

990
972
87
SENATE HEARING SLIP

(Please Print Plainly)

DATE: 6/5/01

BILL NO. SB106
OR

SUBJECT _____

SARAH DIEDRICK
(NAME)

161 RIVER PACE SUITE 101
(Street Address or Route Number)

MONROE WI 53116
(City and Zip Code)

WI COUNTIES ASSOCIATION
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 6.5.01

BILL NO. SB 106
OR

SUBJECT _____

David Krahn
(NAME)

Rm 170, 515 W. Moreland Blvd.
(Street Address or Route Number)

Waukesha WI 53188
(City and Zip Code)

Waukesha County
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 6.5.01

BILL NO. SB 106
OR

SUBJECT _____

Michael J. Serpe
(NAME)

1010 56th St.
(Street Address or Route Number)

Kenosha WI 53140
(City and Zip Code)

Kenosha County
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 6-5-01
BILL NO. 106
OR
SUBJECT _____

(NAME) Mike Milliver

(Street Address or Route Number) S-17 W. 32422 Hwy Rtc

(City and Zip Code) Delafield WI 53018

(Representing) Self

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: June 5, 2001
BILL NO. SB 106-
OR
SUBJECT LRB 50112-3

Percentage-Expensed Orals

(NAME) Janet Nelson

(Street Address or Route Number) 901 N. 9th St.

(City and Zip Code) Milw WI 53233

(Representing) Milwaukee Dept of Child Support Enforcement

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 6/5/01
BILL NO. SB 106
OR
SUBJECT _____

(NAME) Bbs Andersen

(Street Address or Route Number) 315 N. 11th

(City and Zip Code) Madison WI 53715

(Representing) Action of Wisconsin

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 6/5/01
BILL NO. Revised Subst Amend
OR
SUBJECT RBs 0112-3 (SB106)

Elaine E. Richmond
(NAME)
3205 Main St - Rm 219
(Street Address or Route Number)
Waltham WI 53549
(City and Zip Code)
Wisconsin Wild Support & Habitat Assoc.
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger **PROMPTLY**.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O.Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 6/7/01
BILL NO. SB 106
OR
SUBJECT _____

Margorie Schuet
(NAME)
3706 Spring Trail
(Street Address or Route Number)
Madison WI 53711
(City and Zip Code)
State Bar Family Law Sec
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger **PROMPTLY**.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O.Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 6/5/01
BILL NO. SB 106
OR
SUBJECT PERMITS

EXCELLED ANNO SUMER
2 J rd RA 2
(NAME)
10120 W Forest Home Ave
(Street Address or Route Number)
Hales Corners WI 53130
(City and Zip Code)
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger **PROMPTLY**.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O.Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 6/5/01

BILL NO. SB 106

OR

SUBJECT Percentage Exp. Order

(NAME) _____

Loq Coger

(Street Address or Route Number) _____

215 N 38

(City and Zip Code) _____

(Representing) Wis Family De. Care Assoc.

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O.Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 6-5-01

BILL NO. SB106

OR

SUBJECT _____

(NAME) _____

Lornie Chusnik

(Street Address or Route Number) _____

(City and Zip Code) _____

(Representing) Dept of Workforce Development

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O.Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 6-5-01

BILL NO. SB106

OR

SUBJECT _____

(NAME) _____

Secretary Graniter Leitert and Lornie Chusnik

(Street Address or Route Number) _____

(City and Zip Code) _____

(Representing) Dept of Workforce Development

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O.Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 6-5-2001

BILL NO. SB 151 / SB106

OR

SUBJECT Child Support

Matthew Busan
(NAME)

460 Central
(Street Address or Route Number)

Belost WI 53511
(City and Zip Code)

(Representing)

Speaking in Favor: 151

Speaking Against: 106

*Marked
alt*

Registering in Favor:
but not speaking:

Registering Against:
but not speaking:

Speaking for information
only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

Vote Record

Senate - Committee on Judiciary, Consumer Affairs, and Campaign Finance Reform

Date: _____

Bill Number: SB 106

Moved by: George

Seconded by: Risser

Motion: _____

Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Sen. Gary George, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Fred Risser	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Robert Wirch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Joanne Huelsman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Scott Fitzgerald	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: _____

617/1

sect. b c

intro & adoption

Motion Carried

Motion Failed

Vote Record

Senate - Committee on Judiciary, Consumer Affairs, and Campaign Finance Reform

Date: _____

Bill Number: SB 106

Moved by: George

Seconded by: _____

Motion: _____

unanimous consent

Committee Member

Sen. Gary George, Chair

Aye

No

Absent Not Voting

Sen. Fred Risser

Sen. Robert Wirch

Sen. Joanne Huelsman

Sen. Scott Fitzgerald

Totals: _____

617/1

Section 6m

Study in DWD ad hoc committee
and report

limiting arrearses and
impact of sudden income

Motion Carried

Motion Failed

Vote Record

Senate - Committee on Judiciary, Consumer Affairs, and Campaign Finance Reform

Date: _____

Bill Number: _____

Moved by: Risser

Seconded by: George

Motion: adopt second part

Committee Member

Sen. Gary George, Chair

Aye

No

Absent Not Voting

Sen. Fred Risser

Sen. Robert Wirch

Sen. Joanne Huelsman

Sen. Scott Fitzgerald

Totals: _____

Motion Carried

Motion Failed

Vote Record

Senate - Committee on Judiciary, Consumer Affairs, and Campaign Finance Reform

Date: 6-26-01
 Moved by: George Seconded by: Huelsman
 AB: _____ SB: 106 Clearinghouse Rule: _____
 AJR: _____ SJR: _____ Appointment: _____
 AR: _____ SR: _____ Other: _____

