

2005 DRAFTING REQUEST

Bill

Received: 10/26/2004

Received By: pkahler

Wanted: As time permits

Identical to LRB:

For: Administration-Budget 6-8219

By/Representing: Fath

This file may be shown to any legislator: NO

Drafter: pkahler

May Contact:

Addl. Drafters: jkuesel

Subject: Public Assistance - misc

Extra Copies: PG, GMM

Submit via email: NO

Pre Topic:

DOA:.....Fath, BB0218 -

Topic:

Appropriation for TANF-related and Childcare-related recoveries

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 10/27/2004	jdyer 10/29/2004		_____			State
/P1			pgreensl 10/29/2004	_____	sbasford 10/29/2004		State
/1	pkahler 01/21/2005	kfollett 01/22/2005	chaugen 01/23/2005	_____	sbasford 01/24/2005		State
/2	pkahler 01/25/2005	jdyer 01/25/2005	pgreensl 01/25/2005	_____	sbasford 01/25/2005		State
/3	pkahler 01/25/2005	wjackson 01/25/2005	rschluet 01/25/2005	_____	lemery 01/25/2005		State

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Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

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1/2 1/25 jd
1/25 p8
p8

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1/?	pkahler	PI 10/29 jcd	10 br p8	1924 p8/m			

FE Sent For:

<END>

2003-05 Budget Bill Statutory Language Drafting Request

- Topic: Appropriation for Childcare and TANF-Related Recoveries
- Tracking Code: (Assigned by Government Operations Team)
- SBO team: Education
- SBO analyst: Erin Fath
 - Phone: 266-8219
 - Email: erin.fath@doa.state.wi.us
- Agency acronym: DWD
- Agency number: 445

BB0218

Date: October 25, 2004
To: Steve Miller
From: Erin Fath *EF*
Subject: Statutory Language Request

DIN 5510: Appropriation for TANF- and Childcare Related Recoveries

Create a new, continuing ("all monies received") appropriation under program 3 (Economic Support).

1. Please give the new appropriation the title "Child care and temporary assistance overpayment recovery [; federal funds*]" (see my note on fund source, #6, below)
2. DWD requests the following alpha appropriation: 20.445 (3)(me)
3. The monies going into this appropriation would come from the recoveries of overpayments, and incorrect or disallowed payments that were initially made from any appropriation currently or previously identified under s.49.175 (1)(intro), when such recoveries may be treated as federal funds. [This definition is suggested by DWD].
4. The funds in this new appropriation could be used for:
 - Any of the purposes identified under s.49.175 (1)
 - Reducing errors in the W-2 program and child care programs under s.49.155;
 - Costs related to the recovery of such overpayments and incorrect or disallowed payments.
5. This appropriation would pertain to recoveries of public assistance payments specifically in the post-AFDC era, that is, payments made under the state TANF and CCDF state plans (the appropriation under s.20.445 (3)(L) pertains to recovery of AFDC type recoveries).
6. DWD suggests making this new appropriation a federal appropriation. This is because under federal regulations pertaining to the Temporary Assistance to Needy Families (TANF) and Child Care and Development Fund (CCDF) block grants, a state may treat recoveries of payments made under its TANF/CCDF state plans (which may include non-TANF/CCDF revenues) as entirely federal funds, or as part state and part federal funds. DWD would use this new appropriation to receive those recoveries that are to be treated as federal funds. Is it possible to create a federal appropriation for revenues that are received in this manner (i.e., not directly from the federal government?)

Please make this change effective with the passage of the budget bill.

If you have any questions, please call me at 6-8219, or send me an email at erin.fath@doa.state.wi.us.

Thank you.



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-06047

PJK:.....

Handwritten initials: JPI, jld

SOON

DOA:.....Fath, BB0218 - Appropriation for TANF-related and
Childcare-related recoveries

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

Handwritten: D-rote

Handwritten: do not gen cost

1 AN ACT, relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

PUBLIC ASSISTANCE

This bill creates an appropriation to DWD that consists of recovered overpayments and incorrect or disallowed payments of federal Child Care and Development Fund (CCDF) block grant moneys and federal Temporary Assistance for Needy Families (TANF) block grant moneys, which are used for various public assistance programs, including Wisconsin Works (W-2) and the child care subsidy program in W-2. The appropriation may be used for the recovery costs, for activities to reduce errors in W-2 and the child care subsidy program, and for any of the other purposes under current law for which CCDF and TANF moneys are used.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 20.445 (3) (kr) of the statutes is created to read:

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0604/7dn

PJK:.....

Jld

Erin:

I puzzled over whether this appropriation could be a federal appropriation and discussed this with a couple of other people here. Conceptually, the moneys being appropriated are "sort of" federal moneys, since they were originally received as federal moneys and you could argue that they maintain that identity after they are paid out and recovered. Jeff Kuesel thought that the most appropriate designation for the new appropriation is as a PR-S, and that makes a great deal of sense. The moneys have already been counted as received and paid out; using a PR-S designation would prevent their being counted again. (I note that ss. 20.435 (4) (L) and 20.445 (3) (L) are not PR-S, although they probably should be to be consistent with the new appropriation and with the reasoning!) Jeff said that, if there is some good reason why the appropriation needs to be designated as "federal," such as the receipt of more federal moneys if these recovered moneys are treated as federal, then we (that is, I) could work on coming up with some language that would fit a federal appropriation and still reflect the source accurately.

In the appropriation text, I did not specifically mention the child care subsidy program under s. 49.155 because it is included in the W-2 statute citation. Okay?

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0604/P1dn
PJK:jld:pg

October 29, 2004

Erin:

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Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.state.wi.us

Kahler, Pam

From: Fath, Erin
Sent: Tuesday, January 11, 2005 2:09 PM
To: Kahler, Pam
Subject: FW: LRB Draft: 05-0604/P1 Appropriation for TANF-related and Childcare-related recoveries



05-0604/P1



05-0604/P1dn

Pam,

A while back we had a conversation about this draft. DWD requested to have the new appropriation created as a FED, rather than a PR-S, appropriation. DWD is supposed to be getting me some written comments that should explain their reasoning, but in summary:

The federal government permits states to treat overpayment/erroneous payments in the TANF and CCDF programs as federal revenues, to be expended on any TANF/CCDF eligible purpose. In effect, those recoveries are credited to the state's federal TANF/CCDF block grant. DWD argues that from the perspective of the federal government, these recoveries are federal funds.

If I have convinced you to make this appropriation FED instead of PR-S, DWD requests that it be created as s. 20.445 (3) (me).

I will share with you DWD's comments as soon as they get them to me. I have asked them to get the in ASAP.

Thanks,
-Erin

-----Original Message-----

From: Greenslet, Patty [mailto:Patty.Greenslet@legis.state.wi.us]
Sent: Friday, October 29, 2004 10:47 AM
To: Fath, Erin
Cc: Hanle, Bob; Hanaman, Cathlene; Haugen, Caroline; Schaeffer, Carole
Subject: LRB Draft: 05-0604/P1 Appropriation for TANF-related and Childcare-related recoveries

Following is the PDF version of draft 05-0604/P1.

(c) +
20.001 (2) (e)
20.003 (3) (b) 3., 5.

Date: October 25, 2004
To: Steve Miller
From: Erin Fath EF
Subject: Statutory Language Request

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6. DWD suggests making this new appropriation a federal appropriation. This is because under federal regulations pertaining to the Temporary Assistance to Needy Families (TANF) and Child Care and Development Fund (CCDF) block grants, a state may treat recoveries of payments made under its TANF/CCDF state plans (which may include non-TANF/CCDF revenues) as entirely federal funds, or as part state and part federal funds. DWD would use this new appropriation to receive those recoveries that are to be treated as federal funds. Is it possible to create a federal appropriation for revenues that are received in this manner (i.e., not directly from the federal government?)

Please make this change effective with the passage of the budget bill.

If you have any questions, please call me at 6-8219, or send me an email at erin.fath@doa.state.wi.us.

Thank you.

