

## 1999 SENATE BILL 362

February 3, 2000 – Introduced by Senators PANZER, BRESKE, HUELSMAN, GEORGE, SCHULTZ, RISSER, ROESSLER, PLACHE, ROSENZWEIG, BAUMGART, COWLES, ERPENBACH and DARLING, cosponsored by Representatives KRUG, GOETSCH, BALOW, LADWIG, PLOUFF, M. LEHMAN, LASSA, OLSEN, RYBA, BOCK, BOYLE, POCAN, HEBL, COLON, RICHARDS, MILLER, RILEY, CARPENTER, BERCEAU, GUNDERSON and SHERMAN. Referred to Insurance, Tourism, Transportation and Corrections.

1     **AN ACT** *to repeal* 13.093 (2) (c); *to amend* 13.093 (1), 20.410 (1) (e), 20.410 (3)  
2           (e) and 20.866 (1) (u); *to repeal and recreate* 20.866 (1) (u); and *to create*  
3           13.093 (3) and (4), 20.410 (1) (qd), 20.410 (1) (qg), 20.410 (1) (qr), 20.410 (3) (qg),  
4           20.410 (3) (qr), 20.435 (3) (q), 20.855 (4) (em), 25.17 (1) (bm) and 25.71 of the  
5           statutes; **relating to:** fiscal estimates for bills containing criminal penalty  
6           provisions, establishing a corrections special reserve fund and making  
7           appropriations.

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### ***Analysis by the Legislative Reference Bureau***

Under current law, all bills introduced in either house of the legislature that appropriate money, provide for revenue or relate to taxation must be referred to the joint committee on finance (JCF) before being passed. In addition, current law requires that a fiscal estimate be prepared for any bill that makes an appropriation or that increases or decreases existing appropriations or state or general local government fiscal liability or revenues. A fiscal estimate must incorporate a reliable estimate of the anticipated change in appropriation authority or fiscal liability or revenue and, to the extent possible, must project such changes in future fiscal years. Fiscal estimates are prepared by the state agencies administering the appropriation or fund or collecting the revenue or having information concerning the subject matter of the bill. A bill containing a penalty provision is exempt from the fiscal estimate requirement if it contains no other provisions that require a fiscal estimate.

**SENATE BILL 362**

This bill eliminates the current exemption from the fiscal estimate requirement for bills containing a penalty provision. In addition, the bill requires a correctional fiscal estimate to be prepared for any bill that does any of the following: 1) creates a criminal offense that is punishable by imprisonment in a state prison or placement in a juvenile correctional institution; 2) increases the period of imprisonment or the period of placement in a juvenile correctional institution that may be imposed for an offense; 3) requires a person to be sentenced to state prison or placed in a juvenile correctional institution; or 4) otherwise affects a penalty provision in a way that will increase the number of persons on probation, parole or extended supervision or in the juvenile correctional system.

To prepare a correctional fiscal estimate, the affected state agencies must make projections of the impact of the bill on the number of persons on probation, parole or extended supervision, the number of persons in prison and the number of persons in the juvenile correctional system. The agencies must also estimate the fiscal impact of any projected population changes. Finally, the agencies must specify the methodologies and assumptions that they used to make the population projections and the estimate of the fiscal impact. The agencies then provide this information to the legislative fiscal bureau (LFB), which in turn has five working days to review the information and consult with the agencies concerning the projections and estimates.

After the LFB review period, the affected agencies must submit a completed correctional fiscal estimate to the LFB and the legislative reference bureau (LRB) and the LFB must submit a statement of its review of the correctional fiscal estimate to the LRB. The completed correctional fiscal estimate must provide an estimate of the anticipated state fiscal liability for correctional capital and operational costs under the bill, including a projection of such costs for the fiscal year in which the bill takes effect and the nine succeeding fiscal years.

