

B

Elections Board

Bill Agency

(LFB Budget Summary Document: Page 248)

No Issue Papers Have Been Prepared

ELECTIONS

Election Assistance Grant Program

Motion:

Move to provide \$114,600 GPR annually and create an election assistance grant program to be administered by the Elections Board. Provide that under the program: (a) municipalities would be eligible for grant funding to expand poll worker training, recruitment, voter education efforts or to upgrade voting equipment; (b) grant awards would range from \$5,000 to \$20,000 at the discretion of the Elections Board; (c) grantees would be required to provide a 50% match; (d) to receive grant funding a municipality would be required to submit a proposal to the Elections Board clearly stating the purpose of the grant and detailing how the municipality would allocate the grant money; (e) the Elections Board would be required to ensure an equitable allocation of grant funding including a mixture of cities, towns and villages in varying geographic areas of the state; and (f) municipalities could expend grant awards only for the purposes specified in the grant.

Note:

This motion would create an election assistance grant program to provide grants to municipalities to expand poll worker training, recruitment, voter education efforts or to upgrade voting equipment. To receive funding, a municipality would be required to: (a) provide a 50% match; and (b) expend its grant for the purposes specified in the grant proposal. The Elections Board would be responsible for developing a grant proposal and award procedure that would ensure equitable allocation of grant funding by type of municipality and by geographic area.

[Change to bill: \$229,200 GPR]

MO# _____

2	BURKE	Y	N	A
	DECKER	Y	N	A
1	MOORE	Y	N	A
	SHIBILSKI	Y	N	A
	PLACHE	Y	N	A
	WIRCH	Y	N	A
	DARLING	Y	N	A
	WELCH	Y	N	A
	GARD	Y	N	A
	KAUFERT	Y	N	A
	ALBERS	Y	N	A
	DUFF	Y	N	A
	WARD	Y	N	A
	HUEBSCH	Y	N	A
	HUBER	Y	N	A
	COGGS	Y	N	A

AYE 8 NO 8 ABS _____

ELECTIONS BOARD

Recall Elections

Motion:

Move to provide that in order for a recall election of an elected official of a city, village, town or school district to be held, the recall petition must state the grounds that would constitute the cause (defined as neglect of duty or official misconduct) upon which removal is sought. Provide that the official subject to the recall could petition the circuit court to determine if the cause standard had been met. Provide that within 10 days after receipt of the petition, the circuit court must determine whether the petition met the cause standard for recall.

Note:

Under current law, a recall petition for a city, village, town or school district office must contain a statement of a reason for the recall which is related to the official responsibilities of the official for whom removal is sought. This motion would require that a recall petition for those local offices state the grounds that would constitute cause (defined as neglect of duty or official misconduct) upon which removal is sought. The local official subject to the recall would have the right to petition the circuit court to determine whether the cause standard had been met. A circuit court would be required to make this determination within 10 days after receipt of the petition.

JS

MO# _____

BURKE	<input checked="" type="radio"/> Y	<input type="radio"/> N	A
DECKER	<input checked="" type="radio"/> Y	<input type="radio"/> N	A
MOORE	<input checked="" type="radio"/> Y	<input checked="" type="radio"/> N	A
SHIBILSKI	<input checked="" type="radio"/> Y	<input type="radio"/> N	A
PLACHE	<input checked="" type="radio"/> Y	<input checked="" type="radio"/> N	A
WIRCH	<input checked="" type="radio"/> Y	<input type="radio"/> N	A
DARLING	<input checked="" type="radio"/> Y	<input type="radio"/> N	A
WELCH	<input checked="" type="radio"/> Y	<input type="radio"/> N	A
GARD	<input type="radio"/> Y	<input checked="" type="radio"/> N	A
KAUFERT	<input type="radio"/> Y	<input checked="" type="radio"/> N	A
ALBERS	<input checked="" type="radio"/> Y	<input type="radio"/> N	A
DUFF	<input type="radio"/> Y	<input checked="" type="radio"/> N	A
WARD	<input type="radio"/> Y	<input checked="" type="radio"/> N	A
HUEBSCH	<input type="radio"/> Y	<input checked="" type="radio"/> N	A
HUBER	<input checked="" type="radio"/> Y	<input type="radio"/> N	A
COGGS	<input checked="" type="radio"/> Y	<input type="radio"/> N	A

AYE 9 NO 7 ABS _____

ELECTIONS BOARD

LFB Summary Items for Which No Issue Paper Has Been Prepared

Item #	Title
1	Standard Budget Adjustments
3	SASI Initiative
4	Wisconsin Election Campaign Fund

LFB Summary Item to be Addressed in a Subsequent Paper

Item #	Title
2	Base Budget Reductions

LFB Summary Item for Introduction as Separate Legislation

Item #	Title
5	Election Law Changes

Ethics Board

Bill Agency

(LFB Budget Summary Document: Page 293)

No Issue Papers Have Been Prepared

ETHICS BOARD

SASI Initiative Exemption

Motion:

Move to allow the Ethics Board to determine whether to utilize some or all of the computer support services provided to the Board under the small agency support initiative (SASI) and allow the Board to utilize SASI funding to procure computer support services from other sources.

Note:

The small agency support initiative (SASI) was started in response to provisions included in 1995 Act 27 which required the Department of Administration (DOA) to "maintain an information technology resource center to provide appropriate technical assistance and training to small agencies." A small agency is defined as "an agency having fewer than 50 authorized full-time equivalent positions." Under the SASI program, DOA provides small agencies with desktop applications and hardware, help desk services, network infrastructure and security, centralized storage and backup of data, dial-up connections and electronic mail. DOA currently provides support to 22 small agencies.

The bill provides funding to small state agencies to support SASI costs, including \$12,000 GPR and \$14,000 PR annually for SASI-related costs in the Ethics Board.

The motion would allow the Ethics Board to opt out of some or all of the SASI-related services and instead fund these services as the Board determines appropriate.

MO#

BURKE	Y	N	A
DECKER	Y	N	A
MOORE	Y	N	A
SHIBILSKI	Y	N	A
PLACHE	Y	N	A
WIRCH	Y	N	A
DARLING	Y	N	A
WELCH	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
ALBERS	Y	N	A
DUFF	Y	N	A
WARD	Y	N	A
HUEBSCH	Y	N	A
HUBER	Y	N	A
COGGS	Y	N	A

AYE 16 NO 0 ABS _____

ETHICS BOARD

LFB Summary Items for Which No Issue Paper Has Been Prepared

<u>Item #</u>	<u>Title</u>
1	Standard Budget Adjustments
3	SASI Initiative
4	Information Technology
5	Liability Insurance Increase

LFB Summary Item to be Addressed in a Subsequent Paper

<u>Item #</u>	<u>Title</u>
2	Base Budget Reductions

Justice

Base Agency

(LFB Budget Summary Document: Page 432)

LFB Summary Items for Which Issue Papers Have Been Prepared

<u>Item #</u>	<u>Title</u>
5	Elimination of the Research and Information Services Unit (Paper #560)
10	Handgun Purchaser Record Check Fee (Paper #561)
14	Restitution Appropriation (Paper #562)
-	Federal Funding Reestimates (Paper #563)
-	Minor Policy and Technical Changes -- GPR-Earned Reestimates (Paper #564)
-	Minor Policy and Technical Changes -- Sum Sufficient Reestimate (Paper #565)

AGENCY: DOJ

Paper #: 560

ISSUE: Firing Mitch Henck

ALTERNATIVE: 3 (letting Mitch keep his job)

SUMMARY: Duh.