Kahler, Pam

From: Fath, Erin
Sent: Friday, January 14, 2005 1:47 PM
To: Kahler, Pam
Subject: FW: LRB Draft: 05-0604/P1 Appropriation for TANF-related and Childcare-related recoveries

FYI - attached are DWD's comments on this draft. They do make some good points, re: why to create this as a federal appropriation. Bear with it -it's a 3-page explanation (they are very thorough!). They have concrete suggestions for changes to the draft.

DOA is supportive of making the changes included in DWD's explanation and so I am asking you to make the changes that DWD requests (their final version of the appropriation language is on the last page of the document). Please let me know if DWD's explanation does not satisfy your concerns about making the appropriation a federal one.

Thanks,
-Erin

-----Original Message-----

From: Smith, Thomas K - DWD BUDGET [mailto:Thomas.Smith@dwd.state.wi.us]
Sent: Thursday, January 13, 2005 5:39 PM
To: Fath, Erin
Cc: Richard, JoAnna - DWD
Subject: RE: LRB Draft: 05-0604/P1 Appropriation for TANF-related and Childcare-related recoveries

Erin:

See if any of this will help move the draft along.....



DWD Comments on
LRB Recoveries...

Thomas K. Smith

Director, Bureau of Budget & Planning
201 East Washington Avenue
P.O. Box 7946
Madison, WI 53707
Telephone: (608) 266-7895
FAX: (608) 261-7979
E-Mail: thomas.smith@dwd.state.wi.us

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-----Original Message-----

From: Fath, Erin
Sent: Thursday, January 13, 2005 4:46 PM
To: Mansfield, Mark
Cc: Smith, Thomas K - DWD BUDGET
Subject: FW: LRB Draft: 05-0604/P1 Appropriation for TANF-related and Childcare-related recoveries

FYI - comments from LRB on this draft. I told her I'd forward your comments when I receive, but in the mean time, it might be helpful for you to see how they are thinking about it.

-Erin

-----Original Message-----

From: Kahler, Pam [mailto:Pam.Kahler@legis.state.wi.us]
Sent: Thursday, January 13, 2005 4:23 PM
To: Fath, Erin
Subject: RE: LRB Draft: 05-0604/P1 Appropriation for TANF-related and
Childcare-related recoveries

Erin:

If you could forward the comments that would be helpful. I spoke to Jeff Kuesel on this again and he doesn't think that the designation in our appropriation schedule would have any meaning for the feds, that they would be looking for whether the moneys originated from federal funds, which should be clear from the text of the appropriation as it is now. Perhaps DWD can suggest something that can be added to the text to make it clearer, like adding the word "federal" a few more times. If the feds allow overpayments of TANF and CCDF to be expended on TANF/CCDF eligible purposes, (which is the point, I think) why can't an appropriation that that says it is moneys received from overpayments of TANF and CCDF be expended in that way? Jeff thinks that DWD is focused on the wrong thing, i.e., the designation in our appropriation schedule, which is just the way we have contrived to show the source of funds, which would be incorrect in this case. Jeff said that one resolution, if they insist on using PR-F, would be to make an exception for this particular appropriation in ss. 20.001 (2) (e) and 20.003 (3) (b) 3. and 5., which is a drastic resolution ("except for s. 20.445 (3) (me)..."). Please do send over the comments, though, if you receive anything.

-----Original Message-----

From: Fath, Erin
Sent: Tuesday, January 11, 2005 2:09 PM
To: Kahler, Pam
Subject: FW: LRB Draft: 05-0604/P1 Appropriation for TANF-related and
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If I have convinced you to make this appropriation FED instead of PR-S, DWD requests that it be created as s. 20.445 (3) (me).

I will share with you DWD's comments as soon as they get them to me. I have asked them to get the in ASAP.

Thanks,
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Sent: Friday, October 29, 2004 10:47 AM
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Cc: Hanle, Bob; Hanaman, Cathlene; Haugen, Caroline; Schaeffer, Carole
Subject: LRB Draft: 05-0604/P1 Appropriation for TANF-related and
Childcare-related recoveries

Following is the PDF version of draft 05-0604/P1.

DWD Comments on LRB 05-0604/P1 and drafter's note (TANF & CC recoveries)

LRB 05-0604/p1 departs in some respects from the language requested by DWD (the rationale for which is discussed in the "Statutory Modifications" description included in DWD's budget submission). In response to your request for written comments on the draft:

We've discussed the reasons we believe it is important the appropriation be designated as federal funds, rather than PR-S. DWD had suggested creating it as s. 20.445(3)(me), so it would appear in the schedule near (md) and (mc). In essence, these reasons may be summarized as federal compliance and administrative efficiency.

The funds that would be credited to this appropriation are not, as the drafter suggests, "sort of" federal funds; this appropriation would only be used to reflect recoveries that are treated as federal. Federal law provides other options for the portion of recoveries that could be attributed to state maintenance-of-effort (MOE) funds, and the DWD request described those options.

One would be to also treat them as federal funds that would be credited to this proposed appropriation. The others would be to change s. 20.445(3)(dz) to a continuing appropriation and/or to provide an exception to s. 20.001(5) - (the refunds-of-expenditure statute). Not knowing what DOA's position would be about those ideas, DWD requested this appropriation be defined in a way that would allow all TANF-related recoveries, whether the original payment was from federal or state sources, to be treated as federal funds (one of the federally allowable treatments): "when such recoveries may be treated as federal funds...." Perhaps this would be better phrased, "when such recoveries **are** treated as federal funds."

From a mechanical standpoint, an appropriation type is generally defined by the immediate source of the revenue. In this case, expenditures from the appropriation would be reported to the federal government as being paid from funds drawn from the block grants. As with expenditures later disallowed, recoveries would be treated as (assumed to have been) federal funds, even if portions might actually have been paid from MOE funds. It is generally administratively easier not to have to retroactively determine for individual recoveries the original fund-source mix used to make them. At times, a single recovered amount could have been related to more than one payment or even fiscal year, or in the case of disallowed amounts arising from an audit, could potentially be an estimate or negotiated settlement rather than directly associated with a prior-year payment transaction. Thus, treating recoveries as federal funds is administratively more efficient.

The PR-S designation, while an interesting thought, would not normally be used for this situation. It is normally used to reflect one of two situations:

1. Revenues that are conceptually transferred between appropriations prior to expenditure. For example, in DWD, the state share of assigned child support collections is transferred from the appropriation for all support payments to the PR-S appropriation for "Child support transfers," for expenditure on program purposes.
2. Expenditures are made from "supporting" appropriations to reimburse expenditures made in others – normally reflected in the Chapter 20 schedule for the same biennium. Examples in DWD are s. 20.445(1)(k), which supports ASD, and (3)(kx) interagency and intra-agency programs. Note, while it could be argued, as the drafter suggests, that this avoids "double counting" moneys, this is true primarily only with respect to not overestimating available federal funds. The PR-S designation is used when the

expenditures are explicitly intended to be reflected in both the PR-S appropriation and other appropriations from which expenditures are made to the PR-S appropriation.

It is important to consider the multi-year aspect of the TANF/CCDF recoveries. DWD's position is that, when this is factored in, a federal designation more accurately reflects the estimated federal revenues available in the biennium.

Similarly, the drafter wonders about s. 20.445(3)(L), but DWD believes this is accurately portrayed as PR revenues. It does receive recoveries of revenues previously appropriated for the state share of AFDC payments in previous biennia. However, as they are received today, their identity has changed: The AFDC program no longer exists, but the state has elected to appropriate them to a particular program: reduction of error and fraud in the W-2 program, hence the designation of "program revenue."

[With respect to this next paragraph: I think you were just following my drafting instructions, which apparently were not entirely consistent with what DWD actually requested. EFL]

In defining the revenues to be credited to the appropriation, the drafter departs from DWD's request in two other notable respects: One, rather than referring to "returned payments that were initially made for any purpose currently or previously identified under s.49.175 (1) or approved under ss.13.10, 13.101, or 16.54 (2) (a)," the drafter refers to payments made from CCDF and TANF block grant funds. Second, the drafter omits reference to returned checks.