If a bill requires a correctional fiscal estimate, the estimate must be incorporated into the bill before any public hearing on the bill in a standing committee, before any vote is taken in a standing committee if no public hearing is held, or before any vote is taken on the bill by either house of the legislature if the bill is not referred to a standing committee. In addition, a bill that requires a correctional fiscal estimate must be referred to JCF. Before it recommends the bill for passage, JCF must recommend adoption of an amendment that appropriates money to the corrections special reserve fund, unless the committee determines that such an amendment is unnecessary because the bill does not increase corrections capital and operating costs or if the bill already makes a sufficient appropriation to the corrections special reserve fund. Likewise, neither house of the legislature may vote on the bill unless it has first adopted an amendment that appropriates money to the corrections special reserve fund, unless JCF has determined that such an amendment is unnecessary. The corrections special reserve fund is created by this bill for the purposes of making principal and interest payments on debt contracted to purchase, build or expand correctional institutions, paying for the operation of the department of corrections (DOC) and for community corrections programs, and funding child abuse and neglect prevention programs in the department of health and family services (DHFS).

**SENATE BILL 362**

Finally, under this bill, if an amendment to the biennial budget bill meets the criteria of a bill requiring a correctional fiscal estimate, the amendment may not be voted on by either house of the legislature unless the provisions of the amendment that require a correctional fiscal estimate are identical to the provisions of an introduced bill for which a correctional fiscal estimate has been prepared.

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

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

1           **SECTION 1.** 13.093 (1) of the statutes is amended to read:

2           13.093 **(1)** All bills introduced in either house of the legislature for the  
3 appropriation of money, providing for revenue or relating to taxation or that require  
4 a correctional fiscal estimate under sub. (3) shall be referred to the joint committee  
5 on finance before being passed.

6           **SECTION 2.** 13.093 (2) (c) of the statutes is repealed.

7           **SECTION 3.** 13.093 (3) and (4) of the statutes are created to read:

8           13.093 **(3)** (a) All bills introduced in either house of the legislature that create  
9 a criminal offense for which a sentence to a state prison or a disposition of placement  
10 in a juvenile correctional facility may be imposed, that increase the period of  
11 imprisonment in a state prison or placement in a juvenile correctional facility for an  
12 existing criminal offense, that require a person to be sentenced to imprisonment in  
13 a state prison or a juvenile to be placed in a juvenile correctional facility, or that  
14 otherwise affect a penalty provision that increases the statewide probation, parole,  
15 extended supervision or juvenile corrections population shall incorporate a  
16 correctional fiscal estimate before any vote is taken thereon by either house of the  
17 legislature, if the bill is not referred to a standing committee, before any public  
18 hearing is held before a standing committee or, if no public hearing is held, before any

**SENATE BILL 362****SECTION 3**

1 vote is taken by the standing committee. The correctional fiscal estimate shall  
2 estimate the anticipated state fiscal liability for correctional capital and operational  
3 costs under the bill including a projection of such costs for the fiscal year in which  
4 the bill becomes effective and the 9 succeeding fiscal years. Correctional fiscal  
5 estimates shall be prepared as follows:

6 1. Upon receiving a copy of a bill under par. (c), the department of  
7 administration shall determine which departments or agencies are responsible for  
8 preparing the correctional fiscal estimate. The departments or agencies responsible  
9 for preparing the correctional fiscal estimate shall submit to the legislative fiscal  
10 bureau projections of the impact on statewide probationer, prisoner, parolee,  
11 extended supervision and juvenile corrections populations, an estimate of the fiscal  
12 impact of such population changes on state expenditures and a statement of the  
13 methodologies and assumptions used in making the population projections and  
14 estimates of fiscal impact. In preparing this information, a department or agency  
15 may request information from other departments or agencies. If a specific estimate  
16 cannot be determined, the departments or agencies shall provide an estimated cost  
17 range. The departments or agencies shall submit this information to the legislative  
18 fiscal bureau within 5 working days after the departments or agencies receive a copy  
19 of the bill.

20 2. The legislative fiscal bureau shall review the information received from the  
21 departments or agencies under subd. 1. The legislative fiscal bureau shall consult  
22 with the departments or agencies from which information was received under subd.  
23 1. and the departments or agencies shall provide information as requested by the  
24 legislative fiscal bureau as necessary to complete the review. Such review shall be

**SENATE BILL 362**

1 completed within 5 working days from the date the legislative fiscal bureau receives  
2 the information under subd. 1.