A/S Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____
 A/S Sub Amdt: LRBs 01/2/3 to A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____ to A/S Sub Amdt: _____

Be recommended for:

- Passage
- Introduction } *as amended*
- Adoption
- Rejection

- Indefinite Postponement
- Tabling
- Concurrence
- Nonconcurrence
- Confirmation

Committee Member

Sen. Gary George, Chair
 Sen. Fred Risser
 Sen. Robert Wirch
 Sen. Joanne Huelsman
 Sen. Scott Fitzgerald

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Sen. Gary George, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Fred Risser	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Robert Wirch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Joanne Huelsman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Scott Fitzgerald	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: 4 1 _____ _____

Motion Carried

Motion Failed

Vote Record

Senate - Committee on Judiciary, Consumer Affairs, and Campaign Finance Reform

Date: 6-26-01
 Moved by: _____

AB: _____ SB: 106
 AJR: _____ SJR: _____
 AR: _____ SR: _____

Seconded by: _____
 Clearinghouse Rule: _____
 Appointment: _____
 Other: _____

A/S Amdt: LRBa0608/1
 A/S Amdt: _____ to A/S Amdt: _____
 A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____ to A/S Sub Amdt: _____

Be recommended for:

- Passage
- Introduction }
 Adoption }
 Rejection

- Indefinite Postponement
- Tabling
- Concurrence
- Nonconcurrence
- Confirmation

Committee Member

Sen. Gary George, Chair
 Sen. Fred Risser
 Sen. Robert Wirch
 Sen. Joanne Huelsman
 Sen. Scott Fitzgerald

Aye	No	Absent	Not Voting
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: _____

Motion Carried

Motion Failed

Vote Record

Senate - Committee on Judiciary, Consumer Affairs, and Campaign Finance Reform

Date: 6-26-01

Moved by: _____

Seconded by: _____

AB: _____ (SB) 106

Clearinghouse Rule: _____

AJR: _____ SJR: _____

Appointment: _____

AR: _____ SR: _____

Other: _____

A/S Amdt: _____

A/S Amdt: _____ to A/S Amdt: _____

A/S Sub Amdt: _____

A/S Amdt: _____ to A/S Sub Amdt: _____

A/S Amdt: _____ to A/S Amdt: _____

to A/S Sub Amdt: _____

Be recommended for:

- Passage
- Introduction
- Adoption
- Rejection

- Indefinite Postponement
- Tabling
- Concurrence
- Nonconcurrence
- Confirmation

Committee Member

- Sen. Gary George, Chair
- Sen. Fred Risser
- Sen. Robert Wirch
- Sen. Joanne Huelsman
- Sen. Scott Fitzgerald

<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: _____

Motion Carried

Motion Failed



**WISCONSIN LEGISLATIVE COUNCIL
STAFF MEMORANDUM**

TO: SENATOR GARY R. GEORGE

FROM: Ronald Sklansky, Senior Staff Attorney *RS*

RE: Senate Substitute Amendment __ (LRB-0112/3) to 2001 Senate Bill 106

DATE: June 14, 2001

This memorandum describes the provisions of Senate Substitute Amendment __ (LRB-0112/3) to 2001 Senate Bill 106, generally relating to child support orders.

A. FIXED SUM AND PERCENTAGE-EXPRESSED ORDERS

1. Current Law

In general, a court order for the support of minor children may be expressed as a percentage of parental income or as a fixed sum, or as a combination of both in the alternative by requiring payment of the greater or lesser of either a percentage of parental income or a fixed sum. [See ss. 767.08 (2) (b), 767.23 (1) (c), 767.25 (1) (a) and 767.265 (3m), Stats. Section 767.08 (2) (b), Stats., relating to actions to compel support, also allows a percentage-expressed order to be made in connection with maintenance of the spouse.]

2. Substitute Amendment

The substitute amendment provides that a child support order, and an order for maintenance in an action to compel support, must be expressed as a fixed sum, unless the parties have stipulated to expressing the amount of support as a percentage of the payer's income. Such a stipulation may be approved by a court only if all of the following apply:

a. The state is not seeking to establish paternity; the state has not begun an action to establish or enforce a child support or maintenance obligation; the state has not begun an action to establish or enforce a child support or maintenance obligation; or the state has not provided specified aid on behalf of a dependent child or child's custodial parent.

b. The payer is not subject to any other order, in any other action, for the payment of child or family support or maintenance.

c. All payment obligations included in the order are expressed as a percentage of the payer's income.