Prepared by: Tanya

Alt 3
62nd-1



Legislative Fiscal Bureau

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May 21, 2001

Joint Committee on Finance

Paper #560

Elimination of the Research and Information Services Unit (Justice)

[LFB 2001-03 Budget Summary: Page 435, #5]

CURRENT LAW

The Attorney General (AG) has statutory authority to appoint, in the unclassified service, and to set the salary for, a director of research and information services.

The research and information services unit in the Department of Justice (DOJ) consists of two positions: (a) the unclassified director of research and information services; and (b) a program and planning analyst position.

GOVERNOR

Delete \$196,500 GPR and 2.0 GPR positions annually to eliminate the research and information services unit. Repeal statutory language providing that the AG may appoint in the unclassified service a director of research and information services and is authorized to set this position's salary.

DISCUSSION POINTS

1. The research and information services unit is responsible for: (a) developing large-scale policy initiatives; (b) researching and answering media, legislative and citizen inquiries about legal cases, opinions and investigations undertaken by DOJ; (c) preparing and editing news releases, articles, policy statements and position papers for DOJ; (d) writing and editing speeches and correspondence for the AG and other DOJ executives; (e) developing department-wide reports, brochures and pamphlets; and (f) coordinating and editing the content of DOJ's website.

2. Large state agencies generally have public information/communications officers and

policy directors/policy analysts. While large state agencies generally have such positions (although the exact duties of these positions vary to some degree from agency to agency), only the DOJ positions would be specifically deleted under the Governor's budget bill.

3. DOA indicated that in preparing the budget bill they reviewed state statutes, agency websites, the bluebook and their own understanding of agency operations to identify potential savings. DOA indicated that the director of research and information services in DOJ was identified as it, unlike other agencies' public information/communications positions, is statutorily provided. DOA officials indicated that the program and planning analyst position in the research and information services unit was also recommended for elimination.

4. According to DOJ, on an average day the director of research and information services fields two dozen media calls on a variety of issues from members of the national and state media. Such calls can request comment from the AG personally on issues of national attention, or they can be specific requests for information about a pending case or investigation at DOJ. The director also issues an average of two to three press releases per day regarding DOJ criminal investigative, law enforcement functions, and public service/information functions. In a recent week, for example, the director issued press releases regarding DOJ criminal prosecutions, environmental enforcement initiatives, and a case involving elder abuse.

5. According to DOJ, the program and planning analyst in the research and information services unit reviews and develops policy and program enhancements. Examples of recent issues developed by the analyst include: (a) methamphetamine prevention and control program planning and development; (b) the AG's School Safety and Peers in Education Addressing Conflict Effectively (PEACE) program; (c) proposals related to high capacity wells in coordination with DOJ environmental attorneys; (d) proposals to address the U.S. Supreme Court decision affecting wetlands regulations; and (e) various tobacco related initiatives. According to DOJ officials, the program and planning analyst also serves as the deputy public information director.

6. DOJ indicates that if these positions were eliminated, the work and responsibilities assigned to these positions would continue and be the responsibility of DOJ executive staff.

ALTERNATIVES TO BASE

1. Approve the Governor's recommendation to delete \$196,500 and 2.0 positions annually to eliminate the research and information services unit. Repeal statutory language providing that the AG may appoint in the unclassified service a director of research and information services and is authorized to set this position's salary.

Alternative 1	GPR
2001-03 FUNDING (Change to Base) [Change to Bill]	- \$393,000 \$0]
2002-03 POSITIONS (Change to Base) [Change to Bill]	- 2.00 0.00]

2. Modify the Governor's recommendation by any of the following:

a. Delete \$112,100 annually and 1.0 unclassified director of research and information services. Repeal statutory language providing that the AG may appoint, in the unclassified service, a director of research and information services and is authorized to set this position's salary.

<u>Alternative 2A</u>	<u>GPR</u>
2001-03 FUNDING (Change to Base) [Change to Bill]	- \$224,200 \$168,800]
2002-03 POSITIONS (Change to Base) [Change to Bill]	- 1.00 1.00]

b. Delete \$84,400 annually and 1.0 program and planning analyst position in the research and information services unit.

<u>Alternative 2B</u>	<u>GPR</u>
2001-03 FUNDING (Change to Base) [Change to Bill]	- \$168,800 \$224,200]
2002-03 POSITIONS (Change to Base) [Change to Bill]	- 1.00 1.00]

3. Maintain current law.

<u>Alternative 3</u>	<u>GPR</u>
2001-03 FUNDING (Change to Base) [Change to Bill]	\$0 \$393,000]
2002-03 POSITIONS (Change to Base) [Change to Bill]	0.00 2.00]

Prepared by: Paul Onsager

MO# Alt. 1

BURKE	Y	<input checked="" type="radio"/> N	A
DECKER	<input checked="" type="radio"/> Y	N	A
MOORE	Y	<input checked="" type="radio"/> N	A
SHIBILSKI	Y	<input checked="" type="radio"/> N	A
PLACHE	Y	<input checked="" type="radio"/> N	A
WIRCH	<input checked="" type="radio"/> Y	<input checked="" type="radio"/> N	A
DARLING	<input checked="" type="radio"/> Y	<input checked="" type="radio"/> N	A
WELCH	<input checked="" type="radio"/> Y	N	A
1 GARD	<input checked="" type="radio"/> Y	N	A
2 KAUFERT	<input checked="" type="radio"/> Y	N	A
ALBERS	<input checked="" type="radio"/> Y	N	A
DUFF	<input checked="" type="radio"/> Y	N	A
WARD	<input checked="" type="radio"/> Y	N	A
HUEBSCH	<input checked="" type="radio"/> Y	N	A
HUBER	Y	<input checked="" type="radio"/> N	A
COGGS	Y	<input checked="" type="radio"/> N	A

AYE 9 NO 7 ABS _____

AGENCY: DOJ

Paper #: 561

ISSUE: Raising the Handgun Purchaser Record Check Fee

ALTERNATIVE: 2 (DOJ's request)

SUMMARY: DOJ requested raising the fee from \$8 to \$16 to eliminate the deficit currently being carried by the end of 03-04. Gov. recommends raising the fee to \$12 which would leave an approx. \$537,000 deficit by the end of 03-05. A \$17 fee would create a positive balance of \$106,400 by the end of 03-05.

In 2000 DOJ processed 32,320 handgun purchaser record checks.

Prepared by: Tanya

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Card 4



Legislative Fiscal Bureau

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May 21, 2001

Joint Committee on Finance

Paper #561

Handgun Purchaser Record Check Fee (Justice)

[LFB 2001-03 Budget Summary: Page 438, #10]

CURRENT LAW

A person is generally prohibited from possessing a firearm if he or she: (a) has been convicted of a felony in Wisconsin or convicted of a crime elsewhere that would be a felony if committed in Wisconsin; (b) has been adjudicated delinquent for an act committed on or after April 21, 1994, that if committed by an adult in Wisconsin would be a felony; (c) has been found not guilty of a felony in Wisconsin (or an equivalent offense elsewhere) by reason of mental disease or defect; (d) has been involuntarily committed for treatment and is currently under a court order not to possess a firearm; (e) is currently subject to a domestic abuse or child abuse restraining order or injunction; or (f) is subject to a harassment injunction and is currently under a court order not to possess a firearm, based on evidence that the person may use a firearm to cause physical harm to another or endanger public safety. A person meeting one of these criteria who possesses a firearm is guilty of a Class E felony.