3 3. The departments or agencies preparing information under subd. 1. shall  
4 prepare a correctional fiscal estimate and submit it to the legislative reference  
5 bureau and the legislative fiscal bureau within 3 working days after the date the  
6 legislative fiscal bureau's review period under subd. 2. ends. If a department or  
7 agency cannot make a specific estimate, the department or agency shall establish  
8 assumptions, including population estimates, that allow a projection to be made and  
9 provide an estimated cost range.

10 4. The legislative fiscal bureau shall prepare a statement of its review of the  
11 correctional fiscal estimate and submit it to the legislative reference bureau within  
12 2 working days after receiving the correctional fiscal estimate.

13 (b) The legislature shall reproduce and distribute correctional fiscal estimates  
14 under par. (a) 3. and statements under par. (a) 4. in the same manner as it reproduces  
15 and distributes amendments.

16 (c) The legislative reference bureau shall determine whether a bill draft  
17 requires a correctional fiscal estimate. A bill draft that requires a correctional fiscal  
18 estimate under this subsection shall have that requirement noted on its jacket when  
19 the jacket is prepared. When a bill that requires a correctional fiscal estimate under  
20 this subsection is introduced, the legislative reference bureau shall submit a copy of  
21 the bill to the legislative fiscal bureau and the department of administration.

22 **(4)** (a) In any bill that requires a correctional fiscal estimate under sub. (3), the  
23 joint committee on finance, before recommending the bill for passage, shall  
24 recommend adoption of an amendment to increase the appropriation under s. 20.855  
25 (4) (em) in an amount equal to the amount of corrections capital and operational costs

**SENATE BILL 362****SECTION 3**

1 for the fiscal year in which those costs are estimated to be the highest multiplied by  
2 2. This paragraph does not apply if the joint committee on finance determines that  
3 the bill does not increase state liability for corrections capital and operational costs  
4 or that the bill already contains a provision that increases the appropriation under  
5 s. 20.855 (4) (em) in an amount equal to the amount of corrections capital and  
6 operational costs for the fiscal year in which those costs are estimated to be the  
7 highest multiplied by 2. If the joint committee on finance determines that this  
8 paragraph does not apply, the committee's recommendation shall be accompanied by  
9 a statement to that effect.

10 (b) Neither house of the legislature may vote on a bill that requires a  
11 correctional fiscal estimate under sub. (3) unless it has adopted an amendment to  
12 increase the appropriation under s. 20.855 (4) (em) as recommended by the joint  
13 committee on finance under par. (a). This provision does not apply to a bill for which  
14 the joint committee on finance has prepared a statement under par. (a) that the  
15 requirement under that paragraph does not apply to the bill.

16 (c) Neither house of the legislature may vote on an amendment to the executive  
17 budget bill or bills introduced under s. 16.47 if the amendment meets the criteria of  
18 a bill that requires a correctional fiscal estimate under sub. (3) unless the only  
19 provisions in the amendment that cause the amendment to meet the criteria are  
20 identical to the provisions of a bill introduced in the same legislative session for  
21 which the requirements under sub. (3) and par. (a) have been met.

22 **SECTION 4.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert  
23 the following amounts for the purposes indicated:

**SENATE BILL 362**

1		<b>1999-00</b>	<b>2000-01</b>
2	<b>20.410 Corrections, department of</b>		
3	(1) ADULT CORRECTIONAL SERVICES		
4	(qd) Principal repayment, interest		
5	and rebates	SEG A	-0- -0-
6	(qg) General operations costs	SEG A	-0- -0-
7	(qr) Operating costs for community		
8	corrections	SEG A	-0- -0-
9	(3) JUVENILE CORRECTIONAL SERVICES		
10	(qg) Principal repayment and inter-		
11	est costs	SEG A	-0- -0-
12	(qr) General operations costs	SEG A	-0- -0-
13	<b>20.855 Miscellaneous appropriations</b>		
14	(4) TAX, ASSISTANCE AND TRANSFER PAYMENTS		
15	(em) Corrections special reserve fund		
16	contribution	GPR A	-0- -0-
17	<b>SECTION 5.</b> 20.410 (1) (e) of the statutes is amended to read:		
18	20.410 (1) (e) <i>Principal repayment and interest.</i> A sum sufficient to reimburse		
19	s. 20.866 (1) (u) for the payment of principal and interest costs <u>that are incurred in</u>		
20	financing the acquisition, construction, development, enlargement or improvement		
21	of correctional facilities <u>and that are not reimbursed under par. (qd).</u>		
22	<b>SECTION 6.</b> 20.410 (1) (qd) of the statutes is created to read:		