[See SECTIONS 3 to 6 and 8 of the substitute amendment.]

The substitute amendment also provides that in order to undertake a proceeding to revise a judgment or order with respect to child or family support, a court is not required to make a finding of a substantial change in circumstances (as required under current law) to change to a fixed sum the manner in which the amount of child or family support is expressed in the judgment or order. [See SECTIONS 11 and 12 of the substitute amendment.]

Finally, in order to assist county child support agencies when converting child support orders to fixed-sum orders, the substitute amendment appropriates \$1,467,400 of general purpose revenue in the 2001-02 fiscal year. The funds are to be allocated to counties on the basis of the number of percentage-expressed or mixed orders in a county in cases in which the state is a real party in interest. [See SECTIONS 1 and 2 of the substitute amendment.]

B. DISCLOSURES

I. Current Law

Under current law, each order for child support, family support or maintenance payments must include an order describing the following disclosure requirements:

a. The payer and payee must notify the county child support agency of any change of address within 10 business days of the change.

b. The payer must notify the child support agency within 10 business days of any change of employer and of any substantial change in the amount of income that will affect the monetary obligation.

[See s. 767.263 (1), Stats.]

Current law also provides that in any action affecting the family, a court must require each party to furnish full disclosure of all assets owned in full or in part by either party separately or by the parties together. Debts and liabilities of the parties must be disclosed as well. Further, when child support or family support has been ordered, and the state is an interested party, a court *must* require the payer to annually furnish the disclosure form and may require the payer to annually furnish state and federal income tax returns to the appropriate county child support agency. When the state is not an interested party, a court *may* require the payer to annually furnish the disclosure form and a copy of state and federal income tax returns to the party receiving support. [See s. 767.27 (1) and (2m), Stats.]

2. Substitute Amendment

The substitute amendment provides, with respect to the requirement that a payer notify a county child support agency of any substantial change in income, that the report also be made to the payee and that it must include the receipt of bonus compensation. Regarding the disclosure of financial status, the substitute amendment provides that in every action in which a court has ordered a party to pay child or family support, including an action to revise a judgment or order, the court must require both parties annually to exchange financial information. If a party has failed to furnish this information, a court may award to the party bringing the action costs and reasonable attorney fees. [See SECTIONS 7, 9 and 10 of the substitute amendment.]

C. ANNUAL ADJUSTMENTS IN SUPPORT ORDERS

1. Current Law

Section 767.33, Stats., generally provides that a temporary or final order for child support may provide for an adjustment in the support amount to be paid based on a change in the payer's income. However, no adjustment may be made unless the order provides for it and the party receiving payments applies for an adjustment. An adjustment may be made only once in any year. An adjustment only applies to a fixed-sum order and not to an order expressed as a percentage of parental income. Following a hearing, the payer may avoid an adjustment if it is established that extraordinary circumstances beyond the payer's control prevent fulfillment of the adjusted support obligation.

2. Substitute Amendment

The substitute amendment repeals and recreates s. 767.33, Stats., to provide that an order for child or family support may provide for an annual adjustment in the amount to be paid based on a change in the payer's income, if the support is expressed in the order as a fixed sum and based on a percentage standard established by the Department of Health and Family Services. The order must specify what information the parties will exchange to determine whether the payer's income has changed and must specify the manner and timing of the information exchange. Only one adjustment may be made in a year.

The substitute amendment also provides that if a payer's income changes from the amount found in the order or stipulated to by the parties, the parties may implement an adjustment by stipulating to the changed income amount and to the adjusted child or family support amount.

Under the substitute amendment, any party may file a motion, petition or order to show cause for the implementation of an annual adjustment if any of the following applies:

- a. A party refuses to provide financial information.
- b. The payer's income changes, but a party refuses to sign the stipulation for an adjustment.

The substitute amendment also provides that an adjustment will be delayed if any of the following applies:

- a. The payee seeks an adjustment and the payer establishes that extraordinary circumstances beyond his or her control prevent fulfillment of the adjustment.
- b. The payer seeks an adjustment and the payee establishes that the payer voluntarily and unreasonably reduced income below earning capacity.
- c. The payer seeks an adjustment and the payee establishes that the adjustment would be unfair to the child.

If a party unreasonably fails to comply with the adjustment provisions, a court or family court commissioner may award to the aggrieved party actual costs, including service costs, any costs attributable to time missed from employment, the cost of travel to and from court and reasonable attorney fees.

[See SECTIONS 13, 14 and 15 of the substitute amendment.]

RS:rv;tlu



Legislative Fiscal Bureau

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

May 31, 2001

Joint Committee on Finance

Paper #1061

Use of Percentage-Expressed Child Support Orders in Wisconsin (DWD -- Child Support)

CURRENT LAW

Whenever a court enters a judgment of annulment or divorce, a judgment in a paternity action, or otherwise takes action to require child support, the court must direct either one or both parents to pay an amount reasonable to fulfill the parental responsibility to provide for their minor children. At present, a support order in Wisconsin may be expressed in one of three ways:

- (1) as a percentage of parental income;
- (2) as a fixed sum; or
- (3) as a combination of both by requiring payment of the greater or lesser of either a percentage of parental income or of a fixed sum (mixed orders).