When a firearms dealer sells a handgun, he or she may not transfer possession of that handgun until: (a) the gun purchaser has provided photographic identification to the firearms dealer and the dealer has inspected the identification; (b) the gun purchaser has completed the notification form that provides information on the purchaser's name, date of birth, gender, race and social security number to allow the Department of Justice (DOJ) to perform an accurate record search; (c) the dealer has provided the information to DOJ and requested a firearms restrictions record search; and (d) 48 hours have lapsed, subject to an extension under certain circumstances, and DOJ has not notified the dealer that the transfer would be a violation of state law. An \$8 handgun purchaser record check fee is assessed on firearms dealers (who may pass the charge on to the purchaser) for each background check. Revenues from the fee are provided to DOJ for the cost of operating the record check program. In calendar year 2000, DOJ processed 32,320 handgun purchaser record checks.

Current law limits the extent to which a state agency may incur liabilities and expenditures under program revenue appropriations to the unexpended balance of the appropriation, plus the value of accounts receivable and inventory. In the event an agency spends more than this amount, the agency is required to submit to the Department of Administration (DOA) a plan to provide sufficient resources to pay for the excess expenditures. If DOA approves the plan or a modified plan, DOA must forward the proposed plan to the Joint Committee on Finance, for review and approval under a 14-day passive review process.

GOVERNOR

Increase the handgun purchaser record check fee from \$8 to \$12.

DISCUSSION POINTS

1. The handgun hotline program revenue appropriation has been building an increasingly large deficit in successive fiscal years. The appropriation ended with a deficit of: (a) \$288,700 in 1997-98; (b) \$341,800 in 1998-99; and (c) \$413,400 in 1999-00. This appropriation is projected to end with a deficit of \$529,200 in 2000-01.

2. The Department of Justice has submitted plans as part of each of its last three biennial budget requests to increase the handgun purchaser record check fee to eliminate the deficit. The administration did not, however, propose raising the fee prior to 2001 SB 55. The fee was not raised, in part, because of uncertainties concerning a federal law, effective November 30, 1998, requiring long gun purchaser background checks and whether DOJ or the Federal Bureau of Investigation should conduct these long gun checks. At this time, the FBI is conducting the long gun checks at no cost to the requester.

3. In its 2001-03 biennial budget request, DOJ requested to increase the handgun purchaser record check fee from \$8 to \$16, effective October 1, 2001. The Department estimated that, with this increase, the deficit would be eliminated by the end of 2003-04.

4. The adjusted base for this appropriation is \$381,200 PR and 8.0 PR positions. Funding under the bill would be \$369,400 PR annually. If the current \$8 record check fee was maintained, the handgun hotline program revenue appropriation would be projected to end the 2001-03 biennium with a deficit of \$785,000 PR.

5. The Governor recommends increasing the handgun purchaser record check fee from \$8 to \$12 to begin to reduce the deficit in the handgun hotline appropriation. Under the Governor's recommendation, it is estimated that the appropriation would end the 2001-03 biennium with a deficit of \$544,900 and would end the 2003-05 biennium with a deficit of \$536,700. This assumes that the projected number of handgun hotline transactions in 2000-01 would remain constant through the next two biennia, and also assumes that the 2002-03 expenditure and reserve costs would remain constant through the 2003-05 biennium.

6. Applying the same assumptions, if the fee was increased to \$16, the appropriation would end the 2001-03 biennium with a projected deficit of \$304,800 and would end the 2003-05 biennium with a projected deficit of \$22,200. Finally, if the fee was increased to \$17, the appropriation would end the 2001-03 biennium with a projected deficit of \$244,800 and would end the 2003-05 biennium with a projected positive balance of \$106,400.

ALTERNATIVES TO BASE

1. Approve the Governor's recommendation to increase the handgun purchaser record check fee from \$8 to \$12.

Alternative 1	PR
2001-03 REVENUE (Change to Base)	\$240,100
[Change to Bill]	\$0

2. Increase the handgun purchaser record check fee from \$8 to \$16.

Alternative 2	PR
2001-03 REVENUE (Change to Base)	\$480,200
[Change to Bill]	\$240,100

3. Increase the handgun purchaser record check fee from \$8 to \$17.

Alternative 3	PR
2001-03 REVENUE (Change to Base)	\$540,200
[Change to Bill]	\$300,100

4. Maintain current law.

Alternative 4	PR
2001-03 REVENUE (Change to Base)	\$0
[Change to Bill]	-\$240,100

MO# Alt 2

BURKE	<input checked="" type="radio"/>	N	A
DECKER	<input checked="" type="radio"/>	N	A
MOORE	<input checked="" type="radio"/>	N	A
SHIBILSKI	<input checked="" type="radio"/>	N	A
PLACHE	<input checked="" type="radio"/>	N	A
WIRCH	<input checked="" type="radio"/>	N	A
DARLING	<input type="radio"/>	<input checked="" type="radio"/>	A
WELCH	<input type="radio"/>	<input checked="" type="radio"/>	A
GARD	<input type="radio"/>	<input checked="" type="radio"/>	A
KAUFERT	<input type="radio"/>	<input checked="" type="radio"/>	A
ALBERS	<input type="radio"/>	<input checked="" type="radio"/>	A
DUFF	<input type="radio"/>	<input checked="" type="radio"/>	A
WARD	<input type="radio"/>	<input checked="" type="radio"/>	A
HUEBSCH	<input type="radio"/>	<input checked="" type="radio"/>	A
HUBER	<input checked="" type="radio"/>	N	A
COGGS	<input checked="" type="radio"/>	N	A

Prepared by: Paul Onsager

AYE 8 NO 8 ABS _____



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May 21, 2001

Joint Committee on Finance

Paper #562

Restitution Appropriation (Justice)

[LFB 2001-03 Budget Summary: Page 439, #14]

CURRENT LAW

The Department of Justice's (DOJ) legal services' restitution appropriation is a continuing appropriation that receives monies deposited to DOJ to provide court-ordered restitution to victims as the result of prosecutions of medical assistance fraud, marketing and trade practices violations, violations of environmental laws and violations under federal antitrust law. Continuing appropriations are expendable until depleted or repealed by law. There is no adjusted base funding for the appropriation.

GOVERNOR

Convert the legal services' restitution appropriation from a continuing to an annual appropriation and amend the appropriation to provide that all monies received by DOJ to provide restitution to victims under a court order or settlement agreement be credited to the appropriation.

DISCUSSION POINTS

1. Restitution is awarded to a plaintiff when the defendant has been unjustly enriched at the plaintiff's expense. DOJ initiates court actions every year to recover restitution on behalf of various classes of Wisconsin consumers or citizens.
2. Court-ordered restitution payments are typically awarded in one of three manners: (a) if the defendant's victims can be specifically identified, DOJ is required by the court to give the restitution award directly to the specifically identified victims; (b) if the defendant's victims cannot

be specifically identified or it is too expensive to identify them or return the money to them, the court may distribute the restitution award directly to the Attorney General (AG), to be distributed at the AG's discretion to broadly benefit the class of people who were hurt, subject to limitations placed on the AG by the court; or (c) if the defendant's victims cannot be specifically identified or it is too expensive to identify them or return the money to them, the court may direct the AG to provide the court with a list of potential recipients who could receive the restitution award so as to broadly target the class of people who were hurt, and the court determines which of these recipients will receive the award and distributes the award directly. According to DOJ officials, courts are increasingly turning to this latter approach to distribute restitution awards when the defendant's victims cannot be specifically identified or it is too expensive to identify them or return the money to them.

3. DOJ has typically used the legal services' restitution appropriation where court-ordered restitution to specific victims in the prosecutions identified above was not possible or feasible. For other restitution payments received by the Department (including other court-ordered restitution awards and restitution payments received through settlement agreements), DOJ generally deposits the money to a holding account from which it distributes the funds as provided in the court order or settlement agreement.