While the DWD request indicated it was open to drafting suggestions such as inclusion of federal program references, our concern is that the current language appears too narrow by not encompassing the portion of the original expenditures made from non-federal (MOE) funds, but which, when recovered, would be treated as federal and credited to this appropriation. This should be rectified as follows:

(beginning on line 3)... payments, of federal Child Care and Development Fund block grant funds, ~~and~~ federal Temporary Assistance for Needy Families block grant funds and state funds expended in conjunction with either when such recoveries are treated as federal funds, for

The term "maintenance of effort" is avoided because the CCDF has both MOE and matching elements.

For the returned-check situation, while in some respects similar to other recoveries, there are some differences. Notably, this would typically occur within an open W-2 contract and the checks would be subject to immediate re-issuance for the same purpose. These are best viewed as remaining part of the original budget amounts rather than reflected in the recoveries appropriation (this addresses the concern not to double-count funds and is consistent with the basis of DWD's estimate for the recoveries appropriation). Nevertheless, it is important to statutorily address the fact that, as currently defined, only amounts re-used within the current fiscal year even qualify to be designated as refunds-of-expenditures. That single-year focus is problematic because, as you know, W-2 contracts are historically two calendar years in length, transcending four state fiscal years. This should be rectified by including in this draft the creation of language similar to the following, perhaps in s.20.001 or the appropriation language at s.445 (3) (md):

Notwithstanding s.20.001 (5) the department [DWD] may credit to the appropriation accounts under s.20.445 (3) (md) the amount of any returned check, or payment in other

form, when such returned amounts are subject to expenditure within the same contract or purchase order, regardless of the fiscal year in which the original payment attempt was made.

The above language would clarify that a "refunds-of-expenditure" approach is an acceptable treatment as long as the contract is in effect or encumbered, even though these refunds or credits would not be included in the definition of refunds-of-expenditures. And we would not advise changing that definition to include them. In conjunction with the creation of the new federal appropriation for recovered federal funds, this should address all the LAB and Controller's Office concerns about the use of refunds-of-expenditures, while promoting more accurate budgeting and administrative efficiency.

Last, it should be noted that DWD has occasionally received TANF-related repayments that may not clearly fall into the categories of "overpayments, and incorrect or disallowed payments," but would be similar in that they are from a prior year and subject to the same federal treatment, but similarly not clearly addressed by the annual-appropriation framework of current law. They could be viewed differently because they may be voluntary, or the original payment may have provided for repayment under some circumstance. For example, DWD has received some small amounts related to old Community Reinvestment plans. It would be useful to include a clarification of the treatment of these types of recoveries along the following lines (shown in conjunction with the other modifications previously discussed):

20.445 (3) (me) *Child care and temporary assistance overpayment recovery*. All moneys received from the recovery of overpayments, ~~and~~ incorrect or disallowed payments, and voluntary repayments of federal Child Care and Development Fund block grant funds, ~~and~~ federal Temporary Assistance for Needy Families block grant funds and state funds expended in conjunction with either when such recoveries are treated as federal funds, for

Or, to preserve the emphasis on the recovered overpayments (which would be the largest of the revenue types discussed) and to distinguish Job Access Loan repayments from other types of recoveries that were not necessarily originally "overpayments," "incorrect," or "disallowed," this type of clarification may read better placed at the end of the appropriation definition:

20.445 (3) (me) *Child care and temporary assistance overpayment recovery*. All moneys received from the recovery of overpayments, and incorrect or disallowed payments, of federal Child Care and Development Fund block grant funds, ~~and~~ federal Temporary Assistance for Needy Families block grant funds and state funds expended in conjunction with either when such recoveries are treated as federal funds, for activities to reduce errors under the Wisconsin Works program under ss.49.141 to 49.161, and for any of the purposes specified under s.49.175 (1). All repayments to the department not credited to the appropriations under ss. 20.445 (jL), (mc), or (md) that are treated as federal funds associated with these block grants may be credited to this appropriation.

We thank you and the drafter for your attention to these issues.

Kahler, Pam

From: Fath, Erin
Sent: Friday, January 21, 2005 5:10 PM
To: Kahler, Pam; Mansfield, Mark; Smith, Thomas K - DWD BUDGET
Subject: RE: LRB Draft: 05-0604/P1 Appropriation for TANF-related and Childcare-related recoveries

Importance: High

Hi everyone,
I am taking a crack at answering these questions because I know LRB needs some answers in order to finish up the draft. DWD folks, if you feel you need to modify my response, please reply to everyone on this e-mail. Pam, I hope this is helpful. Thanks.

In response to Pam's questions below:

1) I believe all the TANF maintenance of effort sources would include:

In DWD:

20.445 (3)(a) - a small portion of these GPR expenditures are counted towards TANF MOE
20.445 (3)(cm) - a portion of GPR expenditures for childcare are counted towards TANF&CCDF MOE
20.445 (3)(dz) - all expenditures count towards TANF MOE
20.445 (3)(k) - some expenditures counted towards TANF MOE
20.445 (3)(L) - I believe all expenditures count towards TANF MOE
20.445 (3)(jL) - DWD FOLKS - IS IT ACCURATE TO INCLUDE THIS APPROPRIATION?
20.445 (3)(s) - all expenditures count towards TANF MOE
20.445 (3)(t) - as created in LRB draft 1662 - my understanding is that a portion of expenditures from this appropriation would count towards TANF MOE

In DHFS:

20.435 (4)(bn) - the GPR amounts expended for food stamps for qualified aliens and for the funeral/cemetery/burial costs of W-2 eligible indigent persons [under s. 49.785] are counted towards TANF MOE. I believe the amounts for these programs are appropriated under s.20.435(4)(bn); I am verifying with DHFS.

20.435 (7)(bc) - the amounts expended on substance abuse treatment grants under s. 46.48 (30)(a) are counted towards TANF MOE

I THINK that would include all TANF MOE sources.

2) Repayments under 20.445 (3)(jL) are job access loan repayments from W-2 participants, which are sometimes collected via the tax intercept mechanism (i.e., these repayments are not recoveries of overpayments, incorrect or disallowed payments). I believe that what DWD is getting at in excluding repayments to the department credited to 20.445 (3)(mc) or (3)(md) would be "refunds of expenditures" (i.e., recoveries of expenditures that occurred in the current fiscal year). I believe "Refund of Expenditures" is addressed under s. 20.001(5).

I think that what DWD is trying to do here is to ensure that TANF/Childcare recoveries that can not be treated as refunds of expenditures (which is narrowly defined) are credited to the new FED appropriation created by this draft [s. 20.445(3)(me).]

Erin K. Fath

Wisconsin State Budget Office
(608) 266-8219
Erin.Fath@doa.state.wi.us

-----Original Message-----

From: Kahler, Pam [mailto:Pam.Kahler@legis.state.wi.us]

Sent: Tuesday, January 18, 2005 11:12 AM
To: Fath, Erin
Subject: RE: LRB Draft: 05-0604/P1 Appropriation for TANF-related and
Childcare-related recoveries

Erin, on this draft, I've talked to Jeff Kuesel about DWD's comments and he had some suggestions for drafting this properly to accommodate their request, but I need more information from you.

1) DWD wants to add to the language "state funds expended in conjunction with either" - meaning, I assume, maintenance of effort. Which appropriations are those? S. 20.445 (3) (dz) is one, but are there others?

2) DWD also wants to add "repayments to the department not credited to the appropriations under s. 20.445 (3) (jL), (mc), or (md)." What repayments are those? How can they be described?

If we can add specific references to those sources noted above, we should be able to do this, although we do have to amend the descriptions of program revenues-service and federal revenues in s. 20.001 (2). Thanks!