**SENATE BILL 362****SECTION 6**

1           20.410 (1) (qd) *Principal repayment, interest and rebates.* From the corrections  
2 special reserve fund, the amounts in the schedule to reimburse s. 20.866 (1) (u) for  
3 the payment of principal and interest costs incurred in financing the acquisition,  
4 construction, development, enlargement or improvement of adult correctional  
5 facilities, and to make full payment of the amounts determined by the building  
6 commission under s. 13.488 (1) (m) that are attributable to the proceeds of  
7 obligations incurred in financing such facilities.

8           **SECTION 7.** 20.410 (1) (qg) of the statutes is created to read:

9           20.410 (1) (qg) *General operations costs.* From the corrections special reserve  
10 fund, the amounts in the schedule for the operation of institutions and to provide  
11 field services and administrative services.

12           **SECTION 8.** 20.410 (1) (qr) of the statutes is created to read:

13           20.410 (1) (qr) *Operating costs for community corrections.* From the corrections  
14 special reserve fund, the amounts in the schedule to provide services related to  
15 probation, extended supervision and parole, the intensive sanctions program under  
16 s. 301.048, the community residential confinement program under s. 301.046,  
17 programs of intensive supervision of adult offenders and minimum security  
18 correctional institutions established under s. 301.13.

19           **SECTION 9.** 20.410 (3) (e) of the statutes is amended to read:

20           20.410 (3) (e) *Principal repayment and interest.* A sum sufficient to reimburse  
21 s. 20.866 (1) (u) for the payment of principal and interest costs that are incurred in  
22 financing the acquisition, construction, development, enlargement or improvement  
23 of the department's juvenile correctional facilities and that are not reimbursed under  
24 par. (qg).

25           **SECTION 10.** 20.410 (3) (qg) of the statutes is created to read:



**SENATE BILL 362**

1           20.410 (3) (qg) *Principal repayment and interest costs.* From the corrections  
2 special reserve fund, the amounts in the schedule to reimburse s. 20.866 (1) (u) for  
3 the payment of principal and interest costs incurred in financing the acquisition,  
4 construction, development, enlargement or improvement of juvenile correctional  
5 facilities.

6           **SECTION 11.** 20.410 (3) (qr) of the statutes is created to read:

7           20.410 (3) (qr) *General operations costs.* From the corrections special reserve  
8 fund, the amounts in the schedule to operate the department's juvenile correctional  
9 institutions and to provide field services and administrative services.

10          **SECTION 12.** 20.435 (3) (q) of the statutes is created to read:

11          20.435 (3) (q) *Child abuse prevention.* From the corrections special reserve  
12 fund, a sum sufficient equal to the net earnings on the moneys in the corrections  
13 special reserve fund, as determined under s. 25.14 (3), less any amounts assessed  
14 against the fund under s. 25.187 (2), for the purpose of funding child abuse  
15 prevention efforts. Moneys appropriated under this appropriation may not be used  
16 to supplant or divert other sources of funding for child abuse prevention efforts.

17          **SECTION 13.** 20.855 (4) (em) of the statutes is created to read:

18          20.855 (4) (em) *Corrections special reserve fund contribution.* The amounts in  
19 the schedule for transfer to the corrections special reserve fund under s. 25.71.

20          **SECTION 14.** 20.866 (1) (u) of the statutes, as affected by 1999 Wisconsin Act  
21 9, section 628, is amended to read:

22          20.866 (1) (u) *Principal repayment and interest.* A sum sufficient from moneys  
23 appropriated under sub. (2) (zp) and ss. 20.115 (2) (d) and (7) (b) and (f), 20.190 (1)  
24 (c), (d), (i) and (j), 20.225 (1) (c), 20.245 (1) (e), (2) (e) and (j), (4) (e) and (5) (e), 20.250  
25 (1) (e), 20.255 (1) (d), 20.275 (1) (er), (es), (h) and (hb), 20.285 (1) (d), (db), (fh), (ih),