4. Under the Governor's recommendation, the legal services' restitution appropriation would be converted from a continuing to an annual appropriation and the appropriation would be amended to provide that all monies received by DOJ to provide restitution to victims under a court order or settlement agreement be credited to the appropriation. There is no funding for the appropriation under the bill. With the change to an annual appropriation, therefore, before DOJ could distribute any restitution payment to any victim received under a court order or settlement agreement, DOJ would need to request and receive increased expenditure authority from the Department of Administration (DOA) and the Joint Committee on Finance under a s. 16.515 action.

5. Dollar amounts shown in the Chapter 20 appropriations schedule for a continuing program revenue appropriation represent the most reliable estimates of the amounts which will be expended during any fiscal year. It is not uncommon for appropriation authority in a program revenue continuing appropriation to be set at \$0 when expenditures fluctuate widely from year to year and cannot be estimated. Expenditures in the restitution appropriation over the last four fiscal years have been \$0 in 1997-98, \$53,700 in 1998-99, \$1,298,300 in 1999-00 and \$236,000 through March 31, 2001 in 2000-01. The amounts are dependent on court actions that cannot be projected in advance. If the Governor's recommendation to change the appropriation to an annual appropriation is adopted, it cannot be estimated what appropriation authority would be needed to reduce the need for a s. 16.515 request in order to make court-ordered or settlement payments.

6. The Governor's recommendation would lengthen the administrative time and processes required to distribute a restitution payment won by DOJ. Approval of expenditure authority under a s. 16.515 action would be required before any restitution payment could be distributed. This extra administrative step is not required under current law because: (a) many restitution payments under court order or settlement agreement are not required to pass through the

legal services' restitution appropriation; and (b) as the legal services' restitution appropriation is a continuing appropriation, DOJ only needs to seek increased expenditure authority through the DOA allotment process to distribute restitution awards that pass through the restitution appropriation.

7. DOA officials maintain that they have not always been able to ascertain from DOJ how the AG distributed restitution payments, to whom and in what amount. DOA officials maintain that the Governor's recommendation would increase accountability and disclosure as to how some restitution payments are distributed.

8. However, under current law, the AG has no discretion to distribute court-ordered restitution awards that are awarded to specifically-identified victims to anyone other than those victims. For court-granted discretion to distribute restitution awards when victims cannot be specifically identified, the AG's discretion is subject to the limitations and restrictions imposed by the court.

9. DOJ officials have identified potential legal problems with this proposed change in disbursement of court-ordered restitution awards. First, they argue that this change would violate the separation of powers doctrine. It is the court's function to determine how and to whom court-ordered awards are distributed. Second, DOJ also recovers restitution awards for Wisconsin consumers or citizens under federal law. DOJ officials argue that in cases where a court-ordered recovery is obtained under federal law, state administrative and legislative control over restitution award distribution could raise supremacy clause issues under the U.S. Constitution, in that the state law could be viewed as an attempt to obstruct a federal court's administration of federal law.

10. These potential legal problems, however, would not appear to apply in the context of out-of-court settlement agreements reached between DOJ and settling parties. Subjecting settlement agreements to administrative and legislative oversight could prove to be administratively cumbersome. A party seeking to settle with the state would now need three separate parties to agree to the settlement terms: (a) DOJ; (b) DOA; and (c) the Committee. Subjecting every settlement agreement to this process would slow down the process of concluding settlements on behalf of Wisconsin citizens and distributing settlement monies to them. On the other hand, DOA officials would maintain that this change would increase accountability and disclosure as to how these restitution settlement payments are distributed.

11. As an alternative to the Governor's recommendation, the Committee could consider requiring DOJ to report semi-annually to DOA and the Joint Committee on Finance as to: (a) all monies received by DOJ to provide restitution to victims under a court order or settlement agreement; (b) who received restitution payments under a given court order or settlement agreement and in what amount; and (c) how recipients of the restitution payments were selected.

ALTERNATIVES TO BASE

1. Approve the Governor's recommendation to convert the legal services' restitution appropriation from a continuing to an annual appropriation and amend the appropriation to provide

that all monies received by DOJ to provide restitution to victims under a court order or settlement agreement be credited to the appropriation.

2. Delete the Governor's recommendation. In addition, provide that DOJ report semi-annually to DOA and the Joint Committee on Finance as to: (a) all monies received by DOJ to provide restitution to victims under a court order or settlement agreement; (b) who received restitution payments under a given court order or settlement agreement and in what amount; and (c) how recipients of the restitution payments were selected.

3. Maintain current law.

Prepared by: Paul Onsager

MO# Alt - 2

BURKE	<input checked="" type="radio"/>	N	A
DECKER	<input checked="" type="radio"/>	N	A
MOORE	<input checked="" type="radio"/>	N	A
SHIBILSKI	<input checked="" type="radio"/>	N	A
PLACHE	<input checked="" type="radio"/>	N	A
WIRCH	<input checked="" type="radio"/>	N	A
DARLING	<input checked="" type="radio"/>	N	A
WELCH	<input checked="" type="radio"/>	N	A
GARD	<input checked="" type="radio"/>	N	A
KAUFERT	<input checked="" type="radio"/>	N	A
ALBERS	<input checked="" type="radio"/>	N	A
DUFF	<input checked="" type="radio"/>	N	A
WARD	<input checked="" type="radio"/>	N	A
HUEBSCH	<input checked="" type="radio"/>	N	A
HUBER	<input checked="" type="radio"/>	N	A
COGGS	<input checked="" type="radio"/>	N	A

AYE 16 NO 0 ABS



Legislative Fiscal Bureau

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May 21, 2001

Joint Committee on Finance

Paper #563

Federal Funding Reestimates (Justice)

Att 3 OK *Coard 3 OK*

CURRENT LAW

The Department of Justice (DOJ) has nine statutory federal appropriations. All of the appropriations are continuing appropriations. DOJ's adjusted base for federal funding is \$6,169,800 FED and 24.25 FED positions.

GOVERNOR

No provision.

MODIFICATION

Provide \$799,600 FED in 2001-02 and \$648,100 FED in 2002-03 to the federal aid, state operations appropriation under the law enforcement services program.

Explanation: This reestimate reflects federal monies awarded to DOJ from the Drug Enforcement Administration and the Office of National Drug Control Policy. This modification would adjust DOJ's expenditure authority to more accurately reflect DOJ's current expenditure level and the amount of federal funding expected through the 2001-03 biennium. Under the modification, the law enforcement services state operations federal appropriation would be estimated at \$1,900,000 FED in 2001-02 and \$1,750,000 FED in 2002-03.

<u>Modification</u>	<u>FED</u>
2001-03 FUNDING (Change to Base)	\$1,447,700
[Change to Bill]	\$1,447,700]

Prepared by: Paul Onsager

MO# _____

BURKE	Y	N	A
DECKER	Y	N	A
MOORE	Y	N	A
SHIBILSKI	Y	N	A
PLACHE	Y	N	A
WIRCH	Y	N	A
DARLING	Y	N	A
WELCH	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
ALBERS	Y	N	A
DUFF	Y	N	A
WARD	Y	N	A
HUEBSCH	Y	N	A
HUBER	Y	N	A
COGGS	Y	N	A

AYE 16 NO 0 ABS _____



Legislative Fiscal Bureau

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May 21, 2001

Joint Committee on Finance

Paper #564

Minor Policy and Technical Changes -- GPR-Earned Reestimates (Justice)

CURRENT LAW

The Department of Justice receives a variety of revenues that are deposited to the general fund as GPR-Earned. These include reimbursements from non-GPR state agencies for legal services provided, refunds to prior year appropriations, and miscellaneous revenues.

GOVERNOR

Estimate the amount of revenues to be received by the Department of Justice and deposited to the general fund at \$845,200 annually.