In all instances, however, a percentage standard is used as the starting point for determination of child support payment amounts. A court can modify the amounts indicated by the percentage standards following a finding that strict use of the percentage standard would be unfair to the child or to any of the parties involved in the support case. The percentage standards for determining the amount of support due are specified in an administrative rule promulgated by the Department of Workforce Development (DWD) as follows: 17% of the payer's gross (before-tax) income for one child; 25% for two children; 29% for three children; 31% for four children; and 34% of the payer's income for five or more children.

Federal and State Incentive Payments

The federal government distributes incentive payments to states in order to encourage and reward child support programs that perform in a cost-effective and efficient manner. In Wisconsin, these funds are distributed to county child support agencies.

At present, a new incentive system is being phased in nationwide. Under the new system, incentive payments to states will be based on five measures of performance: (1) paternity establishment; (2) establishment of support orders; (3) collection of current child support due; (4) collection of child support arrearages; and (5) cost-effectiveness. The previous system was based primarily on the ratio of each state's support collections to administrative costs and the amount of support collected on behalf of certain public assistance recipients.

The new system is being phased in over three years, beginning in federal fiscal year (FFY) 2000 (October 1, 1999, through September 30, 2000). As of the time of this writing, the federal Department of Health and Human Services (HHS) was in the process of determining individual states' allocations of incentive payments based upon their performance during FFY 2000. For this determination, two-thirds of each state's allocation will be calculated using criteria established under the old system, while one third will be determined by applying the new criteria. DWD expects a final decision regarding Wisconsin's portion of federal incentive payments to be made in August or September, 2001. For states' performance during FFY 2001, payments will be based one-third on the old system and two-thirds on the new. For the FFY 2002 allocation and for years thereafter, incentive payments will be awarded based entirely on the new system.

Under current state law, Wisconsin provides state incentive payments to counties to supplement federal incentive payments. State law specifies that the combined total of federal incentive payments and state supplemental funding cannot exceed \$12,340,000 annually, with state supplemental payments capped at \$5,690,000 per year. Under this structure, the amount available for distribution to the counties will fall below \$12,340,000 if federal incentive payments are less than \$6,650,000. Conversely, state supplemental payments will be less than \$5,690,000 if federal incentive payments exceed \$6,650,000. The state incentive payments are funded with program revenue from child support assigned to the state by certain public assistance recipients.

GOVERNOR

No provision.

DISCUSSION POINTS

Number of Child Support Orders in Wisconsin

1. Table 1 shows the total number of child support orders in Wisconsin as of April, 2001. "IV-D cases" are child support recipients who are receiving services from the county child support agency under Title IV-D of the federal Social Security Act. Such services are provided free of charge to most public assistance recipients and are available to parents who do not receive public assistance for a fee based on the individual's ability to pay. "Non-IV-D cases" are parents who do not receive child support enforcement services.

TABLE 1

Total Number of Child Support Orders in Wisconsin
As of April 2001

<u>Type of Order</u>	<u>IV-D Cases</u>	<u>Non-IV-D Cases</u>	<u>Total</u>
Fixed-Sum	128,849	24,309	153,158
Mixed	23,253	2,988	26,241
Percentage-Expressed	<u>39,434</u>	<u>14,919</u>	<u>54,353</u>
Total	191,536	42,216	233,752

Source: Department of Workforce Development

2. As shown in Table 1, there were 233,752 child support orders in Wisconsin as of April, 2001. Of these, 191,356 (81.9%) were IV-D cases, while 42,216 (18.1%) were non-IV-D cases. Most of the IV-D cases utilize fixed-sum orders (128,849, or 67.3% of the total IV-D caseload), while the remaining 62,687 (32.7% of the total IV-D caseload) had percentage-expressed or mixed orders. A roughly similar pattern was found with the non-IV-D cases.

3. Wisconsin is the only state that utilizes percentage-expressed support orders. As described later in this paper, federal child support funding may be at risk due to the state's use of percentage-expressed and mixed child support orders. In determining whether the state qualifies for this funding, the federal government examines only IV-D child support cases.

Percentage-Expressed Orders: Arguments Pro and Con

Arguments Advanced in Favor of PEOs

4. Percentage-expressed orders have the advantage of self-adjusting the level of support as an obligor's income changes. Thus, if the obligor's income increases, so do the support payments.

5. DWD has indicated that PEOs can result in significantly higher child support payments than fixed orders in cases where payments are regular and there are no interruptions in employment. Custodial parents and children are the beneficiaries when these circumstances prevail.

6. Allowing only fixed-sum orders to be entered would remove judges' ability to select an option that generally works well and provides more monetary support for children when specific circumstances prevail. Judges should retain maximum flexibility to tailor orders to specific circumstances.

7. PEOs are cost-efficient because they allow for adjustments in support to take place without having to arrange a court hearing first. In addition, they can help separated individuals avoid expenses for additional court hearings.

8. PEOs serve the interests of victims of domestic abuse particularly well because they provide for changes in support without forcing victims to potentially have to confront their abuser in the context of a hearing.