**SENATE BILL 362**

1 (kd) and (km) and (5) (i), 20.320 (1) (c) and (t) and (2) (c), 20.370 (7) (aa), (ac), (ag),  
2 (aq), (ar), (at), (au), (ba), (ca), (cb), (cc), (cd), (ce), (cf), (ea), (eq) and (er), 20.395 (6) (aq)  
3 and (ar), 20.410 (1) (e), (ec) ~~and~~, (ko) and (qd) and (3) (e) and (qg), 20.435 (2) (ee) and  
4 (6) (e), 20.465 (1) (d), 20.485 (1) (f) and (go), (3) (t) and (4) (qm), 20.505 (5) (c), (g) and  
5 (kc), 20.855 (8) (a) and 20.867 (1) (a) and (b) and (3) (a), (b), (bp), (br), (g), (h), (i) and  
6 (q) for the payment of principal and interest on public debt contracted under subchs.  
7 I and IV of ch. 18.

8 **SECTION 15.** 20.866 (1) (u) of the statutes, as affected by 1999 Wisconsin Act  
9 9, section 628b, and 1999 Wisconsin Act .... (this act), is repealed and recreated to  
10 read:

11 20.866 (1) (u) *Principal repayment and interest.* A sum sufficient from moneys  
12 appropriated under sub. (2) (zp) and ss. 20.115 (2) (d) and (7) (b) and (f), 20.190 (1)  
13 (c), (d), (i) and (j), 20.225 (1) (c), 20.245 (1) (e), (2) (e) and (j), (4) (e) and (5) (e), 20.250  
14 (1) (e), 20.255 (1) (d), 20.275 (1) (er), (es), (h) and (hb), 20.285 (1) (d), (db), (fh), (ih),  
15 (kd) and (km) and (5) (i), 20.320 (1) (c) and (t) and (2) (c), 20.370 (7) (aa), (ac), (ag),  
16 (aq), (ar), (at), (ba), (ca), (cb), (cc), (cd), (ce), (cf), (ea), (eq) and (er), 20.395 (6) (aq) and  
17 (ar), 20.410 (1) (e), (ec), (ko) and (qd) and (3) (e) and (qg), 20.435 (2) (ee) and (6) (e),  
18 20.465 (1) (d), 20.485 (1) (f) and (go), (3) (t) and (4) (qm), 20.505 (5) (c), (g) and (kc),  
19 20.855 (8) (a) and 20.867 (1) (a) and (b) and (3) (a), (b), (bp), (br), (g), (h), (i) and (q)  
20 for the payment of principal and interest on public debt contracted under subchs. I  
21 and IV of ch. 18.

22 **SECTION 16.** 25.17 (1) (bm) of the statutes is created to read:

23 25.17 (1) (bm) Corrections special reserve fund (s. 25.71);

24 **SECTION 17.** 25.71 of the statutes is created to read:

**SENATE BILL 362**

1           **25.71 Corrections special reserve fund. (1)** There is established a  
2 corrections special reserve fund, consisting of moneys appropriated by the  
3 legislature from the general fund under s. 20.855 (4) (em) and earnings from this  
4 money. Moneys in the fund may only be used for the following purposes:

5           (a) Debt payments for the department of corrections under s. 20.410 (1) (qd) and  
6 (3) (qg).

7           (b) Operation costs for the department of corrections.

8           (c) Community corrections programs.

9           (d) Funding for child abuse prevention programs administered by the  
10 department of health and family services.

11           **(2)** All moneys in the fund, other than earnings on the moneys, shall first be  
12 used for the payment of principal and interest costs incurred in financing the  
13 acquisition, construction, development, enlargement or improvement of correctional  
14 facilities, and to make full payment of the amounts determined by the building  
15 commission under s. 13.488 (1) (m) that are attributable to the proceeds of  
16 obligations incurred in financing such facilities. After all such costs have been paid,  
17 the moneys may be used for operating costs of the department of corrections and  
18 community corrections programs.

19           **(3)** All net earnings on the money in the fund, as determined under s. 25.14 (3),  
20 less any amounts assessed against the fund under s. 25.187 (2), shall be used for the  
21 purpose of funding child abuse prevention efforts under s. 20.435 (3) (q).

22           **SECTION 18. Effective dates.** This act takes effect on the day after publication,  
23 except as follows:

