \$1,555,200 FED) for existing state positions and contract staff that work with IBM Global on maintenance of the system and certain modifications. This is a decrease of \$73,500 from the Act 27 amounts, which reflects a modification in staffing patterns. The Act 27 estimates assumed that 23.5 positions would work 1,705 hours at a cost of approximately \$57 per hour. Of these positions, 18.5 were

assumed to be funded with 66% FED and five were assumed to be funded with 80% FED. The new estimates assume that 15 positions will be funded with the regular 66% matching rate throughout the year, five positions will be funded at the 80% federal rate in the first six months of the year and 10 positions will be funded at the enhanced rate during the last six months of the fiscal year. In addition, the hourly rate has been increased from \$57 to \$59. There is also a slight reduction in funding for other contract staff.

Other BITS Costs. The request includes funding of \$750,000 (\$150,000 GPR and \$600,000 FED) to provide computer equipment to county agencies as required under Act 27. Act 27 had also included \$370,400 for state equipment purchases in 1997-98; these acquisitions will likely be deferred.

The request includes \$480,000 (\$163,200 GPR and \$316,800 FED) for the KIDS help desk, 800 number and automated voice response unit. This is a reduction of \$122,900 from the Act 27 amount, based on actual costs during the first several months of this fiscal year.

In addition, the request includes \$406,500 (\$138,200 GPR and \$268,300 FED) for the KIDS share of costs of the local area network operated by DWD's Division of Administrative Services. Compared to Act 27, this is a decrease of \$302,900, which reflects a change in the way costs for the network are allocated among the agency's divisions. The request also includes \$650,400 (\$221,100 GPR and \$429,300 FED) for the KIDS share of the costs of DWD's mainframe computer. This is an increase of \$537,200 over the Act 27 amount due to increased costs incurred by the Department for these services and a reallocation of costs among the operating divisions. The net impact of these two items is an increase over the Act 27 amounts of \$234,300.

Finally, as under Act 27, computer equipment maintenance costs are estimated at \$43,300, based on current maintenance expenses.

InfoTech Charges

The InfoTech budget includes the fee paid to DOA for mainframe services, electronic mail and connection to the consolidated data network (CDN). As under Act 27, the annual mainframe fee is estimated at \$10,652,000 (\$3,951,700 GPR and \$6,700,300 FED). Through the first four months of the fiscal year mainframe costs have averaged about \$90,000 per month; therefore, the \$10.7 million annualized cost seems reasonable.

Mainframe usage remains one of the largest cost components for the system. As outlined below, the Legislative Audit Bureau believes that savings could be realized through programming changes to make the system perform data processing functions more efficiently. The Audit Bureau recommends that DWD work with the vendor and DOA InfoTech staff to improve the use of available new technology, and conduct a review of KIDS programming, so that changes can be made to improve the data processing efficiency of the system and that DWD report on

progress made toward improving the system's processing efficiency in its request for KIDS funding in 1998-99.

The request for email services provided by InfoTech is \$26,000 (\$8,800 GPR and \$17,200 FED), a decrease of \$74,000 from the Act 27 amount. The reduced funding reflects the elimination of one of the charges imposed by DOA for these services and that DWD has eliminated email for communications with counties and, instead, implemented an Internet-based system.

The request also includes \$924,500 (\$314,300 GPR and \$610,200 FED) for telecommunications. Of these funds, \$735,400 would be for connection to the CDN, a reduction of \$236,600 from the Act 27 budget. This cost is lower because the Act 27 estimate assumed that a more costly, high-capacity line would be installed by DOA; however, this has not occurred. In addition to CDN charges, \$291,100 (\$99,000 GPR and \$192,100 FED) would be provided for an equipment charge by DOA, as under Act 27. This charge is being paid off over three years, from 1996-97 to 1998-99. In the future, these charges will be included in the fee for mainframe services.

Supplies and Services

The request includes \$1,908,300 (\$648,800 GPR and \$1,259,500 FED) for centralized mailing of child support bills and statements, a decrease of \$1,397,900 from Act 27. The Act 27 amount assumed that 9.2 million pieces of mail would be processed in each year at a cost of 35 cents each, with an annual 3% adjustment for inflation. Based on additional experience, DWD now estimates that about 5.5 million pieces of mail will be processed each year.

As under Act 27, the request also includes \$50,000 for credit bureau reports regarding individuals who are delinquent in paying child support. Finally, funding of \$2,126,000 (\$722,800 GPR and \$1,403,200 FED) would continue to be provided for general supplies and services associated with the system.

LEGISLATIVE AUDIT OF THE KIDS SYSTEM

Since the KIDS system was implemented statewide in September, 1996, a number of concerns have been expressed by parents, clerks of court and county child support agencies regarding problems encountered in operation of the system. These include delays in the distribution of tax intercept funds owed to families, the need for manual processing and intervention to achieve daily reconciliation and balancing, the issuance of delinquency notices to individuals who are not delinquent and the issuance of payment coupons to individuals who pay support through income withholding and to persons who no longer have child support responsibilities. Questions have also been raised regarding the overall cost of the system and the

potential loss of federal child support incentives at the county level, because the system may reduce the cost-effectiveness of local enforcement activities.

In response to these concerns, the Joint Legislative Audit Committee approved an audit of the system by the Legislative Audit Bureau on March 6, 1997. The Audit Bureau conducted a wide-ranging review of the KIDS system, including its development and implementation, its effect on child support collection efforts, state oversight of the contract with IBM Global and strategies that DWD could use to reduce operating costs, modify the system to bring it into compliance with the new federal requirements, make improvements to assist users of the system at the county level and enhance the types of management information available from the system. The audit was started during the week of March 17, and the final report was released on December 15, 1997.

Major Findings

The Audit Bureau's report includes the following major findings:

- Throughout development and implementation of the system, the Department has consistently placed higher priority on meeting the deadline for federal certification than on ensuring that the system would efficiently and effectively meet the needs of county staff. This has resulted in Wisconsin being one of only 17 states that met the October 1, 1997, federal deadline, but has also contributed to the problems encountered in implementing the system and has reduced the ongoing effectiveness of the system. For example, the system has not fully automated the process of receipting and disbursing support payments and the system is unavailable to county staff for significant periods of time due to scheduled and unscheduled downtime. Also, county staff time must be used to answer questions by parents who have been erroneously charged interest or received inaccurate notices and letters regarding their support obligations. The full potential of the system will not be realized if modifications are not made to address county concerns.