Arguments Advanced in Opposition to PEOs

9. According to the Department of Health and Human Services, the use of PEOs does not allow Wisconsin to provide the complete and reliable data required in order for the state's automated child support system [kids information data system (KIDS)] to be certified. According to HHS's audit finding, the use of PEOs prevents Wisconsin from supplying complete data for current child support collections and collections of amounts in arrears.

10. According to DWD, one problem with arrearages under PEOs is that if no payments are made, the payee is not entitled to enforcement services until the order can be reconciled against the payer's tax return to establish the level of the arrearage.

11. PEOs often do not "self adjust" as anticipated. For example, although Wisconsin statutes require employers to submit gross income amounts for the obligor with each support payment withheld, DWD indicates that only 50% to 60% of employers actually provide that information. Without that information, it is difficult to ensure that the appropriate level of support actually is being provided. According to DWD, reconciliations performed on PEOs have found significant underpayments. Lack of the information also contributes to the problems of misapplied payments and processing delays.

12. According to HHS, orders expressed in percentage terms would have to be reconciled at least monthly in order to accurately post child support amounts due and disburse payments to the appropriate individual within two business days, as required by federal law.

13. The circumstances under which PEOs work well -- when payments are regular and there is no interruption in employment -- frequently do not prevail in cases served by Wisconsin's IV-D program. At present, IV-D cases account for more than four out of every five child support cases in the state.

14. Since Wisconsin is the only state that utilizes PEOs, they have proven very difficult to enforce in other states. Enforcement of orders across state lines is important, as the federal Office of Child Support Enforcement estimates that roughly 30% of all cases nationwide involve parties who reside in different states.

Possible Federal Incentive Payment Losses

15. As mentioned, HHS has notified the state that the continued use of PEOs will likely prevent the KIDS system from receiving federal certification. HHS officials have also notified DWD that the use of percentage-expressed orders may result in reduced federal child support incentive payments because the use of PEOs does not permit a conclusive determination of total child support obligations owed in the state, particularly current support due and arrears due. As a result, HHS's Office of Child Support Enforcement cannot tabulate reliable findings regarding Wisconsin's performance on the two corresponding indicators that are components of the new system for distributing incentive payments: current collections performance level and arrearage collection performance level.

16. As noted, under the new incentive structure, payments to states are based on the state's performance on five measures, as modified by the phase-in schedule for the new incentive system. If the federal government is unable to accurately measure Wisconsin's performance on individual measures, the incentive payments will be reduced accordingly. For example, Wisconsin's failure to meet the criteria for two of the five performance indicators identified above during the current fiscal year (FFY 2001) will result in a loss of two-fifths of the scheduled two-thirds incentive payment established by the phase-in schedule. The net result is a 26.7% (two-thirds of two-fifths) reduction in Wisconsin's incentive payment for that year. Beginning in FFY 2002, when the new incentive system is to be fully implemented, the reduction will be 40% annually.

17. Table 2 presents DWD's current estimates of federal child support incentive payments to Wisconsin. It also shows what the penalty from the continued use of PEOs would be, should the incentive payments materialize as estimated, as well as the level of net incentive payments and estimated monetary losses to the counties under the assumed federal payment scenario. Because the new incentive system differs significantly from the former system, it is difficult to precisely estimate the incentive payment levels and the resulting revenue loss from the use of PEOs. DWD indicates that actual payments will not be determined until August or September, 2001, for federal fiscal year 2000.

TABLE 2

Estimates of Federal Incentive Payments and Revenue Losses from the Use of Percentage-Expressed Child Support Orders in Wisconsin

	Estimated Full Federal Incentive <u>Earnings*</u>	Penalty from use of <u>PEOs</u>	Net Estimated Federal Incentive <u>Payment</u>	Estimated Loss to <u>Counties**</u>
FFY 2000	\$7,551,000	\$1,637,000	\$5,914,000	-\$736,000
FFY 2001	9,739,000	3,323,000	6,416,000	-234,000
FFY 2002	12,400,000	4,960,000	7,440,000	0

* The level of estimated payments without penalties resulting from the use of PEOs.
 ** Amount by which net federal incentive payments are below \$6,650,000.

Source: Department of Workforce Development

18. DWD's estimates reveal that counties would stand to lose approximately \$736,000 in federal incentive payments for FFY 2000 and \$234,000 for FFY 2001. The county-level impact from these losses would be felt in state fiscal years 2001-02 and 2002-03, respectively.

Other Possible Federal Penalties

19. Possible financial consequences of the use of PEOs extend beyond the loss of federal incentive dollars. If child support data submitted by a state is determined to be incomplete or unreliable or if the state child support enforcement program fails to achieve performance standards established by the federal Office of Child Support Enforcement, that state may be assessed a penalty against its annual temporary assistance for needy families (TANF) block grant, which currently is \$317.5 million in Wisconsin. The TANF block grant funds Wisconsin Works (W-2) and a number of other public assistance programs.

The criteria against which a state's performance will be measured for purposes of this provision are: (a) paternity establishment; (b) order establishment; and (c) current collections performance. Penalties for noncompliance are 1% to 2% of the TANF block grant for the first finding; 2% to 3% of the TANF block grant for the second consecutive finding; and at least 3% but not more than 5% for the third or a subsequent consecutive finding.

20. Ultimately, rejection of the state's child support plan by federal officials could result in the loss of some \$63 million in federal child support matching funds plus the entire federal TANF block grant. The \$63 million in child support matching funds is used to support the Bureau of Child Support in DWD, the KIDS computer system, and county child support enforcement activities. Loss of monies under either or both of these funding streams represents a worst-case scenario and is a more remote possibility than the potential loss of federal incentive payments.

21. Representatives of the Midwest regional office of the Department of Health and Human Services have indicated that, at present, the problem of continued use of PEOs has not reached the point at which penalties against Wisconsin's TANF block grant would be levied. The Legislative Audit Bureau concurs with this assessment.

Actions the State Has Taken in Response to Potential Federal Funding Losses

Request of Waiver to Allow Continued Use of PEOs

22. In March, 2001, DWD requested a waiver from federal policy that could penalize Wisconsin through funding reductions over this state's continued use of PEOs. In its letter requesting the waiver, DWD asked that the state be allowed to continue utilizing PEOs "in a limited fashion," noting that child support payments in cases with percentage-expressed orders typically are higher than in cases that utilize fixed-sum orders so long as the obligor's payments are regular and there are no interruptions in employment.

23. In mid-April, HHS denied DWD's proposal for a waiver as it was expressed in the request. In its letter notifying DWD of the denial, HHS indicated that states are eligible to receive federal incentive payments only if data used to calculate the state's performance against the established criteria are complete and reliable, and that only support orders expressed as a dollar amount enable Wisconsin to meet these standards.

Initiatives Within DWD

24. In a January, 2001, Administrator's Memorandum, DWD established a goal of reducing the proportion of percentage-expressed and mixed orders to less than 10% of the overall IV-D caseload by late 2001. Currently, about 33% of IV-D cases utilize such orders.

25. To help achieve the stated goal of reducing the proportion of non-fixed sum orders in the IV-D caseload, DWD established a new policy, outlined in the same Administrator's Memorandum, requiring child support agencies and their attorneys to recommend only fixed-sum amounts in new orders or in orders being revised. In addition, it directs child support agencies and their attorneys to use "available opportunities" to convert percentage-expressed or mixed orders to fixed-sum orders. These provisions are not binding on the courts that actually enter the support orders, however, as current law does not explicitly prohibit the use of percentage-expressed or mixed orders nor require that only fixed-sum orders be entered.

Introduction of Legislation Requiring Orders to be Expressed in Fixed-Sum Amounts

26. With the threat of possible reductions in federal incentive funds looming because of the state's continued use of PEOs, legislation has been introduced that would require all future child or family support orders to be expressed as a fixed amount. The bill, AB 248/SB106, also provides that a court would not be required to establish a finding of substantial change in circumstances in order to change the manner of expressing the amount of child or family support to a fixed sum if the

support level is currently specified in percentage or in mixed terms. Current law requires such a finding prior to making the change. DWD indicates that it will direct child support agencies to convert existing IV-D percentage-expressed and mixed orders to fixed-sum orders if this legislation is passed.

27. AB 248/SB 106 also would require every child or family support order expressed as a fixed sum to provide for an annual adjustment in the support amount, based upon a change in the payer's income. The bill would require application to the appropriate family court commissioner in order for the adjustment to take effect. Either party could apply for the adjustment under the bill's provisions.

28. AB 248/SB 106 also would eliminate the requirement that the court order the payer to supply a financial disclosure form to the payee and to the county child support agency and require, instead, the court to order the payer to furnish copies of his or her most recently filed state and federal income tax returns annually to the payee. This provision is intended to streamline the process of applying for an adjustment in the support amount under the bill's provisions. The financial disclosure form is a relatively long document required to be filed at the time of divorce that contains information over and above that needed to determine the appropriateness of an adjustment in the support amount.

29. If percentage-expressed and mixed orders continue to be utilized in Wisconsin, federal financial penalties will grow in size as the new system of determining incentive payments continues to be phased in. In addition, reductions in Wisconsin's TANF block grant and federal child support matching funds would become more likely. The Committee may wish to incorporate the provisions of AB 248/SB 106 into the budget bill.

Options to Provide Funds to Counties to Offset Reduced Federal Incentive Payments and Assist in the Conversion of Percentage-Expressed and Mixed Orders to Fixed-Sum Orders

Raise the Cap on State Incentive Payments

30. Concerned about the potential loss of federal incentive dollars stemming from the use of PEOs, the Wisconsin Child Support Enforcement Association (WCSEA) has suggested that the current cap of \$5,690,000 on state incentive payments be raised to a level that would reduce or eliminate the possibility that payments to counties could fall below the \$12,340,000 statutory maximum.

