

Committee Name:
Joint Committee on Finance – Budget Hearings (JCF_BH)

Appointments

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Clearinghouse Rules

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Committee Hearings

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Executive Sessions

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Record of Committee Proceedings

99hr_JCF_BH_RCP_pt00

LFB Memos

Legislative Fiscal Bureau

Robert Wm. Lang, Director

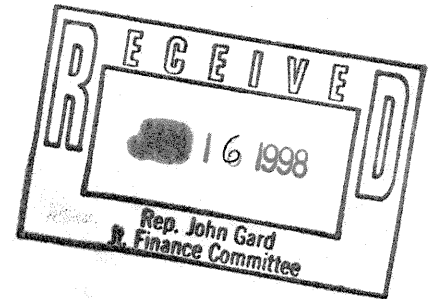
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State of Wisconsin

January 15, 1998

Senator Brian Burke, Senate Chair
Representative John Gard, Assembly Chair
Joint Committee on Finance
119 Martin Luther King, Jr. Blvd.



Dear Senator Burke and Representative Gard:

Section 9256(3x) of 1997 Wisconsin Act 27 requires the Legislative Fiscal Bureau to certify the Bureau's estimate of the 1997-98 and 1998-99 net balances of the general fund to the Joint Committee on Finance by January 31, 1998. The certification for 1998-99 must reflect appropriation increases and transfers required under Act 27 for 1997-98, based on the 1997-98 certified net balance. Based on this office's review of general fund revenues and expenditures, the Bureau is certifying an estimated net general fund balance of \$264,815,900 for 1997-98 and \$225,591,400 for 1998-99. The figure for 1998-99 represents the estimated net balance of \$320,591,400 less \$95,000,000 of appropriation increases and fund transfers that would occur in 1997-98 under Act 27.

The following table provides a comparison of these certified balances with the balances included in Enrolled AB 100.

Comparison of Estimated Net General Fund Balances

	<u>1997-98</u>	<u>1998-99</u>
January, 1998	\$264,815,900	\$225,591,400
Enrolled AB 100	<u>-150,589,500</u>	<u>-6,009,600</u>
Difference	\$114,226,400	\$219,581,800

Under Act 27, the difference between the balances certified by the Bureau and those shown in Enrolled AB 100 is the basis for a series of appropriation increases and transfers. After the Bureau's certification, the Co-chairs of the Joint Committee on Finance have 14

working days to schedule a meeting of the Committee to review the certification. This 14-day period runs through the end of business on Thursday, February 5.

If no meeting is scheduled, the certification would be approved, effective February 6, and the Secretary of the Department of Administration would be required to direct that the corresponding appropriation increases and transfers be made based on that certification. If a meeting is scheduled, the estimated net general fund balances must be approved by a vote of the Committee before any appropriation increases or fund transfers can be made.

If the net balances certified by the Bureau are approved, the following appropriation increases and fund transfers would be made:

1. No later than June 15, 1998, the Joint Committee on Finance's supplemental GPR appropriation for 1997-98 would be increased by \$20,000,000 for the purpose of making lapses to the general fund to offset the costs of increases in employe compensation and fringe benefits.
2. No later than June 15, 1998, \$75,000,000 would be transferred to the property tax relief fund and used to "buy out" a corresponding delay in 1997-98 school aid payments into the 1998-99 fiscal year.
3. No later than June 21, 1999, \$100,000,000 would be transferred to the property tax relief fund and used to "buy out" a corresponding delay in 1998-99 school aid payments into the 1999-2000 fiscal year.

Following these appropriation increases and fund transfers, the remaining net general fund balances would be \$169,815,900 for 1997-98 and \$125,591,400 for 1998-99.

If I can provide any additional information about this certification or the associated Act 27 provision, please contact me.

Sincerely,



Robert Wm. Lang
Director

BL/dls

cc: Members, Joint Committee on Finance



Legislative Fiscal Bureau

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

April 27, 1998

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Issue Papers on Amendment (LRB 2904/1) to the 1997-99 Budget Adjustment Bill

Attached are issue papers, prepared by this office, on the administration's amendment to the 1997-99 budget adjustment bill (AB 768).

On April 27, 1998, this office distributed a summary of that amendment (LRB 2904/1) to legislative offices. The page and item numbers on the attached issue papers refer to that document.

A number of the items of the administration's amendment have been addressed in issue papers prepared on AB 768. At the end of the attached packet is a list of those items and a list of items of the amendment for which no issue papers have been prepared.

BL/sas
Attachments

**1997-99 BUDGET ADJUSTMENT ISSUE PAPERS
AMENDMENT LRB 2904/1**

April, 1998

Paper #

General Fund Taxes

1050 Sales Tax on Prepackaged Meals and Sandwiches

Administration

1051 National Governor's Association 1998 Annual Meeting Expenses

Financial Institutions

1052 Exclude Agricultural Transactions from the Wisconsin Consumer Act

Higher Educational Aids Board

1053 Minority Teacher Loan Program Funding

Legislature

1054 Designation of Additional Space in the State Capitol Building for the Press Corps

University of Wisconsin System

1055 UW-Madison Biological Sciences Positions and Funding

1056 Senior Executive Salaries

To: Joint Committee on Finance
From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Sales Tax on Prepackaged Meals and Sandwiches (General Fund Taxes)

[LFB Amendment Summary: Page 2, Item #2]

CURRENT LAW

A sales and use tax exemption is provided for food, food products and beverages that are purchased for off-premises consumption; sales of these items for on-premises consumption are generally taxable. However, sales of meals and sandwiches, whether heated or not, are specifically subject to the tax, even if purchased for off-premises consumption. The statutes do not include a definition of "meals" or "sandwiches." However, administrative rules specify that food items that comprise or are components of a meal are taxable when sold on a "take-out" or "to-go" basis and are packaged or wrapped and removed from the premises for consumption elsewhere.

The Department of Revenue (DOR) has interpreted these provisions to mean that prepackaged combinations of food, food products and beverages are taxable as meals.

GOVERNOR

Amend the bill by incorporating the provisions of AB 825, which would modify the treatment of prepackaged meals and sandwiches as outlined below:

Exemption for Prepackaged Meals

Create a sales tax exemption for prepackaged meals (food, food products or beverages and other goods that are packaged together by a person other than a retailer before the sale to the

final customer) if 50% or more of the sales price of the package is attributable to goods that are exempt. Provide that, if less than 50% of the sales price of the goods packaged together is attributable to the exempt food and beverages, the tax would be imposed on the portion of the sales price attributable to taxable goods.

Definitions of "Meal" and "Sandwich"

Establish statutory definitions of "meal" and "sandwich," which would continue to be taxable. Define "meal" to include (but not be limited to) a diversified selection of food, food products or beverages that are customarily consumed at breakfast, lunch or dinner, that may not be easily consumed without an article of tableware and that may not conveniently be consumed while standing or walking. Specify that "meal" would not include frozen items that are sold to a customer, items that are customarily heated or cooked after the retail sale and before they are consumed, or a diversified selection of food, food products or beverages that is packaged together by a person other than the retailer before the sale to the consumer.

Define "sandwich" to mean food that consists of a filling (such as meat, cheese or a savory mixture) that is placed on a slice, or between two slices, of a variety of bread or something that takes the place of bread, such as a roll, croissant or bagel. Specify that "sandwich" would specifically include burritos, tacos, enchiladas, chimichangas, pita sandwiches, gyros and pocket sandwiches, but would not include hors d'oeuvres, canapes, egg rolls, food that is sold frozen and cookies, cakes, pies and similar desserts.

Effective Date

These provisions would be effective retroactively to August 1, 1997.

DISCUSSION POINTS

1. The existing exemption for food sold for off-premises consumption recognizes that food purchases are a necessity. It is also maintained that this exemption may lessen the regressivity of the sales tax. It can be argued that prepackaged meals are similar to other sales of food for off-premises consumption, and should be exempt from tax.
2. On the other hand, since other prepared meals and sandwiches would continue to be taxable, even if sold for off-premises consumption, it can be argued that the proposed exemption for prepackaged meals would be inequitable.
3. Based on information regarding U.S. sales of refrigerated lunches, DOR estimates that this provision would reduce sales tax revenues by \$840,000 in 1998-99. Due to the August 1, 1997, retroactive effective date, an additional one-time revenue loss of \$600,000 is estimated in the 1997-99 biennium. These figures reflect the full exemption for prepackaged meals that consist of more than

50% exempt items. The cost of prorating the tax for prepackaged meals that consist of less than 50% exempt items is estimated to be minimal.

4. The one-time revenue loss reflects the retroactive effective date and assumes that all retailers that have collected the sales tax on prepackaged meals since August 1, 1997, would claim refunds for these taxes in the 1997-99 biennium. However, a separate provision of current law requires retailers who claim refunds to pay the refunded sales taxes back to the customers who paid the tax. Refunded taxes that are not returned to the purchaser must be repaid to DOR, along with a penalty equal to 25% of the tax amount or 100% of the tax amount in cases of fraud. Therefore, it is not likely that the full amount of refunds would be claimed. If it is assumed that 25% of the potential refunds would be claimed, the one-time revenue loss would decrease to \$150,000.

5. The Department of Revenue published its interpretation that prepackaged combinations of food, food products and beverages are taxable meals in the *Wisconsin Tax Bulletin*, dated July 1997. The January 1998 *Wisconsin Tax Bulletin* (which superseded the July bulletin) indicated that sales of these items were taxable as of August 1, 1997. According to the administration, there has been confusion among retailers regarding the taxability of these items following DOR's publications. The retroactive effective date recommended by the Governor is intended to ensure that retailers who have not been collecting the sales tax on these items since August 1997 would not be assessed for back taxes and penalties.