- Although some management information is available from the system, the amount and quality of this data limited the Audit Bureau's ability to evaluate the effect of the system on child support collections and costs and state and county staff efficiency and effectiveness. Based on available data, the audit report concluded that child support collections for cases in which counties provided enforcement services increased by 4.4% in 1996-97 (following implementation of KIDS in September, 1996) over the previous year. This was significantly lower than the increases in each of the four years prior to implementation of the system. Adequate data was not available to determine the system's impact on child support collections for cases that do not receive county services. The Audit Bureau also found that, to date, the system has not significantly reduced the rate of growth in county child support administrative costs.

- Annual operating costs are equal to nearly one-half of the cost of developing the system. Although these expenses appear to be necessary to continue operation of the system, there may be opportunities to reduce costs in the future. Specifically, programming changes could be made

to reduce the amount of data processing costs (mainframe charges) incurred by the system. Also, the Audit Bureau believes that efficiencies could be achieved by having state staff take over ongoing operation of the system from the vendor.

Recommendations

To address the concerns outlined above and more specific issues discussed in the report, the Audit Bureau specifically recommends that DWD:

- Reexamine the reporting capabilities of KIDS and develop or modify management reports on collections, costs, and other performance indicators that will provide county and state child support managers with the accurate and timely information needed to improve program oversight and performance. This information could also be used to more accurately evaluate the effectiveness of the KIDS system.

- Work with the vendor and DOA InfoTech staff to improve the use of available new technology, and conduct a review of KIDS programming, so that changes can be made to improve the data processing efficiency of the system; establish a deadline by which state staff will assume complete responsibility for the maintenance of KIDS; and report on progress made toward improving the system's processing efficiency in its request to the Joint Committee on Finance for KIDS funding in 1998-99. In its response to the audit, the Department indicates that it will review options for transferring additional system maintenance from vendor staff to state personnel.

- Include in its 1998-99 KIDS funding request a report that addresses progress made toward modifying KIDS in order to meet current state and federal requirements; any unexpected problems encountered in modifying the system, steps taken to address these problems and the associated costs; and plans for implementing centralized receipt and disbursement of child support payments.

The Audit Bureau also identified a potential source of funding to make improvements to the system to address some of the concerns raised by counties. Because of a retroactive provision of the 1996 federal welfare reform legislation, the Department expects to receive at least \$1.25 million from the federal government in February, 1998. These funds are reimbursement for state development expenses that were initially matched with 66% federal funds but have now been determined to be eligible for the 90% enhanced federal matching rate. Since these funds are considered a reimbursement of state revenues, they can be matched with 66% federal revenues if used for child support enforcement activities, including enhancements to the KIDS system. This would generate additional federal revenues of \$2.45 million, for a total of \$3.7 million.

The Audit Bureau recommends that the Joint Finance Committee authorize DWD to use any excess matching funds it receives for the initial development of KIDS to correct existing

problems that affect county staff. Without such authorization, these revenues would lapse to the general fund. In addition, the report recommends that DWD submit to the Joint Legislative Audit Committee by March 31, 1998, a detailed plan, including completion dates, for using these funds to resolve ongoing problems related to KIDS. Finally, the Audit Bureau recommends that DWD report quarterly to the Audit Committee, beginning in June, 1998, on the progress it has made toward addressing system problems, including the amounts expended to do so.

SUMMARY

Funding of the KIDS system is essential to the operation of state and county child support enforcement activities. In Act 27, a portion of KIDS funding was placed into the Committee's appropriation because of uncertainty regarding the costs of mainframe usage and system enhancements required by federal law and because the Legislative Audit Bureau was conducting a wide-ranging review of the system.

At this time, the mainframe costs continue to be higher than initially estimated. However, because the system has been operational for more than one year, there is greater certainty regarding these costs. As noted, the Audit Bureau believes that mainframe charges can be reduced through programming changes to the system and recommends that DWD review the system to identify and implement such modifications.

There continues to be uncertainty regarding the costs and completion dates of the change orders required by federal law. According to the Department, IBM Global is preparing a more precise schedule for these enhancements, which is not available at this time. It is clear that significant funds will be needed for these modifications, but it is difficult to estimate these costs without this information. Given, the available data, the Department's request does not appear to be unreasonable. In order to better evaluate future requests, the Audit Bureau recommends that DWD include a report on its progress in implementing the federal change orders with the 1998-99 KIDS funding request.

The Audit Bureau also recommends that the Finance Committee authorize DWD to use any excess matching funds it receives for the initial development of KIDS (estimated at \$3.7 million in 1997-98) to correct existing problems that affect county staff. Because the Department has not prepared a proposal for the use of such funds at this time, the Committee could direct the Department to prepare a subsequent request for the use of these funds, and submit the request for approval by the Committee under section 13.10.

ALTERNATIVES

1. Approve the Department's request to transfer \$5,231,800 GPR in 1997-98 from the Committee's appropriation under s. 20.865(4)(a) to DWD's appropriation under 20.445(3)(a) for the KIDS computer system.

2. Approve the Department's request to transfer \$5,231,800 GPR in 1997-98 from the Committee's appropriation under s. 20.865(4)(a) to DWD's appropriation under 20.445(3)(a) for the KIDS computer system. In addition, direct the Department to:

a. Include in its 1998-99 KIDS funding request a report on progress made toward improving the system's processing efficiency and a report that addresses progress made toward modifying KIDS in order to meet current state and federal requirements; any unexpected problems encountered in modifying the system, steps taken to address these problems and the associated costs; and plans for implementing centralized receipt and disbursement of child support payments. These reports were recommended by the Legislative Audit Bureau.

b. Prepare a proposal for the use of any excess matching funds it receives for the initial development of KIDS (estimated at \$3.7 million in 1997-98) to correct existing problems that affect county staff and submit a subsequent request for the use of these funds for approval by the Committee under section 13.10. Direct the Department to not expend these monies without approval by the Committee.

Prepared by: Rob Reinhardt

MO# 2(a)(b)

BURKE	<input checked="" type="radio"/>	N	A
DECKER	<input checked="" type="radio"/>	N	A
GEORGE	<input checked="" type="radio"/>	N	A
JAUCH	<input checked="" type="radio"/>	N	A
WINEKE	<input checked="" type="radio"/>	N	A
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LINTON	<input checked="" type="radio"/>	N	<input checked="" type="radio"/>
COGGS	<input checked="" type="radio"/>	N	A



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December 18, 1997

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Elections Board--Section 13.10 Request for Funds for Electronic Filing Enhancements Project--Agenda Item IX

REQUEST

The Elections Board requests a supplement of \$138,200 GPR from the Joint Committee on Finance's appropriation to fund the development of electronic filing enhancements to the Board's computerized data base. Of the total, \$102,800 GPR would be a release of a reserved amount in the Committee's appropriation and the remaining \$35,400 GPR would be from the unreserved balance of the Committee's appropriation. These enhancements to the Board's computerized data base would allow registrants to file required campaign finance reports electronically and permit the public to electronically access election and campaign finance information.