MODIFICATION TO BASE

Reestimate the revenues to be received by the Department of Justice and deposited to the general fund at \$1,402,800 annually.

Explanation: Based on actual 1999-00 and estimated 2000-01 GPR-Earned revenues for the Department and a DOA-directed change in the accounting of bond counsel reimbursement, it is estimated that the GPR-Earned revenues for the Department of Justice will be \$1,402,800 annually. This represents an increase to the bill of \$557,600 annually. Of this amount, \$327,300 annually represents the DOA-directed change in bond counsel reimbursements, which had been accounted for as a reimbursement to the special counsel appropriation. As a result of this change, both DOJ's GPR-Earned estimate and the estimate for the sum sufficient special counsel appropriation are increased by \$327,300 annually (included under Paper #565).

Modification	GPR
2001-03 REVENUE (Change to Base)	\$765,000
[Change to Bill]	\$1,115,200]

Prepared by: Debbie Salm

MO#			
BURKE	Y	N	A
DECKER	Y	N	A
MOORE	Y	N	A
SHIBILSKI	Y	N	A
PLACHE	Y	N	A
WIRCH	Y	N	A
DARLING	Y	N	A
WELCH	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
ALBERS	Y	N	A
DUFF	Y	N	A
WARD	Y	N	A
HUEBSCH	Y	N	A
HUBER	Y	N	A
COGGS	Y	N	A

AYE 16 NO 0 ABS 0



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May 21, 2001

Joint Committee on Finance

Paper #565

Minor Policy and Technical Changes -- Sum Sufficient Reestimate (Justice)

CURRENT LAW

The Department of Justice has a sum sufficient GPR appropriation to pay for the costs associated with special counsel appointed by the Governor to: (a) assist the Attorney General in any action or proceeding; (b) act instead of the Attorney General in any action or proceeding, if the Attorney General is in any way interested adversely to the state; (c) defend any action instituted by the Attorney General against any officer of the state; (d) institute and prosecute an action or proceeding which the Attorney General deems it the duty of the Attorney General to defend rather than prosecute; and (e) defend national guard members for acts performed while in the performance of military duty. Adjusted base funding for special prosecution costs is \$1,100,000 GPR.

GOVERNOR

No provision.

MODIFICATION

Reestimate the sum sufficient special counsel appropriation at \$850,000 annually.

Explanation: Based on actual 1999-00 and estimated 2000-01 special counsel expenditures and a DOA-directed change in the accounting of certain special counsel costs, it is estimated that the special counsel expenditures will be \$850,000 annually. This represents a decrease to the base and to the bill of \$250,000 annually.

Modification	GPR
2001-03 FUNDING (Change to Base)	- \$500,000
[Change to Bill]	- \$500,000]

Prepared by: Debbie Salm

MO#			
BURKE	Y	N	A
DECKER	Y	N	A
MOORE	Y	N	A
SHIBILSKI	Y	N	A
PLACHE	Y	N	A
WIRCH	Y	N	A
DARLING	Y	N	A
WELCH	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
ALBERS	Y	N	A
DUFF	Y	N	A
WARD	Y	N	A
HUEBSCH	Y	N	A
HUBER	Y	N	A
COGGS	Y	N	A

AYE 16 NO 0 ABS _____

JUSTICE

Fire Safety Responsibilities and Staff

Motion:

Move to make the following changes related to fire safety and fire dues audit responsibilities:

1. Transfer the following responsibilities from the Department of Commerce to the Department of Justice: (a) the determination of eligibility by local fire departments for fire dues distribution payments; (b) the payment of fire dues distribution payments to local fire departments; (c) the audit of local fire departments to determine eligibility to receive fire dues distribution payments; (d) provision of assistance to local fire departments to meet state requirements to maintain records of all fires occurring in the state; (e) provision of technical support, consultation and training regarding fire safety; and (f) provision of assistance to local or state governments in developing statutes, rules, standards, policies and local ordinances related to fire safety of the public.

2. Prohibit Justice, (rather than Commerce under Motion #117, adopted by the Committee on May 2, 2001) from withholding fire dues distribution payments to ineligible fire departments until the earlier of July 1, 2002, or after: (a) the Joint Legislative Audit Committee requests the Legislative Audit Bureau to conduct an audit of current Commerce administrative rules related to determination of eligibility for fire dues payments; (b) that based on the results of the audit, the Joint Legislative Audit Committee proposes changes to the current rules related to the determination of when a fire department is ineligible for fire dues payments; and (c) rule changes go into effect.

3. Transfer from Commerce to Justice the fire dues distribution appropriation and \$8,475,000 PR in 2001-02 and \$8,600,000 PR in 2002-03. (The Committee took action on May 2, 2001, related to LFB Budget Issue Paper #309, to reestimate the fire dues distribution appropriation to these amounts.)

4. Provide Justice with the same authority that Commerce currently has to promulgate administrative rules related to determination of eligibility for fire dues distribution payments.

5. Provide Justice with \$648,800 PR annually from fire dues revenues for 7.6 PR positions (5.0 fire safety consultant positions, 0.6 program manager, 1.8 program assistant and 0.2 program support supervisor), limited-term employees and fire safety supplies and training funded from the 2% fire dues revenues. Delete from Commerce \$185,200 PR annually for 2.6 PR

positions. (Motion #117 deleted from Commerce \$463,600 PR annually and the 5.0 PR fire safety consultant positions.) Specify that the 7.6 incumbents who currently hold these positions in Commerce would be transferred to Justice on the effective date of the bill, and would have the same rights and the same status under state employment relations provisions that they had in Commerce immediately before the transfer. No transferred employee who has attained permanent status in class would be required to serve a probationary period.

6. On the effective date of the bill, transfer from Commerce to Justice, all assets and liabilities, including tangible personal property and records, that are primarily related to fire safety and fire dues audit responsibilities, as determined by the Secretary of DOA.

Note:

On May 2, 2001, the Joint Committee on Finance adopted Motion #117, under the Department of Commerce, which made the following changes: (1) prohibits Commerce from withholding fire dues distribution payments to ineligible fire departments until the earlier of July 1, 2002, or after: (a) the Joint Legislative Audit Committee requests the Legislative Audit Bureau to conduct an audit of current Commerce administrative rules related to determination of eligibility for fire dues payments; (b) that based on the results of the audit, the Joint Legislative Audit Committee proposes changes to the current rules related to the determination of when a fire department is ineligible for fire dues payments; and (c) rule changes go into effect; and (2) deletes \$463,600 PR annually for 5.0 PR fire safety consultant positions, limited-term employees and fire safety supplies and training funded from the 2% fire dues revenues that are appropriated for Commerce administration of local fire prevention programs and fire dues payments.

Motion #117 did not make any changes related to Commerce responsibilities to: (a) administer fire safety programs; (b) audit fire departments for eligibility for fire dues distribution payments; (c) provide training and technical assistance to local fire departments to meet state requirements to maintain records of all fires occurring in the state; (d) provide technical support, consultation and training regarding fire safety; and (e) provide assistance to local or state governments in developing statutes, rules, standards, policies and local ordinances related to fire safety of the public. This motion would transfer all staff, funding and duties related to local fire department safety requirements and fire dues payments from Commerce to DOJ. Commerce would continue to be responsible for the state building code.

Any insurer doing a fire insurance business in the state must pay, subject to retaliatory and reciprocal insurance tax law provisions, fire department dues equal to 2% of the amount of all Wisconsin based premiums paid to the company during the preceding calendar year for insurance against loss by fire, including insurance on property exempt from taxation. In addition, fire department dues also include 2% of the premiums paid to the state fire fund for the insurance of any public property, other than state property.

Revenues received under the fire dues program are currently used for: (a) support of fire-fighter training programs in the Wisconsin Technical College System (WTCS); (b) Department of Commerce administration of local fire prevention programs and fire dues payments; and (c) distribution of a proportionate share of the remaining revenue to each city, village or town maintaining a fire department that complies with state law.

The Department of Commerce (Commerce) is responsible for administering a statewide fire prevention program. In 2000-01, \$623,600 of fire dues revenues is appropriated for 7.6 positions and program costs. The bill provides adjusted base funding of \$648,800 PR annually for the 7.6 positions and administrative program costs. Commerce conducts annual training sessions for local fire fighters, provides technical assistance to fire department officials and inspectors related to fire prevention and fire safety elements of the state building code and administers code provisions related to fire safety. Commerce also determines eligibility of local fire departments to receive fire dues distribution, calculates payments of fire dues and verifies compliance of fire departments with the fire dues program criteria. The 7.6 Commerce positions include: (a) 5.0 fire safety consultants who audit fire departments for fire dues grant eligibility, assist local fire departments to meet state requirements and provide technical support and training regarding fire safety (these positions were deleted under Motion #117); (b) 0.6 program manager who is responsible for fire safety, inspection and audit; (c) 1.8 program assistants who enter fire safety data into databases and provide information related to fire safety programs; and (d) 0.2 program support supervisor who manages the fire incident and self-certification activities of the fire safety program.

Commerce is responsible for the distribution of fire dues under s. 101.573 and s. 101.575 to cities, villages and towns that maintain fire departments or contract for fire protection if the municipalities meet specific criteria. Distribution of the funds is based on the equalized valuation of real property improvements on land within the qualifying cities, towns and villages.

Any city, village or town may receive fire dues if it has a fire department which: (a) is organized to provide continuous fire protection and has a designated chief; (b) singly, or in combination with another fire department under a mutual aid agreement, can ensure the response of at least four fire fighters, none of whom is the chief, to a first alarm for a building; (c) provides a training program in accordance with Commerce rules; (d) provides facilities capable, without delay, of receiving an alarm and dispatching fire fighters and apparatus; (e) maintains either a voluntary fire department that holds a meeting at least once each month or a paid or partly paid fire department with sufficient personnel ready for service at all times; and (f) complies with fire inspection requirements that require the chief of every fire department to provide a fire inspection for every public building and place of employment in the fire department's territory, generally at least once every six months, except in the City of Milwaukee, which establishes its own inspection schedule. Fire dues may only be used for the direct provision of: (a) the purchase of fire protection equipment; (b) fire inspection and public education; (c) training of fire fighters and fire inspectors; and (d) whole or partial funding of fire fighters' pension funds or other special funds for the benefit of disabled or retired fire fighters.

Section 101.575 specifies that if Commerce determines that a fire department has failed to

JUSTICE

Uniform System for Reporting Complaints Against Police Officers

Motion:

Move to require the Department of Justice (DOJ) to develop a plan for creating a system for uniform reporting of complaints against police officers in Wisconsin and to submit the plan to the Joint Committee on Finance no later than February 1, 2002.

Note:

This motion would require DOJ to develop and submit a plan to the Committee regarding a system for uniform reporting of complaints against police officers in Wisconsin.

MO#			
BURKE	Y	N	A
DECKER	Y	N	A
MOORE	Y	N	A
SHIBILSKI	Y	N	A
PLACHE	Y	N	A
WIRCH	Y	N	A
DARLING	Y	N	A
WELCH	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
ALBERS	Y	N	A
DUFF	Y	N	A
WARD	Y	N	A
HUEBSCH	Y	N	A
HUBER	Y	N	A
COGGS	Y	N	A

AYE 8 NO 8 ABS

JUSTICE

Attorney General Authority to Bring Civil Rights Actions and to Order and Participate in Inquests

Motion:

Move to adopt the provisions of LRB 1356/P1 relating to granting the Attorney General the authority to bring civil rights actions and to order and participate in inquests.

Note:

LRB 1356/P1 would provide that if any person, whether or not acting under color of law, interferes with the exercise or enjoyment by any individual of a right secured by the Constitution or laws of the United States, or of a right secured by the Constitution or laws of Wisconsin, the Attorney General would be permitted to bring an action for injunction or other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right secured.

Under current law, district attorneys have authority to order and participate in inquests determining the cause of a person's death. If a district attorney refuses to order an inquest, a coroner or medical examiner may petition the circuit court to order an inquest. The circuit court may order an inquest under these circumstances if it finds that the district attorney has abused his or her discretion in not ordering an inquest. LRB 1356/P1 would also grant the Attorney General the same authority that district attorneys have under current law to order and to participate in inquests. Under LRB 1356/P1, if an inquest was conducted concerning the death of a person whose identity was unknown or whose body was unclaimed and the Attorney General ordered the inquest, the costs of the inquest (other than the compensation of the coroner and any deputy coroners) as well as the expenses of burial or cremation of the body, would be required to be audited and paid by the Department of Justice. Under the bill, the county would continue to pay, as under current law, such costs for inquests ordered by the district attorney or circuit court.

MO#

BURKE	Y	N	A
DECKER	Y	N	A
MOORE	Y	N	A
SHIBILSKI	Y	N	A
PLACHE	Y	N	A
WIRCH	Y	N	A
DARLING	Y	N	A
WELCH	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
ALBERS	Y	N	A
DUFF	Y	N	A
WARD	Y	N	A
HUEBSCH	Y	N	A
HUBER	Y	N	A
COGGS	Y	N	A

AYE 13 NO 3 ABS

JUSTICE

Property Development Rights

Motion:

Move to provide that when property development rights having a duration of 30 years or longer are sold by a property owner: (a) to a nonprofit organization that has partnered in the past or is currently partnering with any city, village, town, county or the state, as well as entities created by such units of government, financially or otherwise to acquire property development rights; or (b) to a city, village, town, county or the state, or to an entity created by such a unit of government; that the property owner, or his or her heirs, within three years of the sale of the property development rights may seek to recover the difference between what the nonprofit organization or the city, village, town, county or the state, or an entity created by a such a unit of government, paid for the property development rights and the property development rights' going rate. Define "going rate" as plus or minus 5% of what comparable property development rights sold for in the 12-month period prior to the sale of the property development rights in question.

Provide that compounded interest could also be recovered on the difference between the property development rights' "going rate" and what the property development rights sold for. Provide that the compounded interest rate would be the compounded interest rate charged by the county where the property is located for delinquent property taxes.

Provide that an affected property owner could either individually bring an action for recovery of the difference between what the property development rights sold for and the property development rights' "going rate" plus compounded interest, or could request the Department of Justice to bring the action on the property owner's behalf.

Provide that partial or complete gifting transactions where it was the intent of the property owner to partially or completely gift the property development rights shall be exempted.

Note:

The motion would provide that when cities, villages, towns, counties and the state, as well as entities created by such units of government, and nonprofit organizations (partnering with such units of government and entities created by such units of government), purchase property development rights, the property owners who sold those rights and their heirs could bring an action to recover the difference between the "going rate" for the property development rights they sold and the actual amount they received plus compounded interest. Provide that to be eligible for such a recovery, the property development rights sold had a duration of 30 years or longer and the property owner or his or her heirs, or the Department of Justice on behalf of the property owner or heirs, brought an action to recover these amounts within three years of the sale of the property development rights.

MO# _____

BURKE	Y	N	A
DECKER	Y	N	A
MOORE	Y	N	A
SHIBILSKI	Y	N	A
PLACHE	Y	N	A
WIRCH	Y	N	A
DARLING	Y	N	A
WELCH	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
ALBERS	Y	N	A
DUFF	Y	N	A
WARD	Y	N	A
HUEBSCH	Y	N	A
HUBER	Y	N	A
COGGS	Y	N	A

AYE 9 NO 7 ABS _____

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JUSTICE

LFB Summary Items for Which No Issue Paper Has Been Prepared

Item #	Title
1	Standard Budget Adjustments
6 (part)	Law Enforcement Training Fund and Assessment
7	Transfer of Training Positions
9	Program Revenue Funding for Criminal History Systems Positions
11	Crime Laboratory Equipment
12	Enhanced Use of DNA Evidence
13	Reimbursement for County Victim and Witness Assistance Programs
15	Modifications to Appropriations

LFB Summary Items to be Addressed in a Subsequent Paper

Item #	Title
2	Base Budget Reductions
3	Transfer of Consumer Protection Legal Functions to the Department of Agriculture, Trade and Consumer Protection
4	Transfer of County-Tribal Law Enforcement Grant Program Assistance

6 (part)	Law Enforcement Training Fund and Assessment	MO#			
8	Automated Fingerprint Identification System (AFIS) Replac				
		BURKE	Y	N	A
		DECKER	Y	N	A
		MOORE	Y	N	A
		SHIBILSKI	Y	N	A
		PLACHE	Y	N	A
		WIRCH	Y	N	A
		DARLING	Y	N	A
		WELCH	Y	N	A
		GARD	Y	N	A
		KAUFERT	Y	N	A
		ALBERS	Y	N	A
		DUFF	Y	N	A
		WARD	Y	N	A
		HUEBSCH	Y	N	A
		HUBER	Y	N	A
		COGGS	Y	N	A

AYE 16 NO 0 ABS _____

Corrections

Juvenile Corrections

Bill Agency

(LFB Budget Summary Document: Page 223)

LFB Summary Items for Which Issue Papers Have Been Prepared

<u>Item #</u>	<u>Title</u>
1 & 2	Overview of Juvenile Population Estimates and Daily Rates (Paper #360)
3	Alternate Care (Paper #361)
4	Serious Juvenile Offender Funding (Paper #362)
7	Population-Related Cost Adjustments (Paper #363)
8	Elimination of the Juvenile Boot Camp Program (Paper #364)
15	Calendar Year Allocation of Youth Aids Funding (Paper #365)

AGENCY: DOC (Juvenile Corrections)

Paper #: 360

ISSUE: Governor's recommendation to specify statutory daily juvenile population estimates and daily rates on a fiscal year, rather than a calendar-year basis.

ALTERNATIVE: 1 (approve) or 2 (maintain current law)

SUMMARY: Fiscal impact and procedure changes for counties appear to be negligible according to LFB.

BY: Tanya

AAH | OK



Legislative Fiscal Bureau

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May 21, 2001

Joint Committee on Finance

Paper #360

Overview of Juvenile Population Estimates and Daily Rates (DOC -- Juvenile Corrections)

[LFB 2001-03 Budget Summary: Page 223, #1 and Page 224, #2]

GOVERNOR

Reestimate the juvenile secured correctional facility average daily population (ADP) from 1,031 in 2000-01 to 942 in 2001-02 and 945 in 2002-03, and reestimate the total juvenile average daily population from 1,439 in 2000-01 to 1,320 in 2001-02 and 1,324 in 2002-03, as shown in the following table. On March 2, 2001, 944 juveniles were in a secured correctional facility and a total of 1,310 juveniles were under state supervision. The population projections include juveniles funded under the serious juvenile offender (SJO) program. The SJO population projections under the bill are summarized below under "Serious Juvenile Offender Funding." Under the bill, the population projections in the table are used in the calculation of daily rates for each type of care, excluding alternate care.

Average Daily Population

Governor

	2000-01*	Projected ADP	
		2001-02	2002-03
Secured Correctional Facilities	1,031	942	945
Other Placements			
Corrective Sanctions	136	136	136
Aftercare Services	272	242	243
Subtotal -- Other	408	378	379
Total ADP	1,439	1,320	1,324
Alternate Care	203	188	189

* Estimates under the 1999-01 biennial budget act.

Provide two modifications to the statutory provisions relating to daily rates for juvenile care: (a) specify statutory daily rates on a fiscal-year, rather than a calendar-year, basis; and (b) eliminate statutory daily rates for alternate care placements.

Under the bill, the following statutory daily rates would be established for juvenile correctional services provided by the Department of Corrections (DOC) that would be charged to counties and paid through counties' youth aids allocations, or paid through the serious juvenile offender appropriation.

**Statutory Daily Rates
Governor**

	Statutory Rates	Statutory Rates Under Bill	
	1-1-01 thru <u>6-30-01</u>	7-1-01 thru <u>6-30-02</u>	7-1-02 thru <u>6-30-03</u>
Secured Correctional Facilities*	\$154.08	\$171.16	\$176.06
Child Caring Institutions	190.70	NA	NA
Group Homes	123.45	NA	NA
Corrective Sanctions	76.71	82.89	84.87
Treatment Foster Homes	78.23	NA	NA
Regular Foster Homes	27.16	NA	NA
Aftercare Supervision	18.62	23.25	23.80

*Includes transfers from a secured correctional facility to the Mendota Juvenile Treatment Center.

DISCUSSION POINTS

Population Reestimates and Revised Daily Rates

1. The secured facilities include Ethan Allen School, Lincoln Hills School, Southern Oaks Girls School, Youth Leadership Training Facility (Boot Camp), the SPRITE Program, the Mendota Juvenile Treatment Center and the Prairie du Chien facility. Under current law, the Prairie du Chien facility is designated a temporary prison for young adult males until July 1, 2001. Under the bill, this use as an adult prison would be extended to July 1, 2003. In addition, under the bill, the boot camp program would be eliminated.

2. Under the corrective sanctions program, certain juveniles, following release from a juvenile correctional facility, are placed in the community and provided with intensive surveillance and an range of community-based treatment services. The intensive surveillance component of the program must be available 24 hours a day, seven days a week and DOC may provide electronic monitoring of program participants.

3. Aftercare supervision is provided to other juveniles under state supervision following release from a juvenile correctional facility. A juvenile provided with aftercare supervision may be placed in an alternate care setting, a relative's home or the juvenile's own home. Alternate care includes child caring institutions, group homes, foster homes and treatment foster homes. The average daily population for alternate care is a subset of aftercare services.

4. Each type of care has a different mix of costs associated with it that must be determined as accurately as possible in each budget cycle. In turn, these costs are paid through a combination of state and county funding. In general, an average daily rate is calculated for each type of care based on the projected annual cost and the estimated ADP for that type of care. Either the state or counties are charged that rate for each juvenile provided with the service. In the case of the counties, this daily rate may be paid through GPR youth aids allocated to each county on a calendar year basis or through county funding, if state youth aids funding is not available. The care and treatment of certain violent, extended jurisdiction and serious juvenile offenders, effective July 1, 1996, is paid with state GPR funding under the serious juvenile offender appropriation.

5. The bill would repeal the statutory daily rates for alternate care and the charges to both the counties and the state for these placements would be based on the actual daily rates charged at each alternate care setting utilized. [This provision is dealt with in budget Paper #361.]

6. While statutory rates would be eliminated under the bill, average daily rates for alternate care must still be estimated in order to establish the Department's budget for the residential aftercare appropriation that pays alternate care providers. The following table shows the statutory alternate care rates for 2000-01 and the average rates projected under the bill for 2001-02 and 2002-03.