Pam

-----Original Message-----

From: Fath, Erin
Sent: Tuesday, January 11, 2005 2:09 PM
To: Kahler, Pam
Subject: FW: LRB Draft: 05-0604/P1 Appropriation for TANF-related and
Childcare-related recoveries

Pam,

A while back we had a conversation about this draft. DWD requested to have the new appropriation created as a FED, rather than a PR-S, appropriation. DWD is supposed to be getting me some written comments that should explain their reasoning, but in summary:

The federal government permits states to treat overpayment/erroneous payments in the TANF and CCDF programs as federal revenues, to be expended on any TANF/CCDF eligible purpose. In effect, those recoveries are credited to the state's federal TANF/CCDF block grant. DWD argues that from the perspective of the federal government, these recoveries are federal funds.

If I have convinced you to make this appropriation FED instead of PR-S, DWD requests that it be created as s. 20.445 (3) (me).

I will share with you DWD's comments as soon as they get them to me. I have asked them to get the in ASAP.

Thanks,
-Erin

-----Original Message-----

From: Greenslet, Patty [mailto:Patty.Greenslet@legis.state.wi.us]
Sent: Friday, October 29, 2004 10:47 AM
To: Fath, Erin
Cc: Hanle, Bob; Hanaman, Cathlene; Haugen, Caroline; Schaeffer, Carole
Subject: LRB Draft: 05-0604/P1 Appropriation for TANF-related and
Childcare-related recoveries

Following is the PDF version of draft 05-0604/P1.



State of Wisconsin
2005 - 2006 LEGISLATURE

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LRB-0604/F
PJK:jld:pg
+JTK i:kgf

DOA:.....Fath, BB0218 - Appropriation for TANF-related and
Childcare-related recoveries

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

D. ste

do not
cancel

1 AN ACT χ ; relating to: the budget.

Analysis by the Legislative Reference Bureau

and voluntary
repayments

HEALTH AND HUMAN SERVICES

PUBLIC ASSISTANCE

This bill creates an appropriation to DWD that consists of recovered overpayments and incorrect or disallowed payments of federal Child Care and Development Fund (CCDF) block grant moneys, and federal Temporary Assistance for Needy Families (TANF) block grant moneys, ~~which~~ are used for various public assistance programs, including Wisconsin Works (W-2) and the child care subsidy program in W-2. The appropriation may be used for the recovery costs, for activities to reduce errors in W-2 and the child care subsidy program, and for any of the other purposes under current law for which CCDF and TANF moneys are used.

Insert
A

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.445 (3) (b) of the statutes is created to read:

Insert 1-2

2

me

1 20.445 (3) ~~(kr)~~ ^{me} Child care and temporary assistance overpayment recovery. All
 2 moneys received from the recovery of overpayments, and incorrect or disallowed
 3 payments, ^{and voluntary repayments} of federal Child Care and Development Fund block grant funds ~~and~~ ^{of}
 4 federal Temporary Assistance for Needy Families block grant funds, ^{insert 2-4} for costs related
 5 to recovering the overpayments and incorrect or disallowed payments, for activities
 6 to reduce errors under the Wisconsin Works program under ss. 49.141 to 49.161, and
 7 for any of the purposes specified under s. 49.175 (1).

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

8 SECTION ~~2~~ 49.175 (1) (intro.) of the statutes is amended to read:

9 49.175 (1) ALLOCATION OF FUNDS. (intro.) Except as provided in sub. (2), within
 10 the limits of the appropriations under s. 20.445 (3) (a), (cm), (dz), (jL), (k), (kx), (L),
 11 ^e ~~(kr)~~, (mc), (md), ^(me) (nL), and (s), the department shall allocate the following amounts
 12 for the following purposes:

13 (END)

D-note

2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0604/lins
PJK:jld:pg

INSERT A

not and state moneys paid to meet the maintenance-of-effort requirements under those two federal block grant programs. The federal block grant moneys and state maintenance-of-effort moneys

(END OF INSERT A)

INSERT 1-2

1 SECTION 1. 20.001 (2) (c) of the statutes is amended to read:

2 20.001 (2) (c) *Program revenues-service*. "Program revenues-service", which
3 except for the appropriation account under s. 20.445 (3) (me), are indicated by the
4 abbreviation "PR-S" in s. 20.005, consist of appropriated moneys in the general fund
5 derived from any revenue source that are transferred between or within state
6 agencies or miscellaneous appropriations. These Except for the appropriation under
7 s. 20.445 (3) (me), these moneys are shown as expenditures in the appropriation of
8 the state agency or program from which the moneys are transferred and are also
9 shown as program revenue in the appropriation of the agency or program to which
10 the moneys are transferred. For any program revenue-service appropriation which
11 is limited to the amounts in the schedule, no expenditure may be made exceeding the
12 amounts in the schedule, except as provided in ss. 13.101 and 16.515, regardless of
13 the amounts credited to the account from which the appropriation is made.

History: 1973 c. 333; 1977 c. 29, 418; 1979 c. 34; 1981 c. 20; 1983 a. 27, 538; 1985 a. 135 s. 85; 1985 a. 332 s. 253; 1987 a. 4; 1989 a. 31; 1993 a. 16; 1995 a. 27; 2001 a. 16.

14 SECTION 2. 20.001 (2) (e) of the statutes is amended to read:

15 20.001 (2) (e) *Federal revenues*. Moneys "Federal revenues," consist of moneys
16 received from the federal government and, under s. 20.445 (3) (me), of moneys
17 treated as received from the federal government and may be deposited as program
18 revenues in the general fund or as segregated revenues in a segregated fund. In

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1 either case they are indicated in s. 20.005 by the addition of "-F" after the
2 abbreviation assigned under pars. (b) and (d).

History: 1973 c. 333; 1977 c. 29, 418; 1979 c. 34; 1981 c. 20; 1983 a. 27, 538; 1985 a. 135 s. 85; 1985 a. 332 s. 253; 1987 a. 4; 1989 a. 31; 1993 a. 16; 1995 a. 27; 2001 a. 16.

(END OF INSERT 1-2)

INSERT 2-4

3 ^{w04} and of state moneys paid under pars. (a), (cm), (dz), (k), (L), (jL), (s), and (t) and
4 s. 20.435 (4) (bn) and (7) (bc) to meet maintenance-of-effort requirements under the
5 federal Temporary Assistance for Needy Families block grant program under 42 USC
6 601 to 619 and the federal Child Care and Development Fund block grant program
7 under 42 USC 9858

(END OF INSERT 2-4)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0604/1dn

PJK:jl:pg

kjf

Date

Erin:

This is a first attempt at redrafting this appropriation. After Jeff has a chance to review it, I'm sure we will be making some modifications. By that time we may have some input from DWD, also.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0604/1dn
PJK:kjf:ch

January 23, 2005

Erin:

This is a first attempt at redrafting this appropriation. After Jeff has a chance to review it, I'm sure we will be making some modifications. By that time we may have some input from DWD, also.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.state.wi.us

Kahler, Pam

From: Smith, Thomas K - DWD BUDGET
Sent: Friday, January 21, 2005 5:25 PM
To: Fath, Erin
Cc: Richard, JoAnna - DWD
Subject: FW: LRB Draft: 05-0604/P1 Appropriation for TANF-related and Childcare-related recoveries

Importance: High
Sensitivity: Confidential

Erin:

These are fairly expansive comments -- the brief version of the first question about which appropriations fund TANF MOE you could probably address as well as we, given that there are various current and new ones under consideration in the Governor's recommendations. It is difficult to be certain whether the drafter is asking merely to understand the situation better, or perhaps for the LRB analysis, but we would not recommend attempting to cross-reference every possible MOE source in this draft.

Similarly, it isn't clear in the second question whether LRB is asking which repayments are "not" credited to the appropriations cited, or whether they want to understand which are (or would be under the provisions DWD has proposed). So, we've tried to anticipate both by revisiting some of the "problem" we are trying to solve: Annual TANF appropriations present a conflict between the usual accounting treatment of returned federal funds and the refunds-of-expenditure provisions of current law, and describing that those that would logically be treated as credits to s. 20.445 (3) (md)--- legitimizing current practice--mainly returned checks, and those that would be credited to the new appropriation (mainly recovered child care overpayments from prior fiscal years and recovered W-2 payments, or other TANF-related program repayments from previous contracts). The attached document concludes with some slightly revised suggested language that is hopefully clearer or simpler.