BACKGROUND

The Elections Board originally requested \$102,800 GPR for electronic campaign filing enhancements in its 1997-99 budget request, in addition to a request for funding for the conversion of the agency's data base system. Funding for both of these requests was ultimately included by the Legislature in 1997 Wisconsin Act 27. Each of these budget initiatives is described in more detail below.

Conversion of data base. The Board requested one-time funding (\$168,400 GPR) for the conversion of its existing computerized data base. The requested funding was for contract staff to rewrite and convert the existing computer data base system -- State of Wisconsin Elections Board Information System (SWEBIS)--from a system utilizing the Ingres data base application

to a system using a new data base application (Oracle). The requested funding was based on the estimated number of contractor hours (3,368) that would be required to accomplish the conversion of the data base at a cost of \$50 per hour.

The Joint Committee on Finance added the amount requested by the Board as part of the 1997-99 state budget. However, because it was felt that the specific cost to complete the conversion would depend on a more precise estimate of the number of hours required to do the conversion, the Committee placed the funds in unallotted reserve for release by the Department of Administration (DOA) once the actual scope of the project and a detailed estimate of hours required to complete the project was determined.

The Board staff actually began work on the conversion of its data base in the spring of this year. The Board expended \$43,300 GPR in 1996-97 for the expenses related to conversion project. In late October, following publication of the budget, the Board requested release of the \$168,400 GPR from unallotted reserve. On December 8, 1997, DOA released \$84,200 GPR from unallotted reserve for costs associated with the conversion project. Staff from DOA indicates that the Board may request release of the additional funds from unallotted reserve for the conversion project when the \$84,200 GPR has been expended and an updated report on the conversion project, including hours and costs remaining, is submitted to DOA.

Electronic filing enhancements. The Board's 1997-99 budget submittal also requested one-time funding of \$102,800 GPR to develop further enhancements to the agency's new data base system (Oracle) which would allow registrants required to file periodic campaign finance reports with the Board to submit their reports electronically. In addition, the planned enhancements would allow the public to access the agency's elections and campaign finance data base by accessing a site on the internet. The agency indicated that the funding would be used to hire contract staff to design, develop and install the electronic filing enhancements. The requested funding amount was based on an estimate of the number of contractor hours, (2,056), that would be required, at a cost of \$50 per hour.

The Legislature added the one-time funding of \$102,800 GPR requested by the Board for electronic filing enhancements to the 1997-99 budget. Funding for the project was placed in the Joint Committee on Finance's appropriation for release to the Elections Board. This was consistent with an approach considered by the Joint Committee on Finance but not adopted when the Committee voted not to provide the requested funding. That approach to providing the funding was premised on the expectation that the two projects would be undertaken sequentially.

The Board's request identifies total project costs of \$151,700. This amount includes: (1) the requested \$138,200 for software development by the contractor; and (2) \$13,500 for the cost of installing and operating an improved telecommunications link. The telecommunications link will provide users with faster access to the website for both filing and data downloading purposes. The Board estimates that the cost for installation of this line will be \$1,500 with monthly costs of approximately \$1,000. However, the Board has not requested funding for the link at this time. Rather, the agency indicates that it intends to submit a s. 16.515 request for

PR funding in the spring of 1998, when the improved link will be needed. The Board believes it can meet these additional costs in this biennium through the use of an expected balance (approximately \$12,000) in its separate materials and services program revenue account that exceeds its authorized spending authority of \$25,400 PR annually.

ANALYSIS

The electronic filing enhancements project includes two main components: (1) development of software that will enable registrants to file campaign finance reports electronically; and (2) development of an internet site which would allow the public to access campaign finance (and other Elections Board) data electronically.

Description of electronic enhancements. The Board anticipates that upon completion of the project registrants will be able to access software which will allow them to file campaign finance reports electronically. It is planned that the software would enable registrants to: (1) electronically generate a complete campaign finance report including supplemental reports for the Wisconsin Election Campaign Fund and late campaign activity reports; (2) perform self-audits on the reports; (3) check indicators for detecting certain potential practice violations prior to actual filing; (4) generate reports for checking contribution limitations including the 45% and 65% contribution limits; (5) balance campaign checking accounts; (6) compile campaign bookkeeping records to assist in completing reports; (7) print labels for mailings to contributors; (8) make notations on a contributor's records; and (9) convert records to a format that can be filed electronically with the Elections Board. The Board estimates that a registrant would need either a 486 computer capable of running Windows 95 or a MacIntosh computer running System 7.5, or later version, to use the proposed software.

The second component of this project, the development of an internet site, would allow registrants to: (1) complete and file campaign registration statements over the internet; and (2) access forms for printing and submission electronically, include special reports of late campaign activity. In addition, the web site would enable both registrants and the general public to: (1) access data in the Board's data base to search, sort, retrieve and download campaign finance or election results data; (2) review copies of manuals, statutes, administrative code and Board meeting minutes and opinions; and (3) review other information including candidates' checklist, election and campaign finance calendars, special alerts and a list of the Board's membership.

Use of the electronic filing enhancement. In its request, the Board staff indicates that it will recommend that the Board promulgate administrative rules regarding electronic filing of campaign finance reports. At this time, it has not been decided whether electronic filing would be entirely voluntary or whether registrants with campaign activity (either contributions or disbursements) of some amount (possibly \$20,000 or more) would be required to file electronically. In this connection it may be noted that 1997 AB 150, as passed by the Assembly, would provide for mandatory electronic filing if a registrant has \$20,000 or more contributions during a campaign period, initially applicable with reports required to be filed after June 30,

1999. This bill (ASA 1 with three amendments) passed the Assembly (98-0) and is currently in the Senate Judiciary, Campaign Finance Reform and Consumer Affairs Committee.

Timetable for the project. The Board anticipates that the data base conversion project which is underway, if not combined with the electronic enhancement project, will be completed by the end of March. The Board, however, has requested release of the funding for electronic enhancement project prior to the completion of the data base conversion project to allow the two enhancements to be developed together. There are no cost savings anticipated by implementing the electronic enhancement together. However, the Board indicates two reasons why it is requesting release of the electronic funding for the electronic filing enhancement prior to the completion of the conversion of its data base.

First, the Board argues that proceeding with the electronic enhancements now along with the data base conversion project will be more efficient and ensure a more functionally integrated product than adding it to a completed application. Second, the Board notes that if the electronic filing application is done at the same time as the data base conversion, the electronic filing enhancements would be available earlier allowing for more product testing by voluntary users prior to the fall elections when requirements may be in place for mandatory electronic filing. The Board indicates that if development of the electronic filing enhancement occurs at the same time as the conversion, it is estimated that both projects could be completed around May 1, 1998, because the contractor would allocate more staff resources to the project immediately. However, if the electronic filing is not started until after the conversion is completed, the electronic enhancement would not begin until March of 1998 and most likely would not be completed until July or August. As a result, there would be less time available for testing the product prior to the fall election.

Therefore, while the funding for this project was premised on the understanding that the two projects would be undertaken consecutively, the Board has provided reasonable arguments for integrating the electronic filing enhancement project with the data base conversion project.

Funding of project. The electronic filing enhancement project and the associated funding of \$102,800 GPR was previously approved by the Legislature in the 1997-99 budget. This amount of funding was based on an estimated 2,056 hours needed to complete the project at a cost of \$50 per hour. In preparing its request, the Board reexamined the number of staff hours estimated to be needed to complete this project based on the experience of the contractor with the data base conversion project. In addition, the Board factored in an increase in the contractor's hourly rate from \$50 to \$58.

For the request, the Board used detailed estimates that the contractor developed regarding the number of hours expected to be required for each component of both the data base conversion project and the electronic filing enhancement project. These estimates are set forth in the following Tables 1 and 2. In addition, the estimated total cost of each project is provided based on the contractor's hourly rate(s).

TABLE 1**Estimated Hours Required for the Conversion Project**

<u>Project Component</u>	<u>1996-97</u>	<u>1997-98</u>		<u>Total</u>
	<u>Actual</u>	<u>Completed thru Nov.</u>	<u>Projected Remaining</u>	
System Tasks	62	125	489	676
Design	286	0	0	286
Data Migration	216	49	50	315
Registration	99	0	88	187
Campaign Finance	110	448	700	1,258
Election Management	93	283	160	536
Reporting & General	<u>0</u>	<u>0</u>	<u>120</u>	<u>120</u>
Total Hours	866	905	1607	3,378
Hourly Rate(s)	\$50	\$55/\$58	\$58	
Total Costs	\$43,300	\$52,000	\$93,200	\$188,500

The budget bill provided \$168,400 GPR in one-time funding for the data base conversion project. As shown in Table 1, the Board funded part of the cost (\$43,300 GPR) of the conversion project out of its 1996-97 budget. The estimated remaining cost for the project in 1997-98 would require funding of \$145,200 GPR, leaving \$23,200 GPR that could be used for part of the cost of the electronic filing project.

TABLE 2**Estimated Hours Required for the Filing Enhancement Project**

<u>Program Component</u>	<u>1997-98</u>		<u>Total</u>
	<u>Completed thru November</u>	<u>Projected Remaining</u>	
Upload/Download	0	360	360
Filer Application	54	1,334	1,388
Web Site	<u>10</u>	<u>624</u>	<u>634</u>
Total Hours	64	2,318	2,382
Hourly Rate(s)	\$55/\$58	\$58	
Total Estimated Cost	\$3,600	\$134,400	\$138,000

The estimated total hours required for the electronic filing enhancements based on the consultant's estimates is 2,382. Based on the costs already incurred and the remaining hours estimated to be needed (using the contractor's hourly rate of \$58 an hour), it is estimated that the total cost of project (excluding the cost of the improved telecommunications link) will be \$138,000 GPR. The Board's estimate (\$138,200 GPR) based on the same number of hours is slightly higher because it determined the cost based on a uniform hourly rate of \$58. However, some of the hours in 1997-98 were billed at \$55 thereby lowering the overall cost of the project. The Board expects that all remaining hours will be billed at \$58 per hour. However, if some of the hours are actually billed at a lower rate, additional cost savings can be expected.

The Legislature in 1997 Act 27 budgeted \$102,800 GPR for this project. Therefore, in order to fully fund the estimated cost (\$138,000), an additional \$35,200 GPR in one-time funding would have to be provided. The Committee could decide to release only the \$102,800 GPR originally budgeted for the project. If the Committee decided not to release any additional funds, the Board would presumably have to either reduce the scope of the project or meet any unfunded costs of the project from its operating budget.

In reviewing the agency's operating budget, including current expenditure levels and projected total costs, at this time it does not appear that the agency will have any significant funds in its GPR budget that would allow the Board to fund the additional costs of the electronic enhancement project. The Board's biennial GPR general program operations appropriation is budgeted at \$740,900 GPR in 1997-98, excluding funding for the computer conversion project. Depending upon what level of salaries are paid to two new employes that are in the process of being recruited, the Board may have some amount of salary savings from budgeted salaries in addition to the savings from the position vacancies. However, the Board also anticipates that it could be required to meet as much as \$20,100 GPR in 1997-98 in unsupplemented employe salary increase costs out of its existing budget, offsetting any potential salary savings.

The Committee could decide to release all of the funds requested by the Board for the project, \$138,200 GPR.

However, as noted above, one possible source of partial funding for the additional costs of this project is the amount estimated to be remaining from the conversion project (\$23,200 GPR). The Committee could release \$102,800 GPR from the Committee's reserved appropriation amount, direct that \$23,200 GPR be reallocated from the data base project to the electronic filing enhancement project and provide an additional supplement of \$12,000 GPR from the Committee's unreserved appropriation amount. This alternative would provide total funding of \$138,000 GPR for the project.

The Committee could also consider allocating \$12,000 PR from the Board's separate materials and services appropriation (which the Board has indicated it would plan to possibly use for the costs of the improved telecommunications link) in lieu of providing a supplement of \$12,000 GPR from the Committee's unreserved appropriation. Under this alternative, the Committee could release \$102,800 GPR from the Committee's reserved appropriation amount,

direct that \$23,200 GPR be reallocated from the data base conversion project to the electronic filing enhancement project and authorize a one-time increase of \$12,000 PR in the Board's materials and services appropriation to provide total funding of \$138,000 for the electronic filing project. The issue of funding for the improved telecommunications link could then be addressed, if necessary, by the Committee at a later date.