**Alternate Care Daily Rates
Governor**

	Statutory Rates 1-1-01 thru 6-30-01	Governor (Non-Statutory)	
		7-1-01 thru 6-30-02	7-1-02 thru 6-30-03
Child Caring Institutions	\$190.70	\$213.00	\$226.00
Group Homes	123.45	129.00	135.00
Treatment Foster Homes	78.23	81.00	85.00
Regular Foster Homes	27.16	41.00	43.00
Other Living Arrangements	None	53.00	56.00

7. Alternate care rates, which are paid to non-state providers, are estimated on the basis of projected percentage changes to current costs. Rates for state-provided services (secured facilities, corrective sanctions and aftercare) are calculated on the basis of projected costs and ADP (the daily rate equals the total cost, divided by the ADP, divided by 365). The projected juvenile population for a given budget cycle is, therefore, a critical determination, affecting the rates charged

to counties and to the state's serious juvenile offender appropriation. When the costs of care remain relatively fixed, it is the variation in juvenile population projections that most affect changes in the daily rates. If the population is projected to increase, the average daily rates would decrease. Conversely, if juvenile population is projected to decrease, the daily rates would increase.

8. Juvenile populations in secured correctional facilities have varied. A dramatic five-year growth period occurred in the years 1991-92 through 1995-96, when the ADP for institutional care grew from 671 to 1,038. Populations then declined to 946 in 1996-97 and 925 juveniles in 1997-98. Part of this decline is related to the statutory modification, effective January 1, 1996, that treats 17-year-old offenders in Wisconsin as adults. In addition, the general growth in the levels of reported criminal offenses and arrests have abated to some degree in Wisconsin and nationally since 1994. Between 1994 and 1998, juvenile arrests for violent crimes in Wisconsin decreased by 18.6% and arrests for property crimes decreased by 17.9%. As a result of these and perhaps other factors, the state juvenile offender population has declined from the level experienced 1995-96.

9. More recent ADP levels at the secured facilities have been relatively stable. The ADP in secured facilities was 965 juveniles in 1998-99, 949 in 1999-00, and 954 through the first eight months of 2000-01.

10. Under the bill, the population reestimates in secured facilities total 942 in 2001-02 and 945 in 2002-03. The serious juvenile offender (SJO) component of the estimate (148 juveniles in 2001-02 and 143 in 2002-03) has been reestimated at 161 in 2001-02 and 162 in 2002-03. The assumptions used in the bill concerning SJO placements in corrective sanctions, aftercare supervision and alternate care settings have also been reexamined, in part on the basis of more recent data, and reestimates for each of the types of care have been made. Primarily on the basis of these SJO reestimates, overall population projections have been adjusted and are summarized in the following table:

**Average Daily Population
Revised Estimates**

	<u>Governor 2001-02</u>	<u>Revised 2001-02</u>	<u>Change to Bill</u>	<u>Governor 2002-03</u>	<u>Revised 2002-03</u>	<u>Change to Bill</u>
Secured Correctional Facilities	942	960	18	945	961	16
Other Placements						
Corrective Sanctions	136	136	0	136	136	0
Aftercare Services	<u>242</u>	<u>256</u>	<u>14</u>	<u>243</u>	<u>255</u>	<u>12</u>
Subtotal -- Other	378	392	14	379	391	12
Total ADP	1,320	1,352	32	1,324	1,352	28
Alternate Care	188	200	12	189	199	10

11. Based on these revised population estimates and the costs of care provided under the bill (including certain technical corrections to the cost basis used to calculate the daily rate for secured facilities), the following recalculation of daily rates is made, exclusive of alternate care:

**Statutory Daily Rates
Revised**

<u>Type of Care</u>	<u>Governor 2001-02</u>	<u>Revised 2001-02</u>	<u>Change to Bill</u>	<u>Governor 2001-02</u>	<u>Revised 2002-03</u>	<u>Change to Bill</u>
Secured Correctional Facilities	\$171.16	\$168.12	-\$3.04	\$176.06	\$173.20	-\$2.86
Corrective Sanctions	82.89	82.89	0	84.87	84.87	0
Aftercare Supervision	23.25	21.97	-1.28	23.80	22.67	-1.13

12. Where applicable, these revised ADP estimates and daily rates are used in the following juvenile corrections budget papers (#361 thru #365). The Committee, in taking action on these papers, may make modifications to the juvenile operating budget that would affect these daily rate calculations. [Any revised daily rate calculations will be provided in the comparative summary of the Governor's and Committee's budget provisions that will be prepared by this office following the Committee's deliberations.]

Statutory Specification of Daily Rates

13. Under current law, daily rates for juvenile care in a given biennium are statutorily specified for periods matching calendar year periods. Under current law, daily rates are specified for the periods: (a) July 1, 1999 to December 31, 1999; (b) January 1, 2000 to December 31, 2000; and (c) January 1, 2001 to June 30, 2001.

14. Under the bill, statutory rates in the 2001-03 biennium would instead be specified on a fiscal-year basis, rather than a calendar-year basis. According to both DOA and DOC officials, the change would make budgeting for juvenile corrections more straight-forward, would simplify revenue projections each fiscal year and would not adversely affect counties.

15. The modification would not have any effect on the daily rate calculations for the first six months of the biennium (July 1, 2001 to December 31, 2001, in this case) or the last six months (January 1, 2003 to June 30, 2003). It would affect the rates charged for the calendar period January 1, 2002 to December 31, 2002. Under current law, the statutes would specify a blended rate for the calendar year based on the approved budgets for each type of care and estimated average daily population (ADP) for the two fiscal years overlapping the calendar year. Under the bill, which would only specify fiscal year daily rates, the 2001-02 rate would apply to the first six months of 2002 and the 2002-03 rate would apply to the last six months of 2002.

16. Under this provision, counties would need to budget for calendar year 2002, based on two rates applying to two six-month periods rather than one rate applying to the entire calendar year. However, counties already do this for the first and last six-month periods of the biennium and

the proposed change does not appear to impose any tangible difficulties for the counties' budgeting procedures.

17. The proposal could have some fiscal effect for counties and for the state. If a county's ADP or the serious juvenile offender ADP is higher in the last six months of 2002, as compared to the first six months of 2002, overall charges would be higher for the year than they would be under the current law blended rate. Conversely, if ADP declined in the last six months, as compared to the first six months of the calendar year, charges would be lower than they would be under current law. However, these fiscal effects would likely be negligible.

18. If current law is maintained with statutory daily rates specified for calendar-year periods within the biennium, these periods and the reestimated statutory daily rates would be as follows:

Reestimated Statutory Rates Under Current Law

	7-01 thru <u>12-31-01</u>	1-1-02 thru <u>12-31-02</u>	1-1-03 thru <u>6-30-03</u>
Secured Correctional Facilities	\$168.12	\$170.66	\$173.20
Corrective Sanctions	82.89	83.88	84.87
Aftercare Supervision	21.97	22.32	22.67

ALTERNATIVES TO BILL

1. Approve the Governor's recommendation to specify statutory daily rates on a fiscal-year, rather than a calendar-year, basis.

2. Maintain current law. Under this alternative, statutory daily rates would continue to be specified for calendar-year periods within the biennium.

MO# _____

	BURKE	Y	N	A
	DECKER	Y	N	A
	MOORE	Y	N	A
	SHIBILSKI	Y	N	A
	PLACHE	Y	N	A
	WIRCH	Y	N	A
Prepar	DARLING	Y	N	A
	WELCH	Y	N	A
	GARD	Y	N	A
	KAUFERT	Y	N	A
	ALBERS	Y	N	A
	DUFF	Y	N	A
	WARD	Y	N	A
	HUEBSCH	Y	N	A
	HUBER	Y	N	A
	COGGS	Y	N	A