Thanks again to you and Pam for attempting to address these longstanding concerns from DWD, the LAB, and the State Controller's Office.



TANFRecoveries2.d
oc

Thomas K. Smith

Director, Bureau of Budget & Planning
201 East Washington Avenue
P.O. Box 7946
Madison, WI 53707
Telephone: (608) 266-7895
FAX: (608) 261-7979
E-Mail: thomas.smith@dwd.state.wi.us

This message is intended only for the use of the Addressee and may contain information that is PRIVILEGED and CONFIDENTIAL. If you are not the intended recipient, you are hereby notified that any dissemination of this communication is strictly prohibited. If you have received this communication in error, please erase all copies of the message and its attachments and notify me immediately by telephone at (608)266-7895. Thank you.

-----Original Message-----

From: Fath, Erin
Sent: Thursday, January 20, 2005 4:39 PM
To: Mansfield, Mark
Cc: Smith, Thomas K - DWD BUDGET
Subject: FW: LRB Draft: 05-0604/P1 Appropriation for TANF-related and Childcare-related recoveries
Importance: High

FYI - I know that I communicated to you recently that file maintenance was a priority right now. However, LRB is putting pressure on us to provide information for this draft soon (from their perspective, they can't move forward on this draft until they get a response from DOA). I feel like you have a much better idea than I do of what you want to see in this draft, which I why I think it's important for you to respond to Pam's questions below. Please get back to me ASAP so that I can get back to Pam on this.

Thanks,
-Erin

-----Original Message-----

From: Fath, Erin
Sent: Tuesday, January 18, 2005 11:16 AM
To: Mansfield, Mark
Cc: Smith, Thomas K - DWD BUDGET
Subject: FW: LRB Draft: 05-0604/P1 Appropriation for TANF-related and
Childcare-related recoveries

FYI - see Pam's note below. Good news - she believes that they can accommodate DWD's request to make this a FED appropriation. However, she needs more information, and I think I need your feedback on this to make sure I cover everything. If you could get back to me at your soonest convenience on this, I'll get the changes in to the drafter.

Thanks,
-Erin

-----Original Message-----

From: Kahler, Pam [<mailto:Pam.Kahler@legis.state.wi.us>]
Sent: Tuesday, January 18, 2005 11:12 AM
To: Fath, Erin
Subject: RE: LRB Draft: 05-0604/P1 Appropriation for TANF-related and
Childcare-related recoveries

Erin, on this draft, I've talked to Jeff Kuesel about DWD's comments and he had some suggestions for drafting this properly to accommodate their request, but I need more information from you.

1) DWD wants to add to the language "state funds expended in conjunction with either" - meaning, I assume, maintenance of effort. Which appropriations are those? S. 20.445 (3) (dz) is one, but are there others?

2) DWD also wants to add "repayments to the department not credited to the appropriations under s. 20.445 (3) (jL), (mc), or (md)." What repayments are those? How can they be described?

If we can add specific references to those sources noted above, we should be able to do this, although we do have to amend the descriptions of program revenues-service and federal revenues in s. 20.001 (2). Thanks!

Pam

-----Original Message-----

From: Fath, Erin
Sent: Tuesday, January 11, 2005 2:09 PM
To: Kahler, Pam
Subject: FW: LRB Draft: 05-0604/P1 Appropriation for TANF-related and
Childcare-related recoveries

Pam,

A while back we had a conversation about this draft. DWD requested to have the new appropriation created as a FED, rather than a PR-S, appropriation. DWD is supposed to be getting me some written comments that should explain their reasoning, but in summary:

The federal government permits states to treat overpayment/erroneous payments in the TANF and CCDF programs as federal revenues, to be expended on any TANF/CCDF eligible purpose. In effect, those recoveries are credited to the state's federal TANF/CCDF block grant. DWD argues that from the perspective of the federal government, these

recoveries are federal funds.

If I have convinced you to make this appropriation FED instead of PR-S, DWD requests that it be created as s. 20.445 (3) (me).

I will share with you DWD's comments as soon as they get them to me. I have asked them to get the in ASAP.

Thanks,
-Erin

-----Original Message-----

From: Greenslet, Patty [<mailto:Patty.Greenslet@legis.state.wi.us>]

Sent: Friday, October 29, 2004 10:47 AM

To: Fath, Erin

Cc: Hanle, Bob; Hanaman, Cathlene; Haugen, Caroline; Schaeffer, Carole

Subject: LRB Draft: 05-0604/P1 Appropriation for TANF-related and
Childcare-related recoveries

Following is the PDF version of draft 05-0604/P1.

Kahler, Pam

From: Fath, Erin
Sent: Friday, January 21, 2005 6:15 PM
To: Kahler, Pam
Cc: Kuesel, Jeffery
Subject: FW: LRB Draft: 05-0604/P1 Appropriation for TANF-related and Childcare-related recoveries



**FW: LRB Draft:
05-0604/P1 Appr...**

I did get a response from DWD just earlier tonight. It's long, as usual (sigh). But, they do have concrete suggestions, which I have bolded (at the bottom of page 1, and then at the very end of the document). Note that they seem to prefer a more broad reference to the TANF maintenance of effort requirement (as opposed to citing individual appropriations). Sorry about how hard it's been to get you a good answer.

DWD's response is attached.

Thanks,
-Erin

-----Original Message-----

From: Kahler, Pam [mailto:Pam.Kahler@legis.state.wi.us]
Sent: Friday, January 21, 2005 6:08 PM
To: Fath, Erin
Cc: Kuesel, Jeffery
Subject: RE: LRB Draft: 05-0604/P1 Appropriation for TANF-related and Childcare-related recoveries

Erin:

I appreciate your heroic efforts. I will put together something based on the appropriations you have identified. After Jeff has a chance to review the redraft (he's gone for the evening but will be in tomorrow), we will undoubtedly need to make some changes, but maybe by then we will also have some response from DWD.

Pam

-----Original Message-----

From: Fath, Erin
Sent: Friday, January 21, 2005 5:10 PM
To: Kahler, Pam; Mansfield, Mark; Smith, Thomas K - DWD BUDGET
Subject: RE: LRB Draft: 05-0604/P1 Appropriation for TANF-related and Childcare-related recoveries
Importance: High

Hi everyone,

I am taking a crack at answering these questions because I know LRB needs some answers in order to finish up the draft. DWD folks, if you feel you need to modify my response, please reply to everyone on this e-mail. Pam, I hope this is helpful. Thanks.

In response to Pam's questions below:

1) I believe all the TANF maintenance of effort sources would include:

In DWD:

20.445 (3)(a) - a small portion of these GPR expenditures are counted towards TANF MOE
20.445 (3)(cm) - a portion of GPR expenditures for childcare are counted towards TANF&CCDF MOE

20.445 (3)(dz) - all expenditures count towards TANF MOE
20.445 (3)(k) - some expenditures counted towards TANF MOE
20.445 (3)(L) - I believe all expenditures count towards TANF MOE
20.445 (3)(jL) - DWD FOLKS - IS IT ACCURATE TO INCLUDE THIS APPROPRIATION?
20.445 (3)(s) - all expenditures count towards TANF MOE
20.445 (3)(t) - as created in LRB draft 1662 - my understanding is that a portion of expenditures from this appropriation would count towards TANF MOE

In DHFS:

20.435 (4)(bn) - the GPR amounts expended for food stamps for qualified aliens and for the funeral/cemetery/burial costs of W-2 eligible indigent persons [under s. 49.785] are counted towards TANF MOE. I believe the amounts for these programs are appropriated under s.20.435(4)(bn); I am verifying with DHFS.

20.435 (7)(bc) - the amounts expended on substance abuse treatment grants under s. 46.48 (30)(a) are counted towards TANF MOE

I THINK that would include all TANF MOE sources.