ALTERNATIVES

1. Approve the Board's request to release, in 1997-98, \$138,200 GPR in one-time funding (\$102,800 GPR from the Joint Committee on Finance's reserved appropriation amount and \$35,400 GPR from the unreserved balance of the Committee's appropriation) to the Elections Board general program operations appropriation for electronic filing enhancement to the Board's computer data base.

No 2. Release, in 1997-98, \$102,800 GPR budgeted for electronic filing enhancement project from the Joint Committee on Finance's reserved appropriation amount.

(3) 3. Release, in 1997-98, \$102,800 GPR from the Joint Committee on Finance's reserved appropriation amount; direct that \$23,200 GPR be reallocated from the agency's data base conversion project to the electronic filing enhancement project; and provide an additional supplement of \$12,000 GPR from the Committee's general unreserved appropriation amount to fund the electronic filing enhancement project.

4. Release, in 1997-98, \$102,800 GPR from the Joint Committee on Finance's reserved appropriation amount; direct that \$23,200 GPR be reallocated from the agency's data base conversion project to the electronic filing enhancement project; and authorize a one-time increase of \$12,000 PR in the Board's materials and services appropriation for the electronic filing enhancement project.

No 5. Deny the request.

Prepared by: Tricia Collins

MO# Alt 3

2	BURKE	<input checked="" type="radio"/>	N	A
	DECKER	<input checked="" type="radio"/>	N	A
	GEORGE	<input checked="" type="radio"/>	N	A
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	LINTON	<input type="radio"/>	N	<input checked="" type="radio"/>
	COGGS	<input checked="" type="radio"/>	N	A

AYE 15 NO 0 ABS 1



Legislative Fiscal Bureau

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

December 18, 1997

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Wisconsin Sesquicentennial Commission--Section 13.10 Request to Release GPR
Matching Funds--Agenda Item X

The Wisconsin Sesquicentennial Commission, in a revised request submitted on December 10, 1997, is requesting that the Joint Committee on Finance, pursuant to s. 13.101(3m) of the statutes, release \$600,097 GPR from the Committee's separate appropriation for supplementations to the Commission's PR appropriation for gifts and grants. The proposed supplement would provide a dollar-for-dollar match from the GPR appropriation for those additional gift and grant amounts which: (1) have actually been received by the Commission since June 20, 1997 (\$160,430); and (2) have been pledged to the Commission but not yet received (\$439,667).

BACKGROUND

The Wisconsin Sesquicentennial Commission is a 29-member body responsible for planning activities associated with the 150th anniversary of Wisconsin's admission to the union as a state in 1848. The Commission was created pursuant to 1995 Wisconsin Acts 27, 216 and 445. It is attached administratively to the Office of the Governor.

Funding of \$1,250,000 GPR was provided by 1995 Wisconsin Act 445 in a continuing appropriation [s. 20.865(4)(c) of the statutes] available to the Joint Committee on Finance for the purpose of making supplementations to support the Commission's general program operations. Under s. 13.101(3m) of the statutes, as originally created by 1995 Wisconsin Act 445, these funds may be released by the Joint Committee on Finance to the Commission's gifts and grants PR appropriation [s. 20.525(1)(k)] on a dollar-for-dollar matching basis once the Commission provides documentation that: (1) it has initially received a total of \$250,000 in gifts and grants (these initial contributions do not qualify for the release of matching funds); and (2) the funds in excess of the \$250,000 threshold have actually been received by the Commission. This

funding release provision was recently modified by 1997 Wisconsin Act 27 to permit the release of matching funds to the Commission based on the amount of gifts and grants pledged to it but not yet actually received.

In early 1997, the Commission exceeded the initial \$250,000 gifts and grants threshold. The Committee has subsequently authorized the following releases of matching funds to the Commission that are in excess of this initial \$250,000 threshold:

<u>Date of Release</u>	<u>Amount of Release</u>
March 27, 1997	\$47,055
June 20, 1997	<u>67,153</u>
Total Matching Funds Released To Date:	\$114,208

A total of \$1,135,792 GPR remains in the Committee's s. 20.865(4)(c) appropriation to provide additional matching grants to the Commission.

ANALYSIS

The Commission reported total receipts from private sector donors of \$366,708 during the 1996-97 fiscal year. Net of the initial \$250,000 gift and grants threshold amount which did not qualify for dollar-for-dollar matching, a total of \$116,708 was received in 1996-97 for which matching funds could be released. Of these amounts, the Commission actually received \$114,208 of matching funds from the Committee's s. 20.865(4)(c) appropriation, leaving a total of \$2,500 in 1996-97 not yet matched by Committee releases.

State accounting records document that as of December 10, 1997, the Commission has received a total of \$157,930 of additional private sector gifts and grants during the 1997-98 fiscal year and has deposited these amounts to its gifts and grants appropriation account. These 1997-98 receipts to date, combined with the \$2,500 of unmatched 1996-97 carryover funds, result in a total of \$160,430 of new receipts being available for dollar-for-dollar matching.

The Commission's revised December 10, 1997, request includes documentation for private sector pledges totalling \$661,000. Of these amounts, a total of \$221,333 has actually been received by the Commission as of December 10, 1997. The remaining \$439,667 represents current pledge amounts due the Commission but not yet received. Under Act 27 provisions, the Commission may now receive dollar-for-dollar matching from the Committee's s. 20.865(4)(c) appropriation for the amount of these outstanding pledges.

Since the initial \$250,000 threshold has already been exceeded, there is no further requirement that the Commission must meet in order to receive the additional dollar-for-dollar

matching supplementation on either the new contribution amounts received since the last release of matching funds on June 20, 1997, or the amount of the pledges to the Commission that are currently outstanding.

CONCLUSION

May

The Commission has met the requirements under s. 13.101(3m) of the statutes to receive a further supplementation of \$600,097 GPR from the Committee's s. 20.865(4)(c) appropriation to the Commission's s. 20.525(1)(k) appropriation to provide a dollar-for-dollar match for: (1) the additional private sector gifts and grants received since June 20, 1997 (\$160,430 GPR); and (2) the amount of outstanding pledges currently due the Commission but not yet received (\$439,667 GPR). The Committee may, therefore, wish to approve the revised supplementation request.