31. Wisconsin will receive federal incentive payments for FFY 2000 in state fiscal year 2001-02 and federal payments for FFY 2001 in state fiscal year 2002-03. Assuming DWD's estimates of federal incentive payments for FFYs 2000 and 2001 to be correct, the cap on state incentive payments would have to be raised to \$6,426,000 in 2001-02 and \$5,924,000 in 2002-03 in order to ensure that counties receive the maximum \$12,340,000 in incentive payments during these years. These numbers represent increases over the current \$5,690,000 maximum of \$736,000 and \$234,000 for state fiscal years 2001-02 and 2002-03, respectively.

32. Another option would be to temporarily eliminate the \$5,690,000 cap on state incentive payments. This would provide the greatest assurance to counties that they would receive the full \$12,340,000 of funding, even if the federal incentive payments are lower than DWD's projections in Table 2. The estimated cost of this option would be the same as the alternative outlined in the preceding paragraph. However, the state would be obligated to spend additional funds if the federal payments were lower than DWD's estimates.

33. As noted, the current state incentive payments are funded with child support assigned to the state by public assistance recipients. The child support funds that are not allocated for state incentive payments are used to fund the W-2 program and are counted toward the maintenance-of-effort (MOE) requirement for the TANF program. Therefore, any increase in the state incentives should be funded with GPR, because it is likely that the TANF MOE requirement would not be met if additional child support collections were diverted from the W-2 program. Failure to meet the maintenance-of-effort requirement would result in a dollar-for-dollar reduction in the TANF block grant and a requirement that the state spend additional funds equal to the shortfall in the following year.

34. DWD estimates that the federal incentive payments for FFYs 2002 and 2003 [payable to Wisconsin in state fiscal years 2003-04 and 2004-05, respectively] will be at levels high enough to provide \$12,340,000 to counties without adjusting the \$5,690,000 cap on state incentive payments. Based on these estimates, it appears that the cap could be restored to \$5,690,000 for state fiscal years 2003-04 and thereafter with no threat of funding losses to counties.

Convert All Existing IV-D Percentage-Expressed and Mixed Orders to Fixed-Sum Orders

35. At present, Wisconsin has approximately 62,700 percentage-expressed and mixed support orders in effect that fall into the IV-D classification. As stated earlier, in evaluating states' performance for purposes of distributing incentive funds according to the established criteria, the federal government examines only IV-D cases. Therefore, these 62,700 orders are the ones that would need to be converted to fixed-sum orders if the loss of federal funds is to be averted.

36. Although AB 248/SB 106 would not require the conversion of existing PEOs and mixed orders, only new orders, DWD's fiscal note to the bill included an estimate of the cost of converting the existing IV-D percentage-expressed and mixed orders. At an assumed cost of \$65 per order, DWD estimates a total cost of \$4,316,000 to convert approximately 66,400 IV-D percentage-expressed and mixed orders. The 66,400 amount represents the number of such orders in place as of August, 2000, and differs somewhat from the more recently identified caseload total of 62,687. DWD indicates that it used the earlier number in its fiscal note to avoid penalizing counties that already had initiated efforts to begin converting their percentage-expressed and mixed orders.

37. Of the total \$4,316,000 cost of converting the orders, \$2,848,600 would be funded with the 66% federal match available for most child support enforcement expenditures. State or local funding would be needed for the remaining \$1,467,400.

38. Options for assisting counties with the \$1,467,400 state/local portion of conversion costs include using state funds to cover the entire cost or requiring that the burden be shared between counties and the state. If the costs are to be shared, one option might be to divide them evenly. Under this proposal, the \$733,700 state portion could be appropriated to DWD, with DWD directed to distribute the funds to counties based upon the counties' respective share of IV-D percentage-expressed and mixed orders.

ALTERNATIVES TO BILL

State Incentive Payments to Counties

1. Temporarily raise the current cap on state incentive payments from \$5,690,000 to \$6,426,000 in 2001-02 and to \$5,924,000 in 2002-03. Provide \$736,000 GPR in 2001-02 and \$234,000 GPR in 2002-03 to fund the cap increases.

<u>Alternative 1</u>	<u>GPR</u>
2001-03 FUNDING (Change to Bill)	\$970,000

2. Temporarily eliminate the current cap of \$5,690,000 on state incentive payments in 2001-02 and 2002-03. Create a sum-sufficient GPR appropriation in DWD with estimated funding of \$736,000 GPR in 2001-02 and \$234,000 GPR in 2002-03 to pay for the increased incentive payments.

<u>Alternative 2</u>	<u>GPR</u>
2001-03 FUNDING (Change to Bill)	\$970,000

3. Maintain current law.

Statutory Modifications Related to Percentage-Expressed and Mixed Child Support Orders

4. Adopt the provisions of AB 248/SB 106. These provisions would: (a) require all child or family support orders entered after enactment to express the amount of support as a fixed sum; (b) provide that a court would not be required to establish a finding of substantial change in circumstances in order to change the manner of expressing the amount of child or family support to a fixed sum if the support level is currently specified in percentage or in mixed terms; (c) require every child or family support order in which the amount of support is expressed as a fixed sum to provide for an annual adjustment in the support amount, based upon a change in the payer's income; (d) specify that application would have to be made to the family court commissioner for an adjustment in the support amount and that either party--not just the payee--could apply; and (e)

eliminate the requirement that the court order the payer to supply a financial disclosure form to the payee and to the county child support agency and require, instead, the court to order the payer to furnish copies of his or her most recently filed state and federal income tax returns annually to the payee.

5. Maintain current law.

Funding to Assist Counties in Their Efforts to Convert IV-D Percentage-Expressed and Mixed Orders

6. Provide \$1,467,400 GPR and \$2,848,600 FED in 2001-02 to provide assistance to county child support agencies for the costs of converting percentage-expressed or mixed child support orders to fixed-sum orders. Require DWD to develop a system to allocate these dollars to counties based upon the counties' respective caseload of IV-D percentage-expressed and mixed orders.

<u>Alternative 6</u>	<u>GPR</u>	<u>FED</u>	<u>TOTAL</u>
2001-03 FUNDING (Change to Bill)	\$1,467,400	\$2,848,600	\$4,316,000

7. Provide \$733,700 GPR and \$1,424,300 FED in 2001-02 to provide assistance to county child support agencies for the costs of converting percentage-expressed or mixed child support orders to fixed-sum orders. Require DWD to develop a system to allocate these dollars to counties based upon the counties' respective caseload of IV-D percentage-expressed and mixed orders.

<u>Alternative 7</u>	<u>GPR</u>	<u>FED</u>	<u>TOTAL</u>
2001-03 FUNDING (Change to Bill)	\$733,700	\$1,424,300	\$2,158,000

8. Maintain current law.

Prepared by: Drew B. Larson

Geoff Wilde
3564 Douglas Ave #310
Racine, WI 53402

June 25, 2001

Dear Senator:

I am writing this letter to be added as testimony for both Senate Bills 106 and 151, if possible. I am in favor of both bills, and would strongly recommend both bills be passed at the same time, as others have suggested. In writing this letter, I wanted to present factual information, rather than sounding like a whining father who doesn't want to pay child support. I decided to present to you the emotional aspect of the current child support standards, since emotions are invaluable and incalculable.

I am divorced, and the father of a 9 year old son. I earn a decent wage, work a decent job, and live a decent life. I pay federal and state taxes, and am working diligently with my new wife to re-establish my life. We pay all our bills on time, and are working towards building a house of our own. I mention all these things because they are the gauges on which society judges us. In working hard for all the things in my life worth having, I am troubled when the government all but enables the custodian of a supported child to earn a less than adequate wage. They do this by enforcing unfair support orders, using inadequate and antiquated support calculations, and resisting the change in society that most other states have recognized as contemporary. Below is a passage from our state law books, article 765.001(2), which states:

"Each spouse has an equal obligation in accordance with his or her ability to contribute money or services or both which are necessary for the adequate support and maintenance of his or her minor children and of the other spouse. No spouse may be presumed primarily liable for support expenses"

In my situation, I have consistently earned over 70% of the combined family income, both during and after the marriage. Following the divorce, my wages have risen twice; and taken 2 different

positions, both times adding responsibility and accountability. In all cases, I knew my progress and success would benefit my son more than it would me, since the percentage-based support order automatically increased the amount given to my son. Unfortunately, when the support increased, his home environment and childhood opportunities did not change. At one point, my son couldn't participate in a \$5.00 a week martial arts class because his mom couldn't afford it. With the money paid out to my ex in support, I didn't want to further enable her to not care for my son and his needs.

My son, unfortunately, has not seen the benefit of my success. According to another passage from the statute, this is the goal of child support- to keep the minor child in a manner as if the marriage were still intact. Since the divorce, my ex-wife has moved into a low-income neighborhood, neglected to pay bills, and deprived my son the ability to participate in social activities. The manner in which he is living now is below any living standard we had as a married couple. His living conditions are below what he should have, given the amount of support I pay to his mother.

By passing both senate bill 106, and bill 151, the table could turn in my son's favor. With money staying in my household, social needs as well as living standards could be met and exceeded. My wife and I have already agreed that any reduction in support would immediately benefit my son by enabling us to enroll him in extra-curricular activities or classes that will benefit him socially. He will live in a neighborhood where he isn't afraid to play outside, or find alcohol or bottles on the front lawn. He will have children of equal stature that he can associate with, and relate to.

Unfortunately, if the standard isn't changed, his mother can continue to spend child support money on anything she chooses, claiming all the money she receives is spent on my son. In looking at his surroundings, and how he is clothed and sheltered, I would know differently. If the standard isn't changed, there is no way for my son to truly benefit from my success, or the success of my marriage; nor is there any incentive for my ex-wife to better her self, thereby bettering my son.

June 25, 2001

I sincerely hope that senate bill 106 and senate bill 151 are passed into law, and give the payors back control of how their wages are spent on their children. I hope the payees are forced to realize they have a responsibility to their children, not just emotionally, but financially as well. I hope this happens while there is still time to undo any damage that may have been done to these children. I hope the state and all it's departments that support the welfare of children recognize how this bill affects one of our state's most precious resources, and does what is right for the children.

Sincerely,

Geoff Wilde