2) Repayments under 20.445 (3)(jL) are job access loan repayments from W-2 participants, which are sometimes collected via the tax intercept mechanism (i.e., these repayments are not recoveries of overpayments, incorrect or disallowed payments). I believe that what DWD is getting at in excluding repayments to the department credited to 20.445 (3)(mc) or (3)(md) would be "refunds of expenditures" (i.e., recoveries of expenditures that occurred in the current fiscal year). I believe "Refund of Expenditures" is addressed under s. 20.001(5).

I think that what DWD is trying to do here is to ensure that TANF/Childcare recoveries that can not be treated as refunds of expenditures (which is narrowly defined) are credited to the new FED appropriation created by this draft [s. 20.445(3)(me).]

Erin K. Fath

Wisconsin State Budget Office
(608) 266-8219
Erin.Fath@doa.state.wi.us

-----Original Message-----

From: Kahler, Pam [mailto:Pam.Kahler@legis.state.wi.us]
Sent: Tuesday, January 18, 2005 11:12 AM
To: Fath, Erin
Subject: RE: LRB Draft: 05-0604/P1 Appropriation for TANF-related and Childcare-related recoveries

Erin, on this draft, I've talked to Jeff Kuesel about DWD's comments and he had some suggestions for drafting this properly to accommodate their request, but I need more information from you.

1) DWD wants to add to the language "state funds expended in conjunction with either" - meaning, I assume, maintenance of effort. Which appropriations are those? S. 20.445 (3)(dz) is one, but are there others?

2) DWD also wants to add "repayments to the department not credited to the appropriations under s. 20.445 (3)(jL), (mc), or (md)." What repayments are those? How can they be described?

If we can add specific references to those sources noted above, we should be able to do this, although we do have to amend the descriptions of program revenues-service and federal revenues in s. 20.001 (2). Thanks!

Pam

-----Original Message-----

From: Fath, Erin
Sent: Tuesday, January 11, 2005 2:09 PM
To: Kahler, Pam
Subject: FW: LRB Draft: 05-0604/P1 Appropriation for TANF-related and
Childcare-related recoveries

Pam,

A while back we had a conversation about this draft. DWD requested to have the new appropriation created as a FED, rather than a PR-S, appropriation. DWD is supposed to be getting me some written comments that should explain their reasoning, but in summary:

The federal government permits states to treat overpayment/erroneous payments in the TANF and CCDF programs as federal revenues, to be expended on any TANF/CCDF eligible purpose. In effect, those recoveries are credited to the state's federal TANF/CCDF block grant. DWD argues that from the perspective of the federal government, these recoveries are federal funds.

If I have convinced you to make this appropriation FED instead of PR-S, DWD requests that it be created as s. 20.445 (3) (me).

I will share with you DWD's comments as soon as they get them to me. I have asked them to get the in ASAP.

Thanks,
-Erin

-----Original Message-----

From: Greenslet, Patty [mailto:Patty.Greenslet@legis.state.wi.us]
Sent: Friday, October 29, 2004 10:47 AM
To: Fath, Erin
Cc: Hanle, Bob; Hanaman, Cathlene; Haugen, Caroline; Schaeffer, Carole
Subject: LRB Draft: 05-0604/P1 Appropriation for TANF-related and
Childcare-related recoveries

Following is the PDF version of draft 05-0604/P1.

LRB Follow-Up Questions in response to DWD comments on LRB 05-0604/P1, relating to repayments to the department of funds originally budgeted for TANF and CCDF purposes.

1) LRB drafter Pam Kahler asks to confirm whether the suggested reference to "state funds expended in conjunction with either [of the block grants to which she referred in her original draft] is a reference to maintenance-of-effort funds. Second, she asks what appropriations those expenditures are made from, and specifically whether there are others besides s. 20.445 (3) (dz) which now carries that label.

The first part of this question was addressed in our previous comments: Indicating DWD was open to the approach of using the reference to the federal block grants but "concerned that the [suggested] language appears too narrow by not encompassing the portion of the original expenditures made from non-federal (MOE) funds, but which, when recovered, would [under DWD's proposed use of the federal option to treat them as federal funds] be credited to this appropriation....The term "maintenance of effort" is avoided because the CCDF has both MOE and matching elements."

So, in sum, yes, we are attempting to describe funds that are primarily, but potentially not exclusively TANF "maintenance of effort" (MOE) funds, because, as you know, the child care and development fund (CCDF) block grant has both its own MOE level and required matching requirements. If we make the assumption that state funds used to draw the CCDF, whether CCDF MOE or match, continue to be eligible to be counted as TANF MOE, a reference to the TANF MOE could be sufficient, but it is somewhat unclear why there would be a preference for drafting the language more narrowly, given that it is always possible the rules could change in TANF/CCDF reauthorization, and the goal is to describe the funds generally enough to allow all recoveries that are federally eligible to be treated as federal funds to be credited to this appropriation, with the exceptions discussed later in our comments (and below--Pam's second question touches on them).

If there is a preference for a narrower reference instead of DWD's suggestion that the draft be amended to describe the revenues as "All moneys received from the recovery of overpayments, and incorrect or disallowed payments of federal Child Care and Development Fund block grant funds, federal Temporary Assistance for Needy Families block grant funds, and state funds expended in conjunction with either block grant when such recoveries are treated as federal funds," a reference to TANF MOE would presumably be sufficient, something like,

"All moneys received from the recovery of overpayments and incorrect or disallowed payments of federal Child Care and Development Fund block grant funds, federal Temporary Assistance for Needy Families block grant funds, and other funds associated with the maintenance of effort requirement in the Temporary Assistance for Needy Families program, when such recoveries are treated as federal funds...."

If this addresses LRB's concerns or simply sounds better, the above would be acceptable to DWD. It also avoids the use of the term "state funds" in case LRB is uncomfortable with that general term because, MOE expenditures may be made from appropriation types other than GPR, including PR, PR-S, and SEG appropriations (which in each case, in this context, are viewed as state funds).

Part "b" of LRB question 1) asks which appropriations TANF-MOE expenditures are made from. We would hope that there is no inclination to attempt to insert a comprehensive list of them in the appropriation. It would seem somewhat inconsistent with the approach of using the general descriptions of the TANF and CCDF block grants. As you know, there are numerous appropriations that have been, or may be, used for TANF MOE. For those currently under consideration in the Governor's budget, DOA would be best in a position to advise. Under current law/budget assumptions, the list would include s. 20. 445 (3) (a), (cm), (dz), (jL) [except these recoveries are handled as a revolving loan and would not be credited to the proposed appropriation], (k), (L), (s), and in theory potentially others. Generally the appropriation doesn't control whether it is eligible to be used for MOE; that is largely a function of budget assumptions and in some cases (notably the transportation grant program) whether a grant is structured to make it MOE-eligible through such actions as the recipient (whether a W-2 agency or not), linkage to TANF-eligible populations, inclusion in the federally approved TANF plan, whether or not the award is used to match other federal programs, and whether the use of the funds is consistent with federal guidance on what is eligible to be counted as MOE or not.

Further, to accurately describe all the recoveries that could be credited to this appropriation, keep in mind that we are talking about where the funds were (often in a previous biennium) paid from, so one potentially would need to list appropriations that no longer exist (though we don't recall any current MOE sources that have since been repealed). This is just to give a sense of why we would strongly advise against use of references to appropriations which may be used, but not necessarily exclusively used, for TANF MOE-eligible expenditures. If for some reason LRB thinks this is needed, if possible, use the most generic reference possible, such as "other expenditures made from the appropriations under s.20.445," or second-best, "s.20.445 (3)." Even these may not address all potential situations involving repayments of TANF funds for programs administered by other agencies.

2) Pam also notes we suggested adding "repayments to the department not credited to the appropriations under s.20.445 (3) (jL), (mc), or (md)," and asks "What repayments are those? How can they be described?"