Prepared by: Tony Mason

MO# Support conclusion

2 BURKE	<input checked="" type="radio"/>	N	A
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GEORGE	<input checked="" type="radio"/>	N	A
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COGGS	<input checked="" type="radio"/>	N	A

AYE 14 NO 0 ABS 2



Legislative Fiscal Bureau

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

December 18, 1997

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Commerce--Section 13.10 Request Related to Petroleum Environmental Cleanup Award (PECFA) Program Attorney--Agenda Item XI

BACKGROUND

Commerce Request

The Department of Commerce requests an increase in expenditure authority of \$100,100 SEG in 1997-98 and \$211,100 SEG in 1998-99 with 1.0 four-year project position in the PECFA administration appropriation funded from the petroleum inspection fund (PIF) (a typographical error resulted in the Commerce request including \$212,100 SEG in 1998-99). The request includes the following components: (a) \$27,000 SEG in 1997-98 and \$64,800 SEG in 1998-99 with 1.0 project attorney position beginning February 1, 1998, and ending four years later on January 31, 2002, to represent Commerce in PECFA appeals; (b) \$56,100 SEG in 1997-98 and \$112,500 SEG in 1998-99 to purchase the services of an attorney from the Department of Workforce Development (DWD) beginning February 1, 1998, to represent Commerce in PECFA appeals; and (c) \$17,000 SEG in 1997-98 and \$33,800 SEG in 1998-99 to purchase the services of an administrative law judge from DWD to hear PECFA appeals beginning January 1, 1998.

The request would increase the PECFA attorney resources allocated to appeals from the existing 0.7 attorney to 3.2. The request would increase legal representation staff from 0.7 to 2.7 (including 0.7 existing permanent Commerce attorney, 1.0 project attorney position in Commerce and one attorney contract in DWD) and would allow Commerce to contract for a one-half time administrative law judge in DWD. DWD would reallocate time of three existing legal counsel and 10-11 administrative law judges in the Unemployment Insurance Division to provide the services to Commerce.

Commerce indicates that the request was reduced by \$20,000 in each year to reflect the 1997 Act 27 provision of funding to purchase administrative law judge services. However, due to a technical error, Commerce reduced the request in 1997-98 by \$10,000 instead of \$20,000. Thus, the request is \$10,000 too high for administrative law judge services in 1997-98 (the request was \$17,000 instead of \$7,000) and should be reduced by \$10,000.

PECFA Appeals Backlog

PECFA claimants may appeal a Commerce decision on the amount of reimbursement within 30 days after Commerce pays a reimbursement claim. Appeals may result from Commerce denial of requested reimbursement of an expense, ranging from simple or small cost items to large or complex issues related to negligence or the cleanup methodology used to remediate the site. Commerce allocates 70% of the current PECFA attorney's time to appeals, which allows the Department to close an average of seven cases per month. The attorney spends the remaining 30% of time on other PECFA-related legal issues and personnel issues in the Division of Environmental and Regulatory Services (the Division that houses the PECFA program).

During 1996-97, Commerce signed a memorandum of understanding with DWD under which DWD provided hearing services and additional legal representation services for PECFA appeals. During 1996-97, Commerce reallocated \$106,200 within the PECFA administration appropriation, including approximately \$90,000 from salaries of vacant claims reviewer and hydrogeologist positions, to pay DWD for the services of 0.75 attorney for legal representation in PECFA appeals and 0.30 attorney for administrative law judge hearing services. When a PECFA claimant submits an appeal, a Commerce attorney (or an attorney in DWD's Unemployment Insurance Division during 1996-97) represents Commerce in the case. Most cases are settled without a hearing but approximately 15% of appeals go to a hearing by an administrative law judge in DWD's Unemployment Insurance Division.

The backlog of appeals cases waiting for a decision increased from 90 in January, 1995, to a peak of 206 in January, 1996. During 1996-97, the backlog decreased to 141 in March, 1997, during the time of the Commerce contract with DWD for legal services, but since increased to 180 cases in October, 1997. During 1996-97, Commerce, with the assistance of DWD attorneys, closed 207 cases and received 165 new cases. This means that Commerce closed an average of 17 cases per month with the efforts of 1.75 attorneys (1.0 Commerce and 0.75 DWD attorney).

Since July 1, 1997, Commerce has minimized contracting with DWD for legal services because Commerce is filling 4.3 vacant PECFA positions instead of continuing to reallocate salary dollars from vacancies to the DWD attorneys. Commerce projects the appeals backlog will increase to 210 in January, 1998. Claimants filing appeals could wait over a year for resolution of the appeal. With the current allocation of 0.7 attorney to legal representation, the backlog will increase by approximately 10 cases per month (17 cases received and seven cases closed).

ANALYSIS

Petroleum Inspection Fund Balance

The segregated petroleum inspection fund, the source of funding for the Commerce request, receives revenues from the three cents per gallon petroleum inspection fee imposed on all petroleum products brought into Wisconsin. The fee is expected to generate \$107.3 million in 1997-98 and \$108.9 million in 1998-99, with appropriations of \$106.4 million annually. Based on 1997 Act 27 appropriations and estimated revenues and lapses, the balance of the petroleum inspection fund will be approximately \$15.7 million on June 30, 1999, as shown in the following table.

Petroleum Inspection Fund Condition Statement (In \$ Millions)

	1996-97 <u>Actual</u>	1997-98 <u>Est. Act 27</u>	1998-99 <u>Est. Act 27</u>
Opening Balance*	\$17.5	\$12.8	\$12.1
Revenues:			
Petroleum Inspection Fee	105.7	107.3	108.9
Interest and Other	<u>0.5</u>	<u>0.4</u>	<u>0.4</u>
Total Revenue Available	\$123.7	\$120.5	\$121.4
Expenditures and Reserves:			
PECFA Awards and Administration	98.5	93.8	93.7
Petroleum Inspection	7.6	8.1	7.5
Other Programs	4.8	5.7	5.6
Estimated Lapses and Reserves	0.0	-1.3	-1.1
Expenditure of Prior Year			
Encumbrances	<u>0.0</u>	<u>2.1</u>	<u>0.0</u>
Total Expenditures	\$110.9	\$108.4	\$105.8
Closing Balance	\$12.8	\$12.1	\$15.7
July Revenue Unavailable for Expenditure in 1998-99	--	--	<u>-9.0</u>
June 30, 1999 Available Balance			\$6.7

* Opening cash balance in 1996-97 and 1997-98, unencumbered fund balance in 1998-99

The estimated fund balance includes approximately \$9.0 million in July, 1999, revenue that would be credited to the 1998-99 balance but would not be available in the cash balance of the fund for expenditure until July, 1999. That is, June billings are generally not received as revenues until July. If the entire anticipated fund revenues would be expended in 1998-99, the cash flows would, at some point, cause the fund balance to be negative until the July, 1999, revenues are actually received. This practice is generally not permitted by state cash management practices. Thus, the available cash balance on June 30, 1999, would be approximately \$6.7 million. The Commerce request would reduce the available balance to \$6.4 million on June 30, 1999.

The estimated June 30, 1999, petroleum inspection fund balance is \$10.7 million greater than estimated during budget deliberations, primarily due to an increase in actual and estimated revenue collections of \$7.2 million. In addition, actual and estimated expenditures are \$3.5 million less than previously estimated.

1997 Act 27 provides \$91.1 million SEG annually for PECFA awards, \$2.4 million SEG in 1997-98 and \$2.3 million SEG in 1998-99 for 29.8 Commerce positions to administer the program and \$0.2 million SEG annually for 4.0 Department of Natural Resources staff to perform leaking underground storage tank cost control reviews (mostly PECFA tanks). At the beginning of December, 1997, there were 2,750 PECFA claims totalling \$222 million waiting to be paid. Under current program requirements, it is expected that the PECFA claims backlog could exceed \$350 million by June 30, 1999. Claims submitted towards the end of the 1997-99 biennium will be paid three to four years later.

Need for Attorney Positions

It is difficult to estimate the number of PECFA appeals that will be received during the remaining 18 months of the 1997-99 biennium. The Act 27 provision to create a penalty equal to 50% of certain ineligible costs might reduce future appeals but will not impact the existing backlog. The Department and interested persons are discussing possible administrative rule or statutory changes that might expedite some appeals, but it is uncertain whether any of the changes will occur during the 1997-99 biennium. If statutory or administrative rule changes are made in the next 18 months and Commerce continues to allow appeals only after a claim is paid (rather than after the claim is approved for payment), it is unclear how many existing claims would be affected by an expedited appeals process.

The Commerce request was structured to reduce the appeals backlog to approximately 50 cases, which would equal a two to three month wait if 1.7 attorneys are available to close an average of 17 cases per month and the number of new cases would also average 17 cases per month. Under the request, 2.7 attorneys (0.7 existing Commerce, 1.0 new project Commerce and one contracted DWD attorney) would provide legal representation until the backlog reaches an estimated 52 cases in October, 1999. After October, 1999, Commerce would stop contracting with DWD for legal representation, continue contracting for administrative law judge services

and continue legal representation with the 0.7 existing and 1.0 project attorneys in Commerce. However, under the request, the funds to contract with DWD for legal representation would be permanent funds included in Commerce's base funding during 1999-2001 biennial budget deliberations.

1997 Act 27 approved the request of Commerce and the Governor to provide \$20,000 annually to purchase administrative law judge services from DWD to hear PECFA appeals. Commerce was aware of the appeals backlog during preparation of its 1997-99 budget request and budget deliberations, and considered requesting an additional attorney position and/or funds to contract for additional legal representation. However, the Department chose not to submit a supplemental budget request to the Governor or Legislature during budget deliberations. It could be argued that since the appeals backlog is approximately the same as it was during the summer of 1996 when Commerce prepared its budget request, the need to reduce the appeals backlog is no greater an emergency now than it was then. However, it could also be argued that the appeals backlog should be addressed now rather than wait until the 1999-2001 biennial budget because the current allocation of 0.7 attorney for appeals will result in a continuing increase in the backlog and a lengthening wait for claimants to obtain resolution of an appeal.

Commerce currently estimates that if the request is approved, the PECFA program could address almost 500 appeals between February, 1998 and September, 1999. If 15% of the appeals proceed to a hearing, it would result in 75 hearings during the 20 months, or about 45 hearings per year. Commerce estimates that 0.5 administrative law judge could handle approximately 30-35 hearings per year (50-60 hearings during the 20 months), at an annual cost of \$53,800 in 1998-99. The \$20,000 provided in Act 27 would purchase services of approximately 0.2 administrative law judge.

The existing resources of 0.7 Commerce attorney and approximately 0.2 DWD administrative law judge are not sufficient to address the current level of new appeals cases and will result in an increasing backlog of appeals. The requested administrative law judge contract funds may be sufficient to hear anticipated hearings during the remainder of the biennium. With the requested additional legal representation attorneys, the estimated appeals backlog at the end of 1998-99 would be 82 cases (a three to five month backlog).

If administrative rule or statutory changes are made, the existing backlog and expected new appeals cases would generate workload for at least one legal representation attorney for at least four years, or longer if a second (contract) attorney is not provided. It could be argued that if one attorney is provided to represent the PECFA program, it should be provided as a Commerce employe rather than through a contract with another state agency. An alternative to providing the Commerce position and the DWD contract attorney would be to approve only the Commerce position and reevaluate the long-term appeals workload in 1999-2001.

Method of Providing Hearing Services

Commerce requested funds to contract with DWD for administrative law judge services instead of requesting a Commerce position because: (a) Commerce does not have staff who are trained to conduct appeals hearings; (b) DWD has the capability to allocate a portion of the time of 10-11 administrative law judges in Madison to hear PECFA appeals; and (c) the existing administrative law judges have conducted appeals hearings for Commerce during 1996-97. Further, having an agency other than Commerce (who is a party in the case) hear appeals may increase the claimant's confidence in the decision. The DWD administrative law judges are paid with federal Unemployment Insurance grants. Under the MOU between Commerce and DWD, Commerce pays the actual costs of the time of the attorney who provides the service, which offsets the cost of the federal positions. DWD indicates that it currently has a vacant administrative law judge position in Madison, and that if the Commerce request is not approved, DWD might fill the position as a half-time instead of full-time position.

DWD officials anticipate that at least 0.5 equivalent of administrative law judge would be available to hear PECFA appeals but the availability would be dependent on the backlog of unemployment insurance cases. DWD gives priority to unemployment insurance benefits appeals (for example, a person may appeal a denial of unemployment benefits). The federal government requires DWD to hear 60% of unemployment benefit cases within 30 days of appeal and 80% within 45 days. DWD is currently meeting the 80% requirement and is hearing 59-60% of benefit cases within 30 days. DWD gives second priority to unemployment insurance tax appeal hearings (for example, an employer may appeal a DWD determination that the employer should pay unemployment tax for an employee). The backlog of unemployment tax cases waiting for a hearing is approximately 10 months long (over 200 cases) and is not subject to federal deadlines for resolution of an appeal.

It appears that DWD staff resources are sufficient to provide administrative law judge services to Commerce without lengthening unemployment insurance appeals backlogs. However, by depending on the services of DWD staff who have higher priorities, Commerce may find that PECFA appeals could, at times, be delayed until a DWD administrative law judge is available to hear the appeal.

Method of Providing Legal Representation Services

Commerce indicates that it requested the combination of a project position in Commerce and a contracted position in DWD because: (a) Commerce does not know what the demand for PECFA appeals will be in four years; (b) Commerce has contracted with DWD for legal representation in the past; (c) DWD is willing and able to allocate the services of an attorney who handled some PECFA cases during 1996-97; (d) contracting with DWD would provide the flexibility of utilizing more or less legal services as the appeals workload dictates; and (e) contracting with DWD would require requesting one instead of two positions in Commerce. The Commerce project attorney would be an entry level position with an annual salary and associated

costs of \$64,800, while the DWD attorney who would represent Commerce would be an experienced attorney with an annual salary and associated costs of \$112,500 who represented Commerce during 1996-97 under the MOU.

Commerce requested a four-year project instead of permanent attorney because the Department does not know what the appeals backlog will be in four years (January, 2002), especially if changes are made to the appeals process during that time period. Commerce estimates that the project position, in combination with contracting with DWD for 20 months, will be able to sustain a stable 50 case backlog after October, 1999. However, the level of appeals would appear to warrant the services of 1.7 attorneys on a permanent basis. An alternative to providing a project position would be to provide a permanent position in Commerce.

DWD officials indicate that one of three attorneys in the Unemployment Insurance Division could provide legal representation services to Commerce. DWD is currently allocating unemployment benefit and tax appeals cases to the three staff. Under approval of the request (and under the 1996-97 MOU), DWD would allocate the unemployment cases to two instead of three attorneys and would reallocate the time of the third attorney to PECFA appeals. DWD indicates that backlogs of unemployment insurance appeals cases relate more to the availability of administrative law judges than to the availability of the three attorneys who provide legal representation.

Commerce believes that an advantage of contracting with DWD is that there is a DWD attorney who is available, willing and experienced in handling PECFA appeals. This attorney could begin handling appeals immediately without a training period. The request includes permanent funds for contracting with DWD, but Commerce anticipates needing the DWD attorney for 20 months until October, 1999. An alternative to providing permanent funding for the contract would be to provide one-time funding during 1997-99. Subsequent funding for legal representation could be considered during 1999-2001 budget deliberations.

Possible Reallocations of Funds

Commerce has had 4.3 vacant positions in the PECFA program during most or all of 1997-98 to date (2.0 hydrogeologists, 1.0 program assistant and 1.3 claims reviewers). While Commerce has just filled or is in the process of filling all of the vacancies, the vacancies will result in unspent program dollars of approximately \$99,000 in 1997-98.

In estimating the petroleum inspection fund balance, an estimated \$1.0 million annually will lapse from the local operator program, a Commerce program that contracts with local governments to inspect tank installations and removals. Base funding for the local operator program is \$3,152,000, but the program has not spent more than \$2.2 million in any year from 1991-92 through 1997-98. The Department and local governments are discussing changes to the program that may result in additional payments to local governments for tank inspection activities

(and would require administrative rule changes), but it is unknown whether the changes will increase 1998-99 expenditures above the \$2.1 million estimated for 1997-98.

The 1997-98 cost savings from vacancies would be sufficient to fund all of Commerce's 1997-98 request (\$90,100 as technically corrected). This means that if additional position authority is provided to Commerce, no new expenditure authority would be required in 1997-98. An alternative to providing additional funds for the 1998-99 portion of Commerce's request would be to transfer funds from the local operator program in the petroleum inspection appropriation to the PECFA administration appropriation to fund the request.

PECFA Awards

As noted earlier, if the request is approved, the available balance of the petroleum inspection fund will be \$6.4 million on June 30, 1999. Most of the balance could be used to increase the PECFA awards appropriation during 1997-99, for example \$6.0 million could be used for PECFA awards and \$0.4 million would remain in the event that local operator program expenditures exceed current estimates. While a \$6.0 million increase is not large enough to significantly decrease the PECFA claim backlog, it would pay approximately 65 claims in 1997-99 that otherwise would wait to be paid in 1999-2000. For example, the PECFA awards appropriation could be increased by \$3.0 million annually from \$91,131,700. Under this alternative, base funding levels for the 1999-2001 biennium would not be expected to exceed estimated annual revenues.

ALTERNATIVES

A. PECFA Appeals Backlog

1. Approve the Department of Commerce's request, as technically corrected, to provide \$90,100 SEG in 1997-98 and \$211,100 SEG in 1998-99, including: (a) \$7,000 SEG in 1997-98 and \$33,800 SEG in 1998-99 to purchase the services of an administrative law judge from DWD to hear PECFA appeals beginning January 1, 1998; (b) \$27,000 SEG in 1997-98 and \$64,800 SEG in 1998-99 with 1.0 project attorney position beginning February 1, 1998, and ending four years later on January 31, 2002, to represent Commerce in PECFA appeals; and (c) \$56,100 SEG in 1997-98 and \$112,500 SEG in 1998-99 to purchase the services of an attorney from the DWD beginning February 1, 1998, to represent Commerce in PECFA appeals.

2. Provide Commerce with one of the following changes in funding in 1998-99 (1997-98 costs could be funded through vacant position savings):

a. Approve an increase of \$211,100 SEG to fund Commerce's request.

b. Approve \$64,800 SEG and 1.0 position on an ongoing basis and \$146,300 SEG in one-time funds (for a DWD legal services contract).

c. Transfer \$211,100 SEG from the petroleum inspection local operator appropriation to the PECFA administrative appropriation, to provide \$64,800 and 1.0 position on an ongoing basis and \$146,300 in one-time DWD contract funding.

d. Transfer \$98,600 SEG from the petroleum inspection local operator appropriation to the PECFA administrative appropriation, to provide \$64,800 and 1.0 position on an ongoing basis and \$33,800 in one-time DWD contract funding for administrative law judge services (this would not include funding for DWD contract legal representation).

e. Transfer \$146,300 SEG from the petroleum inspection local operator appropriation to the PECFA administrative appropriation to provide one-time funding for a contract with DWD for legal services (the Commerce attorney would not be approved).

3. If Commerce is provided with additional staff approve one of the following:

a. As requested, approve the four-year project attorney position.

b. Approve a permanent attorney position, instead of the requested project position.

4. Deny the request.

B. PECFA Awards

1. Increase the PECFA awards appropriation by \$3,000,000 SEG annually to utilize the estimated available petroleum inspection fund balance.

2. Take no action.

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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
GARD	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
PORTER	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A