It is somewhat unclear whether Pam is asking about what "would" be credited to those appropriations cited, or what we're trying to address here, which is the ones that would "not" be. Perhaps it is useful to step back to the big picture here: We are attempting to address all the possible types of TANF/CCDF-related repayments generically enough so that it is possible to see how they would be handled. Our budget request and previous comments covered most of these situations that we could think of. If perhaps she is trying to get an overall sense of the larger categories for purposes of the LRB analysis, it may be useful to review these:

Under current law, the department of workforce development administers a number of TANF-related programs (mostly detailed under s.49.175), the largest of which are the Wisconsin Works program and a subset of it which provides child care subsidy benefits known as "Wisconsin Shares" (a non-statutory term). In general, these programs pay benefits to, or on behalf of, participants from an annual appropriation of federal funds for "federal block grant aids" [(3) (md)] annual appropriations from the general fund for "Wisconsin works child care," and "Temporary Assistance for needy families; maintenance of effort," and other appropriations for maintenance of effort, the largest of which are one funded from the state share of assigned child support collections [(3) (k)], and one funded from the segregated public benefits fund [(3) (s)]."

A variety of circumstances can result in situations where these payments are returned to, or recovered by, the department, including payment errors and audits and investigations that result

in some portion of claimed expenses being disallowed, or changed addresses or other circumstances that result in a returned check that otherwise be for appropriate purposes. Most federally funded programs are budgeted in "all moneys received" appropriations, which handle these situations by crediting the funds back to the federal government, which depending on the federal rules governing the period of availability of the award, may allow them to be drawn again. [This is worth reflecting on in terms of whether an exception is definitely needed to s.20.000 (2) (e) uniquely for this proposed appropriation--we are merely trying to allow what is a common accounting practice for other federal funds appropriations--the problem only occurs because s. 20. 445 (3) (md) and (mc) are currently defined as annual appropriations]

Some unique circumstances exist in achieving federal compliance within current state law relating to DWD's appropriations for TANF and CCDF block-grant funds and current state law relating to refunds of expenditures. One, is that the federal government allows recovered payments to be treated as available federal funds, regardless of whether the original source of funding was the block grant or the required state expenditures known as "maintenance of effort" funds. It is generally to the state's advantage to use this option to avoid having to re-appropriate the maintenance of effort funds. A second is that the appropriations are defined as annual, which presents a conflict between the accounting treatment generally used for the federal share of returned, recovered, or disallowed payments and current state law governing "refunds of expenditures." Last, the W-2 program is historically contracted out for a 2-year period funded from 3 state fiscal years. Thus, funds may be encumbered and contracted and subject to reuse or re-issuance (in the case of benefit checks) throughout the contract period.

What DWD has proposed is that current-law be clarified that it is an acceptable treatment to credit the appropriation at s.20.445 (3) (md) for returned checks, or anything funds returned that are subject to re-issuance within the current contract period. Generally, it would be sufficient to cite only s. 20.445 (3) (md) because normally only aid contracts would be at issue [(mc) is for state operations], MOE-funded payments could be treated as federal and/or are in some cases made from continuing appropriations, in which case the conflict between the appropriation definition and the refunds-of-expenditure policy does not arise.

DWD suggested something along the lines of "Notwithstanding s.20.001 (5) [DWD] may credit to the appropriation accounts under s.20.445 (3) (md) the amount of any returned check, or payment in other form, when such returned amounts are subject to expenditure within the same contract or purchase order, regardless of the fiscal year in which the original payment attempt was made."

If that change is made, then the new appropriation requested would be used for recovered payments that generally originated either with a previous W-2 contract period or with child care subsidies, which are never encumbered and are a growing category of overpayment recoveries.

The language previously suggested was attempting to say that any TANF/CCDF recovery not handled as a credit back to s.20.445 (3) (jL) (mc) or (md) under current-law accounting policies, or the proposed clarified/exception for s.20.445 (md) would be credited to this new appropriation, proposed (md). In addition, we were trying to address the potential circumstance of voluntarily repaid amounts that were not necessarily "overpaid," such as JALs. This would then provide at least one possible accounting treatment for every anticipated type of repayment.

However, as you know, s.20.445 (3) (jL) is currently funded exclusively by repayments or recoveries of delinquent Job Access Loans (a program originally funded from TANF and/or TANF MOE funds), and since these recovered/repaid JAL amounts are not currently treated as

federal funds, perhaps that language could be misconstrued. Therefore, perhaps it would be sufficient and simpler—assuming the above provision allowing credits to s.20.445 (3) (md) notwithstanding s.20.001 (5) is created—to merely reference (3) (md). Here's an alternate version of suggested language incorporating these thoughts (the revised portions are underlined):

20.445 (3) (me) *Child care and temporary assistance overpayment recovery.* All moneys received from the recovery of overpayments, and incorrect, disallowed, or returned payments of federal Child Care and Development Fund block grant funds, and federal Temporary Assistance for Needy Families block grant funds and other funds associated with the maintenance of effort requirement in the Temporary Assistance for Needy Families program, when such recoveries are treated as federal funds, for activities to reduce errors under the Wisconsin Works program under ss. 49.141 to 49.161, and for any of the purposes specified under s.49.175 (1). All such repayments to the department not credited to the appropriation under s. 20.445 (3) (md) that are treated as federal funds associated with these block grants shall be credited to this appropriation.

Kahler, Pam

From: Smith, Thomas K - DWD BUDGET
Sent: Monday, January 24, 2005 11:09 AM
To: Fath, Erin
Cc: Kahler, Pam; Mansfield, Mark
Subject: FW: LRB Draft: 05-0604/P1 Appropriation for TANF-related and Childcare-related recoveries

Erin:

Thank you for your attention to this. Our detailed responses were sent late Friday, so here are just a few additional comments on your e-mail.

1) Your list of appropriations from which TANF MOE expenditures may potentially occur illustrates the difficulty in drawing this in a narrow way (attempting to cite them all), which is why we were suggesting an English-language description similar to the proposed references to the TANF and CCDF block grants.

Your list includes the appropriations in other agencies that we did not address, and we assume that s. 20.445(3)(t) is the proposed new appropriation from the transportation fund. Assuming that a single appropriation is being used for both the W-2 agency contract portion and the WETAP grants portion, your assessment is correct. A portion, but probably not all the expenditures from it, would be reported as TANF MOE. Seems like some of the recent file maintenance notes may have also included GPR for the DHFS domestic violence allocation, or the Refugee Family Strengthening portion of it? If so, it seems possible that may be MOE-eligible.

With regard to your question of whether expenditures from s. 20.445(3)(jL) should be in the list -- the short answer is yes, in the sense that JAL expenditures are reported in relation to our annual MOE target. However, in SFY 04, they had a negative effect on it. In planning for the future, we probably should not rely on it as contributing to MOE over time. But in terms of Pam's question, it has been used. This further reinforces the thought about the difficulty of using a list for this. Remember, we will be collecting overpayments, so all past and future MOE sources are potentially involved. However, JAL repayments are separately appropriated at s. 20.445(3)(jL), so the new TANF-recovery appropriation would not be used for them, which was why we had considered including this reference as a way to describe what types of recoveries would NOT be included in the appropriation.

2) You described s. 20.445(3)(jL) well, and as noted above, we were trying to exclude, in that case, not precisely the refunds-of-expenditures, but those TANF-related recoveries for which a different mechanism is provided: JAL repayments to the departments and recoveries through tax-intercept or other means are credited to s. 20.445(3)(jL). The refund-of-expenditure concept does not come into play for that appropriation because it is an "all moneys received" continuing appropriation.

3) You are correct in summarizing a key goal for the new appropriation. Two others are more accurately reflecting available resources in the biennium and more efficiently complying with federal and state accounting considerations. With this in mind, and considering that W-2 contracts are multi-year in nature, we had requested a provision allowing us to credit s. 20.445(3)(md) for any returned check or other payment subject to expenditure within the same contract, notwithstanding s. 20.001(5) -- (which, depending on the interpretation given of it, could otherwise apply to those occurring within the same fiscal year while leaving the accounting treatment of others unclear). Then, the new appropriation for TANF and CCDF recoveries would be used for everything else that, when recovered, would be treated as federal funds associated with those block grants. They would generally consist of recoveries of overpayments, incorrect payments, or fraudulently claimed child-care subsidies, W-2 benefits from prior contract periods, or occasionally other TANF-related recoveries other than JALS, such as audit disallowances or negotiated repayments from local agencies.

Tom

Thomas K. Smith

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201 East Washington Avenue
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-----Original Message-----

From: Fath, Erin
Sent: Friday, January 21, 2005 5:10 PM
To: Kahler, Pam; Mansfield, Mark; Smith, Thomas K - DWD BUDGET
Subject: RE: LRB Draft: 05-0604/P1 Appropriation for TANF-related and Childcare-related recoveries
Importance: High

Hi everyone,
I am taking a crack at answering these questions because I know LRB needs some answers in order to finish up the draft. DWD folks, if you feel you need to modify my response, please reply to everyone on this e-mail. Pam, I hope this is helpful. Thanks.

In response to Pam's questions below:

1) I believe all the TANF maintenance of effort sources would include:

In DWD:

20.445 (3)(a) - a small portion of these GPR expenditures are counted towards TANF MOE
20.445 (3)(cm) - a portion of GPR expenditures for childcare are counted towards TANF&CCDF MOE
20.445 (3)(dz) - all expenditures count towards TANF MOE
20.445 (3)(k) - some expenditures counted towards TANF MOE
20.445 (3)(L) - I believe all expenditures count towards TANF MOE
20.445 (3)(jL) - DWD FOLKS - IS IT ACCURATE TO INCLUDE THIS APPROPRIATION?
20.445 (3)(s) - all expenditures count towards TANF MOE
20.445 (3)(t) - as created in LRB draft 1662 - my understanding is that a portion of expenditures from this appropriation would count towards TANF MOE

In DHFS:

20.435 (4)(bn) - the GPR amounts expended for food stamps for qualified aliens and for the funeral/cemetery/burial costs of W-2 eligible indigent persons [under s. 49.785] are counted towards TANF MOE. I believe the amounts for these programs are appropriated under s.20.435(4)(bn); I am verifying with DHFS.

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I THINK that would include all TANF MOE sources.

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I think that what DWD is trying to do here is to ensure that TANF/Childcare recoveries that can not be treated as refunds of expenditures (which is narrowly defined) are credited to the new FED appropriation created by this draft [s. 20.445(3)(me).]

Erin K. Fath

Wisconsin State Budget Office
(608) 266-8219
Erin.Fath@doa.state.wi.us

-----Original Message-----

From: Kahler, Pam [mailto:Pam.Kahler@legis.state.wi.us]
Sent: Tuesday, January 18, 2005 11:12 AM
To: Fath, Erin

Subject: RE: LRB Draft: 05-0604/P1 Appropriation for TANF-related and
Childcare-related recoveries

Erin, on this draft, I've talked to Jeff Kuesel about DWD's comments and he had some suggestions for drafting this properly to accommodate their request, but I need more information from you.

1) DWD wants to add to the language "state funds expended in conjunction with either" - meaning, I assume, maintenance of effort. Which appropriations are those? S. 20.445 (3) (dz) is one, but are there others?

2) DWD also wants to add "repayments to the department not credited to the appropriations under s. 20.445 (3) (jL), (mc), or (md)." What repayments are those? How can they be described?

If we can add specific references to those sources noted above, we should be able to do this, although we do have to amend the descriptions of program revenues-service and federal revenues in s. 20.001 (2). Thanks!

Pam

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Sent: Tuesday, January 11, 2005 2:09 PM
To: Kahler, Pam
Subject: FW: LRB Draft: 05-0604/P1 Appropriation for TANF-related and
Childcare-related recoveries

Pam,

A while back we had a conversation about this draft. DWD requested to have the new appropriation created as a FED, rather than a PR-S, appropriation. DWD is supposed to be getting me some written comments that should explain their reasoning, but in summary:

The federal government permits states to treat overpayment/erroneous payments in the TANF and CCDF programs as federal revenues, to be expended on any TANF/CCDF eligible purpose. In effect, those recoveries are credited to the state's federal TANF/CCDF block grant. DWD argues that from the perspective of the federal government, these recoveries are federal funds.

If I have convinced you to make this appropriation FED instead of PR-S, DWD requests that it be created as s. 20.445 (3) (me).

I will share with you DWD's comments as soon as they get them to me. I have asked them to get the in ASAP.

Thanks,
-Erin

-----Original Message-----

From: Greenslet, Patty [<mailto:Patty.Greenslet@legis.state.wi.us>]
Sent: Friday, October 29, 2004 10:47 AM
To: Fath, Erin
Cc: Hanle, Bob; Hanaman, Cathlene; Haugen, Caroline; Schaeffer, Carole
Subject: LRB Draft: 05-0604/P1 Appropriation for TANF-related and
Childcare-related recoveries

Following is the PDF version of draft 05-0604/P1.

Kahler, Pam

From: Fath, Erin
Sent: Monday, January 24, 2005 3:16 PM
To: Kahler, Pam
Subject: RE: LRB-0604 - fed appropriation

Hi Pam
In response:

1. It's ok to use the phrase "from other appropriations to meet maintenance-of-effort .."
2. As far as a USC cite ... I don't think we have one that you'll find satisfactory. DWD is using as guidance on this issue a "Program Instruction" memo [PI 2002-2] from the federal Department of Health and Human Services, Administration for Children and Families. It is, in effect, DHHS' administrative interpretation of the federal TANF law. If you feel comfortable using what is essentially an administrative memo as a citation, that's fine with us, but I'm guessing that we don't typically use admin memos as citations.
3. OK, I understand Jeff's reasoning, so that's fine to retain the exception. However, I do think it would make more sense to put the exception under *20.001(2)(b), Program Revenues*, as I would normally think of these recoveries/repayment as PR (if we weren't treating them as FED), rather than PR-S, because the recoveries/repayments are coming from an entity outside of state government.
4. Finally, I realized after talking with DWD that we missed a change that they had requested, which isn't surprising given the enormous amount of written response they gave us. I am checking with people in the state controller's office to make sure this doesn't present any practical/mechanical problems. You may want to wait until you make this change - I should know by tomorrow a.m. (I think tomorrow is our deadline for drafting changes, isn't it?)

This is the change they would like to include in the draft:

"Notwithstanding s. 20.001 (5), the department [DWD] may credit to the appropriation account under s. 20.445 (3) (md) the amount of any returned check, or payment in other form, when such returned amounts are subject to expenditure within the same contract period or purchase order, regardless of the fiscal year in which the original payment attempt was made."

However, I'm not sure where the best place would be for this language. This language essentially creates an exception to the current law refund of expenditure language [under s. 20.001(5)]. The reason for including it is to help distinguish between those repayments that can be treated as a refund of expenditure, versus those recoveries/repayments that would be treated as federal funds and deposited into the new appropriation s. 20.445 (3)(me). Perhaps the best place for it would be somewhere in s. 20.001? I suppose it could go under s. 20.445 (3)(md), since that's the appropriation to which it refers.

Thanks,
-Erin

-----Original Message-----

From: Kahler, Pam [mailto:Pam.Kahler@legis.state.wi.us]
Sent: Monday, January 24, 2005 1:42 PM
To: Fath, Erin
Subject: LRB-0604 - fed appropriation

Erin:

I spoke with Jeff about our proposed changes. He's fine with taking out the specific cites, but thought it would be good to say "state moneys paid *from other appropriations* to meet maintenance-of-effort" He's also fine with saying "that are treated as federal revenue under (the USC cite)." Lastly, he still thinks we need the amendment to s. 20.001 (2) (c) because his thinking is that by looking at the new appropriation, you would normally expect it to be a PR or a PR-S, but since it is not, (it is fed) you need to exclude it from either one. It could be excluded from PR instead of PR-S. I'm not sure I follow that, but unless DWD has a *huge* problem with it, I'd just as soon keep it. If someone does have a huge problem with it, maybe they could speak to Jeff????

Pam

*except as provided in
with the same fiscal year, except
as provided*

*add (md)
to federal
def*