6. The retroactive effective date under this provision is not unprecedented, but would be very unusual. As a matter of policy, it is unclear why a retroactive effective date is desirable for this exemption and not for other sales tax exemptions that have been established in recent years. As noted, the treatment of these items was outlined in two separate tax publications by DOR. If the exemption for prepackaged meals is adopted, the Committee may wish to consider eliminating the retroactive effective date and, instead, providing an effective date of July 1, 1998. This modification would eliminate the estimated one-time revenue loss of \$150,000.

7. This provision would also establish a prorated sales tax for prepackaged meals if less than 50% of the sales price is attributable to exempt food and beverages. For example, if 40% of the goods are exempt and 60% are taxable, the sales tax would be applied to 60% of the purchase price. This provision would be similar to the sales tax treatment of certain services and products (such as fruit and candy arrangements) that consist of taxable and nontaxable items. However, this would require retailers to evaluate these prepackaged meal products and assign a taxable percentage of the sales price based on the particular contents; retailers' cash registers may also have to be reprogrammed to deal with these types of products. Another approach would be to simply treat prepackaged meals as taxable meals if more than 50% of the sales price is attributable to taxable items.

ALTERNATIVES

1. Adopt the Governor's recommendation to: (a) create a sales tax exemption for prepackaged meals if 50% or more of the sales price of the package is attributable to goods that are exempt from tax; (b) provide that, if less than 50% of the sales price of the goods packaged together is attributable to the exempt food and beverages, the tax would be imposed on the portion of the sales price attributable to taxable goods; and (c) create statutory definitions for "meal" and "sandwich." Specify that these provisions would be effective retroactively to August 1, 1997.

<u>Alternative 1</u>	<u>GPR</u>
1997-99 REVENUE (Change to Bill)	- \$990,000

2. Adopt the Governor's recommendation with one or both of the following modifications:

a. Eliminate the retroactive effective date and, instead, provide that these provisions would be effective on July 1, 1998. This option would reduce the fiscal effect by \$150,000.

<u>Alternative 2a</u>	<u>GPR</u>
1997-99 REVENUE (Change to Bill)	- \$840,000

b. Eliminate the provision that would prorate the sales tax on prepackaged meals if less than 50% of the sales price of the goods packaged together is attributable to the exempt food or beverages. Instead, specify that such products would be fully taxable as meals. This option would result in a minimal increase to state revenues compared to the Governor's proposal.

3. Maintain current law.

Prepared by: Rob Reinhardt

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

National Governor's Association 1998 Annual Meeting Expenses (Administration)

[LFB Amendment Summary: Page 5, #1]

CURRENT LAW

The 1997-99 biennial budget created a GPR-funded continuing appropriation under the Office of the Governor and provided \$200,000 GPR in 1997-98 for programmatic support for the annual meeting of the National Governors Association (NGA) to be held in Milwaukee from August 1 to 4, 1998. Under a continuing appropriation, funds remain available until expended or until the appropriation is otherwise modified or repealed. The biennial budget included language repealing this appropriation, effective July 1, 1999.

A GPR-funded annual appropriation also exists under the Department of Administration (DOA) to support the expenses of committees established by law or executive order, and state membership dues, travel and miscellaneous expenses for the state's participation in the following: Council of State Governments, Education Commission of the States, Midwestern Higher Education Compact, Northeast Midwest Institute, Council of Great Lakes Governors, Great Lakes Commission, and such other national or regional interstate governmental bodies as the Governor determines. The appropriation is currently funded at \$367,100 GPR annually.

GOVERNOR

Provide additional one-time funding of \$150,000 GPR in 1998-99 under DOA's committees and interstate bodies appropriation to support projected additional expenses associated with the Milwaukee meeting of the NGA in August 1998.

DISCUSSION POINTS

1. The 1997-99 biennial budget established and funded a separate appropriation under the Office of the Governor for the purpose of supporting expenses related to this summer's NGA meeting in Milwaukee.
2. There does not appear to be any particular policy rationale for providing additional funds for the Milwaukee NGA meeting in a separate appropriation under DOA rather than under the appropriation already specifically established under the Office of the Governor for this purpose. Further, the statutory appropriation purposes for the DOA committees and interstate bodies appropriation do not appear to be sufficiently broad to permit expenditures for expenses related to the Milwaukee NGA meeting. [Funds for interstate bodies may be used only for "state membership dues and travel expenses and for miscellaneous expenses related to state participation" in the various bodies.]
3. In addition, it may be noted that the state's membership dues for participation in the NGA are currently paid from a separate, GPR-funded sum sufficient appropriation under the Office of the Governor. Such costs are not paid from the DOA committees and interstate bodies appropriation.
4. Based on the foregoing considerations, the Committee could choose to provide increased funding to support additional expenses of the Milwaukee NGA meeting in the existing appropriation already established for this purpose under the Office of the Governor rather than under DOA's committees and interstate bodies appropriation. Under this approach, the Committee could delete \$150,000 GPR in 1998-99 of one-time funding under the DOA appropriation and instead provide an equivalent \$150,000 GPR in 1997-98 in the continuing appropriation under the Office of the Governor. As noted earlier, funds provided in the continuing appropriation remain available until expended or the appropriation is repealed [which will occur on July 1, 1999, in this case].
5. Alternatively, the Committee could approve the Governor's recommendation with a technical modification to DOA's committees and interstate bodies appropriation purposes to permit the funding of the Milwaukee NGA meeting expenses from that appropriation.

ALTERNATIVES

1. Approve the Governor's recommendation with a modification to expand the statutory purposes of the Department of Administration's committees and interstate bodies appropriation to specifically authorize expenditures for the purpose of supporting expenses related to the annual meeting of the National Governors Association in Milwaukee in 1998 and repeal this modified language effective July 1, 1999.

2. Delete \$150,000 GPR in 1998-99 under the Department of Administration's committees and interstate bodies appropriation and instead provide additional one-time funding of \$150,000 GPR in 1997-98 under the Office of the Governor's continuing appropriation for the annual meeting of the National Governors Association in Milwaukee in 1998.

3. Maintain current law.

<u>Alternative 3</u>	<u>GPR</u>
1997-99 FUNDING (Change to Bill)	- \$150,000

Prepared by: Tony Mason

To: Joint Committee on Finance
From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Exclude Agricultural Transactions from the Wisconsin Consumer Act (Financial Institutions)

[LFB Amendment Summary: Page 7, Item # 1]

CURRENT LAW

The Wisconsin Consumer Act (WCA) covers the extension of credit for personal, family, household or agricultural purposes in which the amount financed is \$25,000 or less. The law includes provisions on disclosure, default and debt collection practices. The WCA was enacted in 1972 to prevent abusive credit practices and to make consumers more aware and knowledgeable of their credit transactions.

GOVERNOR

Exclude agricultural transactions from the WCA. However, specify that, with respect to a credit transaction that is primarily for an agricultural purpose, a creditor may not charge, collect or receive any finance charge or fee unless it is clearly disclosed in writing to the customer and agreed to by the creditor and customer.

This provision is the same as 1997 Assembly Bill 329, as amended by Assembly Amendments 2 and 3, which was adopted by the Assembly on November 18, 1997, by a vote of 75 to 22.

DISCUSSION POINTS

1. Creditors whose average outstanding monthly balance exceeds \$250,000 are required to pay an annual fee to the Department of Financial Institutions (DFI). The fee is equal to 0.005% of the average monthly outstanding balance, with a minimum fee of \$25 and a maximum fee of \$1,500. Since this fee would no longer be collected for agricultural-related transactions, it is estimated to reduce program revenues by \$8,900 annually. GPR-Earned would also be reduced by the same amount since the general fund skims 12% of DFI's revenues plus the remaining balance at the end of the fiscal year.

2. If this provision is adopted, affected agricultural transactions would still be covered by the Federal Truth in Lending Act, which imposes mandatory disclosure requirements and advertising restrictions on businesses that regularly extend credit to consumers. However, they would lose the additional protections provided by the WCA, such as the regulation of debt collection, repossession and default practices.

3. Public hearings have been held on AB 329 by the Assembly Committee on Financial Institutions and Senate Committee on Agriculture and Environmental Resources. At these hearings, testimony was provided both for and against the bill. Arguments for the legislation were made on the basis of paperwork burdens the WCA required of creditors when dealing with individual farmers, which are not required during transactions with corporate farms. It was also noted that Wisconsin and West Virginia are currently the only two states that extend their consumer credit protection statutes to agricultural transactions. Others argued that the protection provided by the WCA was still needed by family farmers and that the problems that existed before the WCA was created could recur.

ALTERNATIVES

1. Adopt the Governor's recommendation.

<u>Alternative 1</u>	<u>GPR-Earned</u>
1997-99 REVENUE (Change to Bill)	- \$8,900

2. Maintain current law.

Prepared by: Kelsie Doty

To: Joint Committee on Finance
From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Minority Teacher Loan Program Funding (HEAB)

[LFB Amendment Summary: Page 9, Item #1]

CURRENT LAW

The minority teacher loan program provides need-based loans to minority students who are: (a) juniors or seniors, or who hold a bachelor's degree and are registered as special students, in the UW System or in an accredited, private institution of higher education in Wisconsin; (b) enrolled in a program of study leading to a teacher's license, but do not currently have a teacher's license; (c) meet academic criteria set by HEAB; and (d) agree to teach in a school district in Wisconsin that has minority pupils for at least 29% of its membership or in a school district participating in the interdistrict pupil transfer (Chapter 220) program. Under the program, the Board forgives 25% of the principal and interest on the loan for each school year that the loan recipient teaches in an eligible school district.

Administrative rules specify that eligible borrowers may receive up to \$2,500 per year. The total a borrower can receive under the program is limited to \$5,000.

The 1997-99 budget provides \$120,000 GPR of annual funding for the program.

GOVERNOR

Amend the budget adjustment bill to provide an additional \$380,000 GPR in 1998-99 for the program, so that total funding beginning in 1998-99 would be \$500,000 GPR.

DISCUSSION POINTS

1. In 1996-97, 64 loans totalling \$109,250 were made under the program, for an average loan of \$1,707. Of these loans, 11 were made to students attending private colleges and 53 to students attending the UW System.
2. Staff from the Department of Administration indicate that this additional funding would be provided to encourage minority students to become teachers and to teach in school districts with higher percentages of minority pupils. By providing a significant increase in program funding, it is hoped to achieve more prominence for the program to assist in the goal of having more minority teachers.
3. HEAB staff indicate that there would be sufficient demand for the loans to warrant increasing the appropriation amount to \$500,000 annually. Financial aid officials at UW-Milwaukee, whose students currently receive approximately \$80,000 of the \$120,000 provided annually for the program, have indicated that that institution could award at least \$250,000 annually if additional funding would be provided. According to HEAB staff, financial aid officers at some institutions have not actively promoted this program due to the relatively small loan amounts that could be awarded to each student.
4. In 1996-97, there were approximately 55,900 FTE licensed teachers in Wisconsin. Although ethnicity data on teachers is not available, DPI data on public school professional staff FTEs by ethnicity indicate that approximately 96% of this staff is identified as non-minority in 1996-97.
5. In 1997 Act 27, funding for the program was maintained at its annual base level of \$120,000. The proposed funding level for the program of \$500,000 in 1998-99, would represent an increase of \$380,000, or 316.7% from its current level. In comparison, the three largest GPR-funded, need-based financial aid programs received the annual percentage funding increases in each year of the 1997-99 biennium shown in the following table. The remaining four need-based financial aid programs supported with GPR funds and administered by HEAB received no increase in funding in the 1997-99 biennium.

Act 27 Percentage Increases in Need-Based Student Financial Aid

	<u>1997-98</u>	<u>1998-99</u>
WHEG-UW Students	15.5%	4.5%
WHEG-WTCS Students	4.0	4.0
Tuition Grant--Private College Students	7.0	7.0

In addition, Act 27 provided \$150,000 GPR in 1997-98 and \$250,000 GPR in 1998-99 to establish a new teacher education loan under which forgivable loans are provided to persons enrolled in a teacher education program offered by the Milwaukee Teacher Education Center. HEAB is required to forgive 50% of the principle and interest for each school year that the individual is employed as a full-time teacher in the Milwaukee Public Schools.

6. The effectiveness of the minority teacher loan program in increasing the number of minority teachers who teach in school districts with high percentages of minority pupils is uncertain. Of the 373 individuals who currently have active loans under the program (loans that have not been forgiven or repaid in full), 169 (45.3%) are currently in repayment status, presumably because they are not employed in an eligible school district. A total of 132 loan recipients (35.3%) are in the process of having their loans forgiven, and 52 are still enrolled in college. Of the remaining 20 individuals with active loans, five are in deferment, five are in default and ten are of an uncertain status.

7. One could argue that a lesser, but still substantial, funding increase for the program could be provided at this time and still show the state's commitment to having more minority teachers. Program funding could be increased by \$120,000 in 1998-99, which would represent a 100% increase, and the 1999 Legislature could review loan demand in 1998-99 during the 1999-2001 budget process, to see if further funding increases are warranted.

ALTERNATIVES

1. Approve the Governor's recommendation to amend the budget adjustment bill to increase funding for the minority loan program by \$380,000 GPR in 1998-99, so that funding would total \$500,000 in that year.

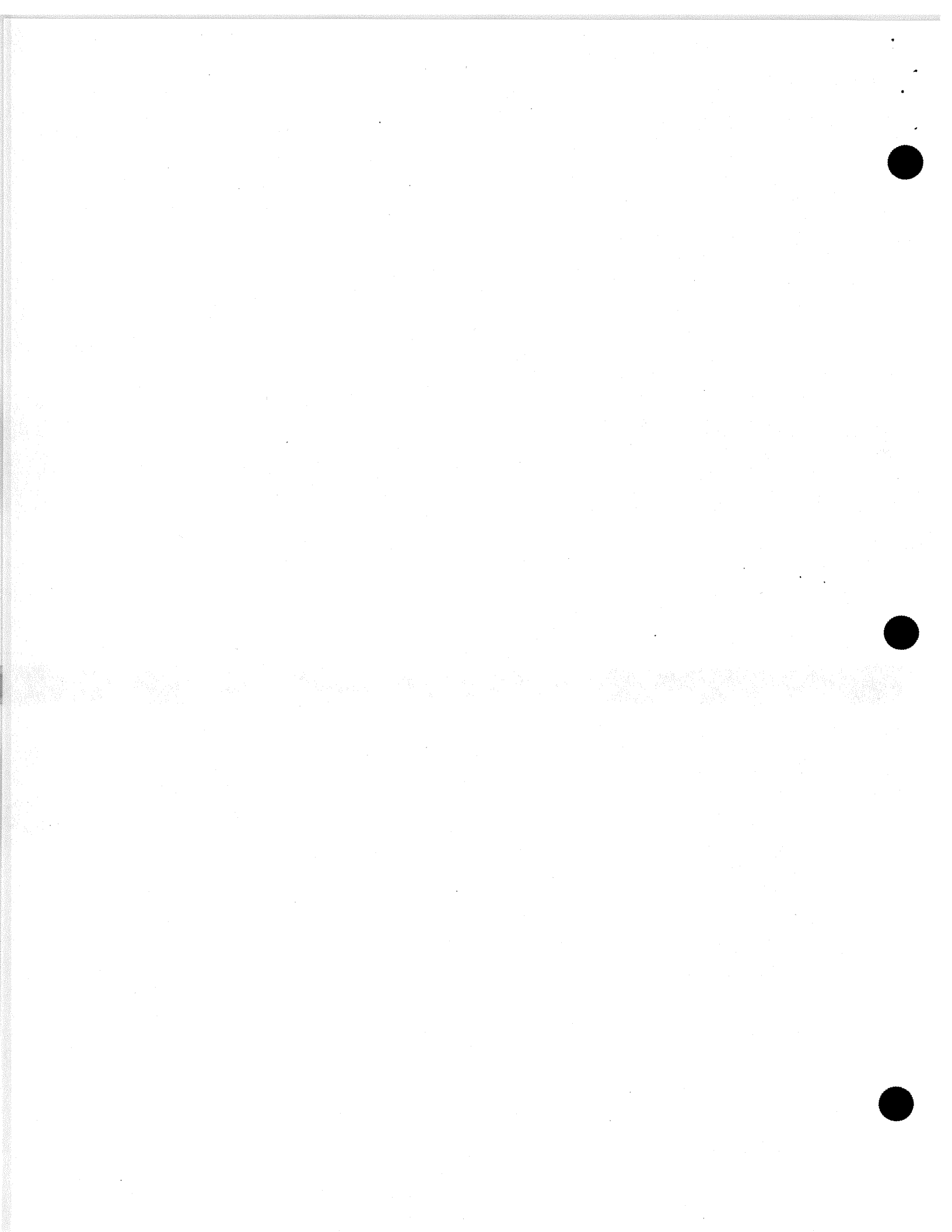
<u>Alternative 1</u>	<u>GPR</u>
1997-99 FUNDING (Change to Bill)	\$380,000

2. Modify the Governor's recommendation and increase funding by \$120,000 GPR in 1998-99, so that funding would total \$240,000 in that year.

<u>Alternative 2</u>	<u>GPR</u>
1997-99 FUNDING (Change to Bill)	\$120,000

3. Maintain current law.

Prepared by: Merry Larsen and Dave Lopnow



To: Joint Committee on Finance
From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Designation of Additional Space in the State Capitol Building for the Press Corps (Legislature)

[LFB Amendment Summary: Page 10, #1]

CURRENT LAW

The Joint Committee on Legislative Organization (JCLO) supervises and makes policy for all legislative staff services. In addition, JCLO oversees a variety of legislative branch operations, including space allocations for legislative offices and the legislative service agencies, parking around the State Capitol, legislative computer use and the sale and distribution of legislative documents.

GOVERNOR

Direct JCLO to designate the circular room between the Senate and the Assembly chambers (217 SW) as an additional space available to the Capitol press corps.

DISCUSSION POINTS

1. In addition to assigning office space for legislative offices and the legislative service agencies, JCLO is authorized, by statute, to assign any other space in the Capitol as it determines, except for space reserved by statute for the Governor, Lieutenant Governor, Attorney General and the Supreme Court.

2. In early 1971, JCLO designated Room 217 SW in the State Capitol for the use of news media correspondents registered to cover the activities of the Legislature. Subsequently, in late 1975, JCLO designated additional space in the South Wing basement for use by the Capitol press corps in response to a request from press members to partition the existing press for use of video display terminals.

3. Upon the completion of the West Wing restoration, in the fall of 1995, the Capitol press corps was moved into newly designed work space and broadcasting facilities in the West Wing basement. Because of the availability of this new space and the need to begin the South Wing restoration, all of the previously assigned space for the press corps was then vacated.

4. Under current law, JCLO already has the necessary authority to allocate additional space for the needs of the Capitol press corps and has, in fact, done so on at least two occasions in the past.

5. Further, since the Legislature is also an equal and coordinate branch of government, the Committee may conclude that it would be more preferable to continue to allow JCLO to make those legislative branch space allocation decisions deemed desirable by JCLO rather than be directed to take an action by the executive branch by way of a Governor's initiative in the budget adjustment bill. If the Committee believes that this view has merit, it could delete the proposed statutory language from the budget adjustment bill.

6. However, if the Committee believes that the Legislature should act to permanently designate by statute the use of Room 217 SW for the Capitol press corps, it could delete the Governor's language and instead include statutory language to make that explicit designation of space use.

ALTERNATIVES

1. Approve the Governor's recommendation.
2. Delete the Governor's language and instead add a statutory provision designating the use of Room 217 SW in the State Capitol for the use of the Capitol press corps.
3. Maintain current law.

Prepared by: Tony Mason

To: Joint Committee on Finance
From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE**UW-Madison Biological Sciences Positions and Funding (UW System)**

[LFB Amendment Summary: Page 14, Item #1]

CURRENT LAW

No provision.

GOVERNOR

Amend the budget adjustment bill to provide \$1,500,000 GPR and 8.0 GPR positions in 1998-99 in the UW System's general program operations appropriation for the purpose of expanding interdisciplinary programs in the biological sciences at UW-Madison. Require that the UW Board of Regents, as part of its 1999-2001 biennial budget request, include only \$575,000 of the \$1,500,000 provided in 1998-99, in the UW System's base budget.

DISCUSSION POINTS

1. The funding provided would be used to hire 8.0 additional faculty members in the biological sciences at UW-Madison. Of the total, \$575,000 GPR would be used for salaries and fringe benefits for the new positions and \$925,000 GPR in one-time funding would be used to purchase laboratory and other equipment associated with the positions and to hire research staff. Although GPR funding for the research staff would not continue after 1998-99, University staff indicate that those positions would subsequently be transferred to other fund sources.

2. University officials indicate that the new faculty members' work would be in the area of biotechnology, which may be broadly defined as the industrial use of living organisms or biological techniques developed through research. Products of biotechnology research include antibiotics and other pharmaceuticals, chemically or genetically reengineered plants and animals, fuels and plastics. A common example of biotechnology is the genetic alteration of plants to achieve resistance to disease, pests or herbicides.

3. Because biotechnology is interdisciplinary in nature, the proposed faculty positions would be placed in number of different departments within the biological sciences area depending on the type of research being conducted by those faculty. However, University staff indicate that these individuals' research is likely to be in the fields of genomics (the study of genetic material) and neurosciences.

4. UW-Madison staff indicate that the amount which would be provided for salaries and fringe benefits is based on an average salary of \$61,400 for each new faculty member. Actual salaries would vary depending on the individual's faculty rank (assistant professor, associate professor or full professor) and competitive market factors. Because the \$925,000 in one-time funds would be used to purchase specialized equipment and/or provide research staff as requested by the new faculty members, these items and their actual cost would not be known until after the recruitment process begins.

5. The primary purpose of the Governor's proposal is to stimulate economic development in the area of biotechnology in Wisconsin and to help maintain UW-Madison's status as a leader in biotechnology research. It is anticipated that each of the new faculty members would generate a minimum of \$250,000 annually in outside research funds. These funds, which are expected to be mostly federal monies, would be used to develop new technologies and products that would result in the establishment, expansion and attraction of biological science companies to Wisconsin.

6. UW-Madison has already achieved national prominence in the biological sciences. In 1996, U.S. News and World Report ranked UW-Madison's graduate programs in genetics, biochemistry/molecular biology and microbiology in the top 10 in the nation. There are currently over 150 biotechnology firms in Wisconsin, many of which were founded using technologies developed at UW-Madison.

7. The Governor's recommendation would provide a portion of the funding included in a request by the UW for approximately \$5.7 million to expand the biological life science at UW-Madison. Of the \$4.2 million not provided in the Governor's recommendation, \$3.6 million in one-time funding was requested to renovate and upgrade research and instructional biology laboratories and to provide electronic access to national data bases and scientific journals. Ongoing funding of \$450,000 was requested to provide two additional introductory biology course sections and to maintain a science-related Web site used primarily by K-12 teachers to enhance classroom instruction. UW-Madison officials indicate that the campus will request that

all, or a portion of these additional funds be included in the UW Board of Regents 1999-2001 biennial budget request.

8. In addition to the total \$5.7 million in state funds which UW-Madison is seeking, the campus plans to reallocate approximately \$600,000 from other areas within its budget to hire an additional 7.0 to 8.0 faculty members for the biological sciences. Funding for these positions is to be obtained through a 0.25% reduction in the general program operations budget of each administrative division and each school and college at UW-Madison.

9. None of the items in the campus' larger biotechnology initiative were included in the UW Board of Regents 1997-99 budget request. According to the Governor's staff, the University did not request funding for the proposal in time for the \$1.5 million to be included in the original budget adjustment bill. It could be argued that if this initiative were a priority for the University, it would have been included in the Board's 1997-99 budget request or raised as an issue during the Legislature's deliberations on the budget.

10. The Governor's recommendation would provide a significant amount of funding for biotechnology at UW-Madison. However, this amount represents only a portion of the total funding which the campus will be pursuing in the future as part of the larger initiative. One could argue that the provision of the \$1.5 million for new faculty would be more appropriately addressed in the 1999-2001 budget process. If the Board of Regents approves the larger biotechnology initiative for inclusion in its biennial budget request, the Legislature would have the opportunity to consider the merit of the initiative as a whole. This would also permit the Legislature to evaluate the University's need for the funds in the context of the entire state budget.

11. According to UW-Madison staff, funding for the new faculty positions is needed as soon as possible in order to secure at least \$15 to \$30 million in federal grants which will be available. Specifically, the campus would have to meet an October 9, 1998, deadline to apply for two grants from the National Institutes of Health. Because these grants would support research in human genomics, the University would need to hire an individual who specializes in this area. UW-Madison staff indicate that the campus is one of only six in the nation which meets the eligibility criteria for these grants. In the fall of 1998, UW-Madison will also be applying for renewal of a federal biotechnology training grant. The current five-year grant, which expires in June 1999, provides \$800,000 per year. Federal officials have indicated that the chances for renewal of the grant increase with an increase in the number of faculty with an emphasis in biotechnology.

12. Another reason which has been given for the need to hire the additional faculty members in this biennium is that there are a limited number of individuals whose research is in the appropriate areas who have indicated an interest in leaving their current institutions. It is argued that other universities, including the University of Minnesota-Twin Cities, will be competing to attract these individuals, and that UW-Madison must begin the recruiting process before they accept positions elsewhere.

13. Since it appears that the urgency for the positions is primarily related to the fall deadlines for the federal grants noted above, the Committee may wish to consider providing \$750,000 and 4.0 positions which would permit the University to hire an individual with the specialty needed to obtain the National Institutes of Health grant. When the reallocated positions are included, a total of up to 12.0 new biotechnology faculty could be hired. The Legislature could then evaluate the impact of these positions on the University's ability to secure the federal funds and determine whether additional positions are warranted.

ALTERNATIVES

1. Approve the Governor's recommendation to amend the budget adjustment bill to provide \$1,500,000 GPR and 8.0 GPR positions in 1998-99 in the UW System's general program operations appropriation for new faculty positions in the biological sciences at UW-Madison. Specify that, of the total, \$925,000 would represent one-time funding.

<u>Alternative 1</u>	<u>GPR</u>
1997-99 FUNDING (Change to Bill)	\$1,500,000
1998-99 POSITIONS (Change to Bill)	8.00

2. Modify the Governor's recommendation by decreasing the amount provided by \$750,000 and 4.0 positions. Specify that \$462,500 would represent one-time funding.

<u>Alternative 2</u>	<u>GPR</u>
1997-99 FUNDING (Change to Bill)	\$750,000
1998-99 POSITIONS (Change to Bill)	4.00

3. Maintain current law.

Prepared by: Merry Larsen

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Senior Executive Salaries (UW System)

[LFB Amendment Summary: Page 15, Item #2]

CURRENT LAW

Certain state administrative positions are assigned by statute to one of ten executive salary groups (ESG) for which salary range limitations are established in the biennial compensation plan. The Board of Regents is authorized to set the salary of certain executive positions within, or as a percentage of, specified ESG salary ranges.

The Board may set the salary of the President of the UW System at a level no higher than 15% above the maximum salary for ESG 10, based on the competitive market for comparable positions at comparable institutions of higher education. The chancellors of UW-Madison and UW-Milwaukee are assigned to ESG 10. For the following positions, the Board is required to establish salaries at a level no lower than the minimum salary range for ESG 7 and no higher than the maximum salary range for ESG 10: (a) vice presidents of the UW System; (b) chancellors of all UW System institutions except Madison and Milwaukee; (c) the chancellors of the UW-Center System and UW-Extension; (d) the Vice Chancellor for health sciences at UW-Madison; and (e) the vice chancellor serving as a deputy at each UW campus, the UW-Center System and UW-Extension. The statutes require that the salaries of these positions be set to reflect the hierarchical structure of the System, to recognize merit, to permit orderly salary progression and to recognize competitive factors.

The Board is not permitted to increase the salaries of UW executive positions unless the increase is included in the state's compensation plan for ESG positions or is granted to correct a salary inequity or to recognize competitive factors.

GOVERNOR

Establish a compensation plan consisting of six University senior executive salary groups for certain UW System administrative positions. Require that the salary ranges, and adjustments to the salary ranges, for these groups be contained in the recommendations of the Secretary of the Department of Employment Relations relating to compensation adjustments for UW faculty and academic staff. Require the Board of Regents to set the salaries for the senior executive positions within the ranges to which the positions are assigned to reflect the hierarchical structure of the System, to recognize merit, to permit orderly salary progression and to recognize competitive factors. Require that the Secretary of DER's recommendations for compensation adjustments for faculty and academic staff include a proposal for adjusting the compensation and benefits for employees in positions assigned to the University senior executive salary groups.

The positions would be assigned as follows:

University senior executive group 1 -- The chancellors of the 11 comprehensive campuses, the Chancellor of the UW-College System and the Chancellor of UW-Extension.

University senior executive group 2 -- The vice chancellor who is serving as deputy at UW-Milwaukee.

University senior executive group 3 -- The vice chancellor who is serving as deputy at UW-Madison.

University senior executive group 4 -- The Chancellor of UW-Milwaukee.

University senior executive group 5 -- The Chancellor of UW-Madison.

University senior executive group 6 -- The President of the UW System.

Specify that the salary of incumbents in these positions could not exceed the maximum of the salary range for the group to which the position is assigned. However, current law freezes the salary of an incumbent of a position that is assigned to an executive salary group, if that salary exceeds the maximum of the salary range of that group, until the maximum of the salary range exceeds the salary. The amendment would specify that this current law provision would also apply to positions in these six UW senior executive salary groups.

The amendment would eliminate a current law provision that limits the salary of the president of the UW System to 115% of executive salary group 10. The amendment would also delete the current statutory listing for executive salary group 10, which only refers to the chancellors of UW-Madison and UW-Milwaukee. However, as drafted, certain UW executive positions would retain, as the upper limit of their salary ranges, the maximum salary for executive salary group 10. (A technical change should be made to address this.)

Provide that salary adjustments for the positions in the University senior executive salary groups would be governed by the provisions of the compensation plan for faculty and academic staff, rather than the compensation plan which covers positions in the current law executive salary groups.

Under current law, the Board of Regents may authorize a salary increase for these positions to correct a salary inequity or to recognize competitive factors. The amendment would modify this provision so that it would continue to apply to the positions in the University senior executive salary groups. However, the amendment would specify that the Board could not increase the salary for the positions in the University senior executive salary groups to correct a salary inequity that results from an appointment to one of these positions, without approval by the Department of Administration.

Specify that the current law provision that provides that sick leave for faculty and academic staff is regulated by the Board, would also apply to the positions assigned to the University executive salary groups. (A technical change would be required to accomplish this.)

Require that the salary of the incumbents in these positions for 1997-98 would be the same salary received on the day before the effective date of the bill. However, provide that before June 30, 1998, the Board could authorize a one-time market adjustment to the salary of these incumbents in 1997-98. The Board would be authorized to adjust the salary of any of these incumbents to be the mid-point of the salary range established for that position. In addition, provide that for 1998-99, the Board could not award a pay increase, including any lump sum payments or adjustments to correct a salary inequity or to recognize competitive factors, which, when combined with any other payment or adjustment, would cause the employee's base pay to exceed 110% of the employee's base pay as of June 30, 1998, unless the adjustment is approved by the Department of Administration.

BACKGROUND

In his 1997-99 budget bill, the Governor recommended that statutory language governing executive salaries in the UW System be modified to allow the Board of Regents to establish salaries for new appointments to certain executive positions which exceed the maximum amounts for those executive salary groups (ESG) as established in the biennial compensation plan, provided the Board submitted a report to the Secretary of the Department of Administration (DOA) that identified the competitive factors necessitating such a salary. The Governor's proposal would also have prohibited the Board from establishing the salary for a new appointment to such a position, regardless of whether the salary exceeded the specified maximum, without the approval of the Secretary of DOA.

In addition, the Governor proposed that an increase in the salary of an incumbent employee holding an executive position in the UW System, which was authorized by the Board to correct a salary inequity or to recognize competitive factors, be subject to the approval of the Secretary of DOA.

In its deliberations on the 1997-99 budget bill, the Joint Committee on Finance and the Legislature modified the Governor's recommendations regarding executive salaries in the UW System. As passed by the Legislature, the bill would have established new salary maxima, based on the existing statutory executive salary groups, for the salaries of certain executives in the UW System. The bill would have authorized the Board of Regents to establish salaries for those positions, including incumbent employees and new appointments, within the following limits:

- UW System President, 130% of ESG 10 maximum.
- Chancellors of UW-Madison and UW-Milwaukee, 120% of ESG 10 maximum.
- UW System vice presidents, the chancellor of each UW institution, excluding UW-Madison and UW-Milwaukee, the vice chancellor of health sciences at Madison, the vice chancellors serving as deputies at Madison and Milwaukee, the Chancellor of UW-Extension and the Chancellor of the UW-Colleges, 110% of ESG 10.
- The vice chancellor serving as deputy at the UW-Colleges, UW-Extension, and each UW comprehensive institution, excluding Madison and Milwaukee, 100% of ESG 10.

The Governor vetoed this provision, thereby retaining the prior law salary maxima for these positions. However, in his veto message, the Governor requested the Secretary of the Department of Employment Relations (DER) to "conduct an analysis of the competitiveness of the salary structure" for UW executives compared to those of other states.

DER's study of UW executive salaries, which was submitted on January 27, 1998, examined internal pay relationships between senior executive positions and institution deans as well as relationships between UW executive salary levels and those of UW's peer institutions. The study found that: (a) the projected median salaries for senior executives at peer institutions in 1997-98 were an average of 20.4% higher than UW senior executive salaries for that year; (b) particularly for UW-Madison and UW-Milwaukee, salaries of institution deans, who are subordinate to senior executives, were often higher than the salaries of chancellors and vice chancellors; (c) the current salary maxima for UW System vice presidents and the vice chancellors of all UW institutions except Madison and Milwaukee are sufficient to maintain competitive salaries and hierarchical pay relationships; and (d) the salary maxima for UW executives which were approved by the Legislature in the 1997-99 budget, and subsequently vetoed, "would not have been sufficient to allow for the maintenance of competitive salaries."

As a result of the findings contained in the study, DER recommended the following:

- Six categories of senior executive positions in the UW System should be removed from the current ESG structure and a new salary range structure should be established for these positions.
- Prior to June 30, 1998, the Board of Regents should be permitted to make a one-time market adjustment to the salaries of the senior executive positions for which the new salary ranges would be established up to the midpoint of the new salary ranges.
- For each UW senior executive, cumulative compensation adjustments for 1998-99, including lump sum payments, should be limited to 10% of the employee's base pay at the beginning of 1998-99, unless approved by DOA.
- Beginning with the 1999-2001 biennium, compensation adjustments for UW senior executives should be approved according to the same process used to approve adjustments for the compensation of faculty and academic staff positions.
- The Board should be authorized, with DOA's approval, to adjust the salaries of senior executive positions to address internal pay relationship inequities resulting from the recruitment of senior executive positions.

DISCUSSION POINTS

1. It has been argued that the current salary structure for senior executives in the UW System is inadequate because the executive salary groups are designed for state government officials, who are recruited primarily from within Wisconsin, and do not reflect the more competitive national higher education market. Anecdotal evidence that the limitations of the current executive salary maxima hinder the University's efforts in recruitment and retention of these positions has also been offered by UW staff, although specific data regarding recruitment and retention of executives is not collected.

2. To meet the current statutory requirement that executive salaries reflect competitive factors, the Board of Regents has adopted salary range guidelines that use data from peer institutions. Under current Board policy, targeted salary ranges for UW executives are based on median salaries of specified peer groups. Because Wisconsin is recognized as having a lower cost of living than many other states in which the peer institutions are located, the mid-points of the targeted ranges are set at 95% of the peer medians. The salary range then, is equal to 90% to 110% of the mid-point. The Board is currently unable to use these guidelines to set the salaries of the System President, the Chancellors at Madison and Milwaukee and the Vice Chancellor at Madison because the statutory maxima for these positions are below 90% of the mid-point salary for these positions as determined by the Board's policy.

3. The above arguments were taken into consideration during the Legislature's deliberations on the 1997-99 budget bill and contributed to the changes to the UW executive salary structure which were passed by the Legislature. That structure would have established salary maxima for those executive positions as percentages of the ESG 10 maximum, as is

currently done for the System President. It was argued that such a structure would have provided more flexibility for the Board to offer competitive salaries for these positions while maintaining a degree of legislative oversight.

4. The Governor's proposal would essentially codify the recommendations made in the DER study with regard to the salary structure of UW senior executive positions. The salary ranges for the six University senior executive groups and compensation adjustments for the positions in these groups would be recommended by the Secretary of DER and could be approved, modified or disapproved by the Joint Committee on Employment Relations (JCOER). It is argued this salary structure and process would permit the Board of Regents to adjust senior executive salaries to be more competitive with those offered by the UW's peer institutions, which would, in turn, aid in recruitment and retention. In addition, the University would be able to address the issues of salary compression and inverse pay relationships between chancellors and vice chancellors and deans.

5. If the Governor's proposal is approved, the salaries of the effected positions could be increased beginning in 1997-98. Under the proposal, the Board of Regents would be authorized to increase the salary of an incumbent in a position assigned to one of the University executive salary groups to an amount equal to the mid-point of the salary range established for that position. The amendment provides that for 1998-99, the Board would be prohibited from providing a pay adjustment which, when combined with any other pay adjustment, would cause the employee's base pay to exceed 110% of his or her base pay as of June 30, 1998 unless such an adjustment is approved by DOA.

6. The amendment specifies that any one-time adjustment made to the salary of an incumbent for 1997-98 would have to be made prior to June 30, 1998. Since the salary ranges would first have to be approved by JCOER, it is uncertain whether the timing of the passage of the budget adjustment bill would allow sufficient time for the adjustment to occur before the end of the 1997-98 fiscal year.

7. Because the salary ranges for the University executive salary groups would be set by JCOER, and the actual salaries for individuals whose positions are placed in those groups would be determined by the Board of Regents within the specified ranges, it is not possible to determine the fiscal effect of the Governor's proposal. However, DER staff indicate that for both 1997-98 and 1998-99, the salary ranges that would be recommended by that agency for consideration by JCOER would be those included in DER's study. For purposes of comparison, an attachment to this paper shows the following data for each of the positions that would be affected under the Governor's proposal: (1) the current salary; (2) the statutory maximum salary; (3) the maximum salary under the vetoed provision of the 1997-99 budget bill; (4) the minimum, mid-point and maximum recommended by DER in its study; and (5) the minimum, mid-point and maximum under the Board of Regents' guidelines.

8. In considering the proposal to allow a one-time adjustment in 1997-98 to the midpoint of the DER recommendations, it appears that six of the 18 positions affected by the proposal would be eligible for this salary increase. The current salaries of the President of the UW System, the Chancellors of UW-Madison and UW-Milwaukee, two of the 11 chancellors of the comprehensive campuses and the Vice Chancellor of UW-Milwaukee are currently less than the midpoint of the DER recommendations for their positions. On average, these six positions would receive an \$8,200 salary increase, if the Board of Regents decided to increase their salaries to the DER midpoint, with the largest increase being approximately \$11,400 and the smallest \$4,200. Any salary increase under this provision would be at the discretion of the Regents.

9. Under the proposal to allow a 10% cumulative salary increase in 1998-99, with any increase above 10% subject to approval by the Department of Administration (DOA), all 18 positions would be eligible for a salary increase. If the Board of Regents decided to increase the salaries of these 18 positions by 10% in 1998-99, after having provided an increase to the DER midpoint in 1997-98 to the six eligible positions, the average salary increase would be approximately \$12,600, with the largest increase being approximately \$16,500 and the smallest being \$11,500. As with the one-time adjustment in 1997-98, any salary increase under this provision would be at the discretion of the Regents. Because the Regents could provide salary increases of more than 10% with DOA approval, it would be possible that positions could receive raises in excess of the amounts described above. If the Regents and DOA approved, a position's salary could be increased up to the DER recommended and JCOER approved maximum for that position. In addition, a vacant position could be filled at a higher salary than the former incumbent received, up to the maximum for the position, without need of DOA approval.

10. University officials indicate that the UW System would absorb the cost of any adjustments to the compensation of individuals holding applicable positions that would be made as a result of the Governor's proposal. However, such adjustments could result in an additional cost to the state by increasing the University's payroll base on which full funding of salary and fringe benefits and future salary increases, funded at least in part by the state, would be provided.

11. The amendment would require that the Board of Regents obtain prior approval from DOA for adjustments to the salary of a position in one of the University senior executive salary groups under the following circumstances: (a) if the adjustment is made to correct a salary inequity that results from an appointment to one of those positions; and (b) if the adjustment is made for 1998-99 and when combined with any other payment or adjustment, would cause the individual's base pay to exceed 110% of his or her base pay on the last day of the 1997-98 fiscal year. As an alternative to prior approval by DOA, the Committee may wish to consider having the Board obtain approval from JCOER, since that Committee would be responsible for determining the pay ranges and compensation adjustments for these positions. Another option would be to require DER, rather than DOA, approval for such adjustments. Under the amendment, DER would be responsible for making recommendations to JCOER regarding salary ranges and compensation adjustments for positions assigned to the proposed University executive

salary groups. In addition, DER is the agency primarily responsible for personnel management for state employees.

12. Adoption of the Governor's recommendation could result in significant salary increases for certain UW executives. A concern could be raised that those increases could result in pressure to provide similar adjustments for other UW executives, faculty and unclassified staff. To the extent that such adjustments would be allowed under current law provisions governing the maximum salaries for those positions, they could result in an additional cost to the state. However, University staff indicate that this type of ripple effect is not likely to occur because the salaries of a significant number of faculty and institution deans already exceed that of the chancellors and vice chancellors.

13. Currently, the only positions that are included in ESG 10 are the Chancellors of UW-Madison and UW-Milwaukee. Since these positions would be assigned to the new University executive salary groups under the proposal, the amendment would repeal the statutory reference to ESG 10. However, the salary maxima for the positions of UW System vice presidents and vice chancellors serving as deputies at all UW institutions except Madison and Milwaukee would continue to be the ESG 10 maximum. In order to address this issue, the amendment could be modified to retain the statutory reference to ESG 10, even though no positions would be assigned to it.

14. Under current law, sick leave policies for faculty and academic staff are regulated by the Board of Regents. As drafted, the amendment would specify that this current law provision would also apply to the positions assigned to the University senior executive salary groups as well as to other UW executive positions including UW System vice presidents and vice chancellors who are serving as deputies at all UW institutions except Madison and Milwaukee. According to DER staff, however, it is the intent of the amendment that the sick leave policy for the latter positions remain the same as that for other positions assigned to the current law executive salary groups. Therefore, a technical correction would be necessary to accomplish this intent.

ALTERNATIVES

1. Approve the Governor's recommendation to amend the budget adjustment bill to establish a separate compensation plan consisting of University senior executive salary groups for certain executive positions in the UW System and to establish procedures for the approval of salary ranges and adjustments for positions assigned to those groups. Include technical corrections to: (a) restore statutory references to ESG 10; and (b) clarify an inconsistent reference to sick leave policy for executive positions that are not included in the University senior executive salary groups.

2. Modify the Governor's recommendation, including the technical corrections noted in Alternative 1, by requiring one of the following rather than DOA, to approve compensation adjustments under specified circumstances:

(a) DER; or

(b) JCOER.

3. Delete the Governor's recommendation and instead, establish new salary maxima for UW senior executive positions as a percentage of the ESG 10 maximum. The new salary structure would be identical to that passed by the Legislature in the 1997-99 budget bill.

4. Maintain current law.

Prepared by: Merry Larsen and Dave Loppnow

ATTACHMENT

	1997-98 <u>Salary</u>	Current Statutory <u>Maximum</u>	Vetoed <u>Maximum</u>	DER Recommendation/ Governor's Proposal			Board of Regents Guidelines		
				<u>Minimum</u>	<u>Mid-Point</u>	<u>Maximum</u>	<u>Minimum</u>	<u>Mid-Point</u>	<u>Maximum</u>
UW System President	\$153,654	\$161,373	\$182,421	\$122,241	\$165,025	\$207,809	\$176,832	\$196,480	\$216,128
Chancellors									
Madison	140,323	140,324	168,389	111,128	150,022	188,917	191,205	212,451	233,695
Milwaukee	134,800	140,324	168,389	102,941	138,971	175,000	154,569	171,743	188,917
Comprehensives, Colleges and Extension	118,169*	140,324	154,356	85,185	115,000	144,815	115,596	128,440	141,284
Vice Chancellors									
Madison	139,000	140,324	154,356	102,932	138,957	174,984	153,431	170,479	187,527
Milwaukee	121,300	140,324	154,356	97,653	131,831	166,010	128,223	142,470	156,717

*Average

**LFBSUMMARY ITEMS OF AMENDMENT LRB 2904/1 WHICH
ARE ADDRESSED IN ISSUE PAPERS PREPARED FOR ASSEMBLY BILL 768**

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2	1	Tax Amnesty -- Program Components, Administration and Additional Tax Law Compliance Measures (Papers #1003 and #1004)
		Commerce
6	1	As it relates to a Wisconsin Development Fund Lapse (Paper #1008)
		Corrections
7	1	Correctional Officer Pay Plan (Paper #1009)
		Health and Family Services
8	1	Milwaukee County Child Welfare Services and Eligibility for W-2 Child Care Subsidies (Paper #1027)
		Military Affairs
11	1	National Guard Youth Programs (Paper #1029)
		Natural Resources
11	1	Conservation Warden Staffing (Paper #1035)

**LFB SUMMARY ITEMS OF AMENDMENT LRB 2904/1 FOR WHICH
NO ISSUE PAPERS HAVE BEEN PREPARED**

<u>Page #</u>	<u>Item #</u>	<u>Title</u>
		General Fund Taxes
3	3	Liability for Sales Tax
4	4	Credit for Sales Taxes on Fuel and Electricity Used in Manufacturing: Alternative Minimum Tax
4	5	Credit for Sales Taxes on Fuel and Electricity Used in Manufacturing: Limit Effective Date
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6	1	Wisconsin Development Fund (except for WDF lapse)
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		Marquette Dental School
10	1	Dental Clinics Funding
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11	2	Lac du Flambeau Tribal Licensing
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12	1	Children with Disabilities
		Transportation
12	1	Payments for Sesquicentennial Commission
13	2	Liability Exemption for Highway Contractors Handling Petroleum-Contaminated Soil



Legislative Fiscal Bureau

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April 27, 1998

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Amendment of the Administration to AB 768

On Friday, April 24, the Secretary of the Department of Administration submitted an amendment (LRB 2904/1) to the Governor's budget adjustment bill (AB 768) to the Co-Chairs of the Joint Committee on Finance and asked that it be considered during the Committee's deliberations on AB 768.

The attached document summarizes each item of the amendment.

In a number of instances, items of the amendment have been addressed in the Legislative Fiscal Bureau's issue papers on AB 768. In these cases, the sentence "*(This item is addressed in LFB Issue Paper #__.)*" will appear in the entry. On some other items of the amendment, the Bureau will prepare additional issue papers for the Committee's consideration.

In total, the amendment would increase the general fund revenues of AB 768 by \$3,551,100 and increase net, general fund expenditures of the bill by \$1,225,800. Thus, the general fund balance of the bill would be increased by a net of \$2,325,300 under the amendment.

BL/lah
Attachment

GENERAL FUND TAXES

**1. TAX AMNESTY -- PROGRAM COMPONENTS,
ADMINISTRATION AND ADDITIONAL TAX LAW
COMPLIANCE MEASURES**

	Chg. to Bill
GPR-REV	\$4,700,000
PR-REV	- 2,000,000
GPR	\$2,000,000

Governor: Modify provisions related to the tax amnesty program administrative and tax law compliance measures as follows:

a. Delete provisions that would create an annual program revenue appropriation to fund integrated tax system technology expenses and the requirement that 5% of amounts collected through the amnesty program be placed in the appropriation. Instead, an annual GPR appropriation would be established and \$2,000,000 GPR would be provided in 1998-99 to fund technology expenses necessary to create an integrated tax system. These provisions would increase GPR revenues generated by the amnesty program by \$2,000,000 and reduce program revenues from amnesty collections by \$2,000,000 in 1998-99.

b. Increase the late filing fee for sales and use tax returns from \$10 to \$30 for tax periods beginning on January 1, 1999. This provision would generate an estimated \$500,000 in general fund revenue in 1998-99.

c. Estimate \$2,200,000 in additional revenues that would be generated by the tax law compliance measures that would be enacted in conjunction with the tax amnesty program.

(These items are addressed in LFB issue papers #1003 and #1004.)

[Amendment Items: 19, 23, 40, 56 and 66]

**2. SALES TAX ON PREPACKAGED MEALS AND
SANDWICHES**

	Chg. to Bill
GPR-REV	-\$1,140,000

Governor: Adopt the provisions of AB 825, which would modify the treatment of prepackaged meals and sandwiches as outlined below.

Under current law, a sales and use tax exemption is provided for food, food products and beverages that are purchased for off-premises consumption; sales of these items for on-premises consumption are generally taxable. However, sales of meals and sandwiches, whether heated or not, are specifically subject to the tax, even if purchased for off-premises consumption. The statutes do not

include a definition of "meals" or "sandwiches." However, administrative rules specify that food items that comprise or are components of a meal are taxable when sold on a "take-out" or "to-go" basis and are packaged or wrapped and removed from the premises for consumption elsewhere.

This provision would create a sales tax exemption for prepackaged meals (food, food products or beverages and other goods that are packaged together by a person other than a retailer before the sale to the final customer) if 50% or more of the sales price of the package is attributable to goods that are exempt. If less than 50% of the sales price of the goods packaged together is attributable to the exempt food and beverages, the tax would be imposed on the portion of the sales price attributable to taxable goods. For example, if 40% of the goods are exempt and 60% are taxable, the sales tax would be applied to 60% of the sales price.

In addition, this provision would establish statutory definitions for the terms "meal" and "sandwich." These items would continue to be taxable. "Meal" would include (but not be limited to) a diversified selection of food, food products or beverages that are customarily consumed at breakfast, lunch or dinner, that may not be easily consumed without an article of tableware and that may not conveniently be consumed while standing or walking. "Meal" would not include frozen items that are sold to a customer, items that are customarily heated or cooked after the retail sale and before they are consumed, or a diversified selection of food, food products or beverages that is packaged together by a person other than the retailer before the sale to the consumer.

"Sandwich" would mean food that consists of a filling (such as meat, cheese or a savory mixture) that is placed on a slice, or between two slices, of a variety of bread or something that takes the place of bread, such as a roll, croissant or bagel. "Sandwich" would specifically include pita sandwiches, gyros and pocket sandwiches, but would not include burritos, tacos, enchiladas, chimichangas, hors d'oeuvres, canapes, egg rolls, food that is sold frozen and cookies, cakes, pies and similar desserts.

These provisions would be effective retroactively to August 1, 1997.

Based on information regarding U.S. sales of refrigerated lunches, the administration estimates that this provision would reduce sales tax revenues by \$840,000 in 1998-99. Due to the August 1, 1997, retroactive effective date, an additional one-time revenue loss of \$600,000 is estimated in the 1997-99 biennium.

[Amendment Items: 13, 39 and 70]

3. LIABILITY FOR SALES TAX

Governor: Provide that any person who is required to collect, account for or pay sales or use taxes and who willfully fails to collect, account for or pay the tax to DOR would be personally liable for such amounts, including interest and penalties thereon, if that person's principal is unable to pay such

amounts to the Department. Under current law, personal liability is assigned to persons who are required to make payment of sales or use taxes, but not to persons who are required to collect or account for such taxes.

[Amendment Items: 12 and 38]

4. CREDIT FOR SALES TAXES ON FUEL AND ELECTRICITY USED IN MANUFACTURING: ALTERNATIVE MINIMUM TAX

Governor: Allow the credit for sales taxes on fuel and electricity used in manufacturing to be used to offset alternative minimum tax liability under the individual income tax. Currently, the tax may only be used to offset regular individual income tax liability. Specify that this modification would first apply to taxable years beginning on January 1 of the year in which the bill takes effect except that if the bill takes effect on or after August 1 this modification would first apply to taxable years beginning on January 1 of the year following the year the bill takes effect.

[Amendment Items: 11, 30, 32 thru 34 and 67]

5. CREDIT FOR SALES TAXES ON FUEL AND ELECTRICITY USED IN MANUFACTURING: LIMIT EFFECTIVE DATE

Governor: Provide that tax-option corporation shareholders would only be able to claim a credit for sales taxes on fuel and electricity used in manufacturing computed by the corporation for taxable years that begin on or after January 1, 1998. This would prohibit shareholders from claiming any unused credits computed by a tax-option corporation between 1987 and 1998 that are being carried forward. Specify that this provision first applies to taxable years beginning on January 1, 1998, and to credits computed on January 1, 1998.

[Amendment Items: 10, 31, 35, 36, 37 and 68]

ADMINISTRATION

1. NATIONAL GOVERNOR'S ASSOCIATION 1998 ANNUAL MEETING EXPENSES

	Chg. to Bill
GPR	\$150,000

Governor: Provide funding of \$150,000 in 1998-99 under the Department's committees and interstate bodies general operations appropriation to support expenses related to the annual meeting of the National Governor's Association to be held in Milwaukee from August 1 to 4, 1998. Provisions of the 1997-99 biennial budget act appropriated \$200,000 GPR in 1997-98 in a separate, continuing appropriation for this purpose under the Office of the Governor.

[Amendment Item: 58]

BUILDING PROGRAM

1. CONTRACT AND PERFORMANCE BOND REQUIREMENTS FOR PUBLIC PROJECTS

Governor: Make the following modifications to the provisions relating to performance bond requirements for public projects contained in AB 768:

a. Exempt state Department of Transportation, trunk highway projects and other miscellaneous highway projects under Chapters 84 through 86 of the statutes, that involve the performance of labor or furnishing of materials for a public work from a proposed requirement that state contracts exceeding \$10,000 but not over \$250,000, contain a provision allowing the public body authorized to enter into a contract to make direct payment to subcontractors or to pay the prime contractor with checks that are made payable to the prime contractor and one or more subcontractors (the dollar thresholds would be indexed by the Department of Workforce Development).

b. Allow DOA and local governmental bodies authorized to enter into public work projects to accept other assurances in the form of a bond, irrevocable letter of credit or escrow account as substitutes for the performance bond and payment bonds on state contracts exceeding \$100,000 but not over \$250,000 and local contracts exceeding \$50,000 but not over \$100,000. This modification would delete the provision in the bill that would allow DOA or the local governmental body to accept other

unspecified instruments as contract performance or payment assurances (the dollar thresholds would be indexed by the Department of Workforce Development).

c. Clarify that the local governmental body authorized to enter into a public works contract, rather than DOA, can accept a substitute performance and payment assurance on local contracts.

[Amendment Items: 45 thru 48]

COMMERCE

1. WISCONSIN DEVELOPMENT FUND

Chg. to Bill	
GPR-Lapse	\$2,800,000

Governor: Require the Department to lapse \$2.8 million from the WDF GPR appropriation on June 29, 1999. (*This item is addressed in LFB Issue Paper #1008*). Further, rename the "manufacturing assessment grant program" created by Act 27 the "manufacturing assistance grant program." In addition to the current manufacturing assessment grants, authorize grants for the following purposes:

a. **Customized Training for Suppliers.** Grants not exceeding \$100,000 to businesses that manufacture original equipment to provide training to employees of their supplier businesses. Businesses that received grants would have to provide matching funds of 50% of the costs of projects and could contract with any of their supplier businesses to provide training. Not more than \$20,000 could be paid to supplier businesses. The total amount of grants that could be made under this program could not exceed \$500,000 in a biennium.

b. **Technology Transfer Program.** Grants to technology-based, nonprofit organizations to support manufacturing extension center technology transfer programs. Grants could only be used to fund up to 50% of costs directly related to technology transfer activities between businesses and the organizations that received grants. Prior to receiving grants, technology-based nonprofit organizations would be required to submit for review and approval, budgets that detailed expenditure plans. The total amount of grants that could be made under this program could not exceed \$250,000 in a biennium.

Act 27 created a manufacturing assessment grant program under the WDF. The program provides grants of up to \$2,500 to businesses with 500 or fewer employees to fund up to 50% of the cost of management assessments if certain conditions are met. The total amount of grants that can be awarded is \$750,000 in a biennium.

[Amendment Items: 2, 44 and 59]

2. PHYSICIAN AND HEALTH CARE PROVIDER LOAN ASSISTANCE APPROPRIATION LAPSE

Governor: Provide that the Physician and Health Care Provider Loan Assistance Programs and Contract appropriation with the total amount of funds that lapsed from the Physician Health Care Loan Assistance program (PLAP) appropriation (\$161,287) and the Health Care Provider Loan Assistance program (HCPLAP) appropriation (\$29,074) that were repealed on October 14, 1997.

Under the provisions of 1997 Act 27, funding for the PLAP, HCPLAP and the contract with the University of Wisconsin Office of Rural Health was consolidated from three separate appropriations into a single GPR continuing appropriation. Although the previous PLAP and HCPLAP appropriations were continuing, the balances were lapsed when the provisions in Act 27 that eliminated them became effective in October, 1997. This provision would restore the balances to the new appropriation.

[Amendment Item: 60]

CORRECTIONS

1. CORRECTIONAL OFFICER PAY PLAN

Chg. to Bill	
GPR	-\$713,700

Governor: Eliminate increased funding in 1997-98 (\$713,700 GPR) for correctional officer pay plan funding. In an April 16, 1998, letter to DOA, Corrections indicated that it has experienced considerable difficulty this year in recruiting for and filling officer positions and, consequently, the pay plan funding for 1997-98 is not needed. *(This item is addressed in LFB Issue Paper #1009.)*

[Amendment Item: 61 and 62]

FINANCIAL INSTITUTIONS

1. EXCLUDE AGRICULTURAL TRANSACTIONS FROM THE WISCONSIN CONSUMER ACT

Chg. to Bill	
GPR-Earned	-\$8,900

Governor: Exclude agricultural transactions from the Wisconsin Consumer Act (WCA). Specify that, with respect to a credit transaction that is primarily for an agricultural purpose, a creditor

may not charge, collect or receive any finance charge or fee unless it is clearly disclosed in writing to the customer and agreed to by the creditor and customer. The WCA covers the extension of credit for personal, family, household or agricultural purposes in which the amount financed is \$25,000 or less. The law includes provisions on disclosure, default and debt collection practices.

Creditors whose average outstanding monthly balance exceeds \$250,000 are required to pay an annual notification fee to the Department of Financial Institutions (DFI). The fee is equal to 0.005% of the average monthly outstanding balance, with a minimum fee of \$25 and a maximum fee of \$1,500. Since this fee would no longer be collected for agricultural-related transactions under this provision, it is estimated to reduce program revenues by \$8,900 annually. This would also reduce GPR-Earned by the same amount since the general fund skims 12% of revenues as they are received by DFI and any unexpended funds at the end of the fiscal year.

[Amendment Items: 7 and 43]

HEALTH AND FAMILY SERVICES

1. MILWAUKEE COUNTY CHILD WELFARE SERVICES AND ELIGIBILITY FOR W-2 CHILD CARE SUBSIDIES

Governor: Reduce Milwaukee County's required contribution towards the cost of providing child welfare services in Milwaukee County by \$1,833,900 in 1997-98 and \$3,667,900 in 1998-99 to \$29,446,800 in 1997-98 and \$58,893,500 in 1998-99. Under current law, Milwaukee County is required to contribute \$31,280,700 in 1997-98 and \$62,561,400 in 1998-99.

Specify that a foster parent or kinship care relative caring for a child under a court order would be eligible for a child care subsidy if the gross income of the child's biological or adoptive family is at or below 200% of the poverty line. In calculating the gross income of the child's biological or adoptive family, the Wisconsin Works (W-2) agency would use the process for determining gross income under W-2. Under the amendment, the foster parent and kinship care relative would have to be eligible for all other W-2 child care eligibility criteria. (A technical amendment is required to meet the Governor's intent.)

Under current law, foster parents and kinship care parents would initially be eligible for W-2 child care if their own income were at or below 165% of the poverty line and could remain eligible as long as their income were at or below 200% of the poverty line.

Under this amendment, it is estimated that \$350,000 GPR in 1997-98 and \$2,117,900 GPR in 1998-99 could be available to replace the reduced revenue from the reduced county contribution. This funding would be generated by providing child care to foster parents and kinship care relatives through W-2 child care, rather than GPR and federal child welfare funds currently budgeted for this purpose.

(These items are addressed in LFB Issue Paper #1027.)

[Amendment Items: 6, 28, 29 and 69]

HIGHER EDUCATIONAL AIDS BOARD

1. MINORITY TEACHER LOAN PROGRAM

Governor: Provide \$380,000 in 1998-99 for the minority teacher loan program, which would increase total funding for the program to be \$500,000.

	Chg. to Bill
GPR	\$380,000

Under current law, the program provides need-based loans to minority students who are: (a) juniors or seniors, or who hold a bachelor's degree and are registered as special students, in the UW System or in an accredited, private institution of higher education in Wisconsin; (b) enrolled in a program of study leading to a teacher's license, but do not currently have a teacher's license; (c) meet academic criteria set by HEAB; and (d) agree to teach in a school district in Wisconsin that has minority pupils for at least 29% of its membership or in a school district participating in the interdistrict pupil transfer (Chapter 220) program. Under the program, the Board forgives 25% of the principal and interest on the loan for each year that the student teaches in an eligible school district.

[Amendment Item: 63]

HISTORICAL SOCIETY

1. TOURING EXHIBIT OF THE STATE CAPITOL

Governor: Modify a provision of 1997 Act 27 that would have required the Historical Society, in cooperation with the Joint Committee on Legislative Organization (JCLO), to provide a touring exhibit on the State Capitol in 1997-98, to instead require that this be done in the 1997-99 biennium. Provide that the Historical Society could provide the exhibit and solicit donations either directly or

through a nonprofit organization. Provide that \$100,000 GPR of funding from the legislative documents appropriation that Act 27 authorized JCLO to use for the production of the exhibit, could also be used for the circulation of the exhibit. Act 27 requires dollar-for-dollar matching contributions before the release of GPR funding.

[Amendment Items: 15, 51 and 52]

LEGISLATURE

1. DESIGNATION OF ADDITIONAL SPACE IN THE STATE CAPITOL BUILDING FOR THE PRESS CORPS

Governor: Include a statutory provision requiring the Joint Committee on Legislative Organization to make available the circular room between the Senate and the Assembly chambers (217 SW) as space for the use of the Capitol press corps. Currently, the news media correspondents registered to cover the Legislature have work space and broadcasting facilities in the West Wing basement of the State Capitol.

[Amendment Items: 14 and 16]

MARQUETTE DENTAL SCHOOL

1. DENTAL CLINICS FUNDING

Governor: Specify that \$60,500 GPR of annual funding that was provided in 1997 Act 27 for the provision of dental services by the Marquette Dental School at the South-Side Guadalupe Dental Clinic could not be used for that purpose. Instead, require that these monies be used for dental services by Marquette in any other dental clinic in the City of Milwaukee.

[Amendment Items: 8 and 54]

MILITARY AFFAIRS

1. NATIONAL GUARD YOUTH PROGRAMS

Governor: Add language to authorize an increase of 10.75 GPR and 32.25 FED FTE positions, effective May 15, 1998, for the administration of the Youth Challenge program as proposed in the Governor 's budget adjustment bill. Funding for the GPR positions, starting in 1998-99, is included in the budget adjustment bill. However, the bill does not provide any increased position authority. (*This item is addressed in LFB Issue Paper #1029.*)

[Amendment Item: 55]

NATURAL RESOURCES

1. CONSERVATION WARDEN STAFFING

Governor: Provide \$709,500 and 18.0 conservation warden positions in 1998-99. (*This item is addressed in LFB Issue Paper #1035.*)

	Chg. to Bill	
	Funding	Positions
GPR	\$709,500	18.00

[Amendment Item: 64]

2. LAC DU FLAMBEAU TRIBAL LICENSING

Governor: Allow DNR to require the Lac du Flambeau band of the Lake Superior Chippewa to remit all of the fees collected from the sale of tribal fishing licenses to the Department to be deposited into the conservation fund. Create an appropriation in the conservation fund for all moneys received from the band to be paid to the band to be used for fishery management within the reservation.

1997 Act 27 provided a framework that allowed for the implementation of an agreement with the Lac du Flambeau whereby the band agreed to limit its treaty-based, off-reservation fishing rights in return for the ability to issue and retain revenues from fishing licenses issued by the band on the reservation. Under current law, the band retains all of the license fees collected. This provision would give DNR the option of requiring the tribe to remit this revenue to the state, with the intent that tribal

licenses be recognized under federal law for the purposes of calculating federal fish and wildlife funding received by the state. The Department estimates lost federal revenue of \$30,000 (based on an estimated 5,000 tribal fishing licenses sold) if tribal licenses are not included in the federal aid formula.

[Amendment Items: 9, 20 and 26]

PUBLIC INSTRUCTION

1. CHILDREN WITH DISABILITIES

Governor: Modify the provisions of 1997 Act 164 (SB 384) relating to children with disabilities. Act 164 defines the "local educational agency" as being the school district in which the child with a disability resides or the Department of Health and Family Services (DHFS) or the Department of Corrections (DOC), if those agencies are responsible for providing a free appropriate public education to the child. This amendment would modify this definition to specify that: (a) DHFS would be considered the local educational agency if the child with a disability resides in an institution or facility operated by DHFS; and (b) DOC would be considered the local educational agency if the child with a disability resides in a Type 1 secured correctional facility or prison.

Act 164 also creates a definition of "originating local educational agency" as being the local educational agency responsible for providing a free, appropriate public education to the child before the placement of the child in a child caring institution. This amendment would modify this definition to instead, refer to "responsible local educational agency". In addition, the amendment would specify that if the child resided in a facility operated by DHFS or in a Type 1 secured correctional facility or prison before the placement of the child in a child caring institution, then the responsible local educational agency would be the school district in which the child caring institution is located.

[Amendment Items: 3 and 41]

TRANSPORTATION

1. PAYMENTS FOR SESQUICENTENNIAL COMMISSION

Governor: Create a sum certain, biennial SEG appropriation in DOT for the general program operations of the Wisconsin Sesquicentennial Commission. Direct the Secretary of DOT to transfer the amounts in the appropriation to the Sesquicentennial Commission's supplemental appropriation

for gifts and grants, and specify that this appropriation may receive transfers from the newly-created SEG appropriation. Repeal the SEG appropriation and the Sesquicentennial Commission supplemental appropriation on July 1, 1999.

Direct the Secretary of DOA to, on July 1, 1999, determine the sum of the amount received by the Sesquicentennial Commission from the sale of sesquicentennial license plates and the amount transferred to the Commission's supplemental appropriation from the new SEG appropriation. If the sum exceeds \$4,150,000, require the Secretary to transfer from the historical legacy trust fund (which is where unencumbered Sesquicentennial Commission money lapses on July 1, 1999) to the transportation fund, one of the following amounts: (a) if license plate revenue received by the Commission is less than \$4,150,000, the amount by which the sum of license plate revenue plus the supplemental transfer exceeds \$4,150,000; or (b) if license plate revenue received by the Commission exceeds \$4,150,000, the amount that was originally transferred from the new SEG appropriation to the Commission.

Under current law, the Sesquicentennial Commission receives the net proceeds from the sale of sesquicentennial license plates. It is currently estimated that, in total, some 410,000 plates will be sold (plate sales will discontinue after December, 1998). The cost of purchasing a sesquicentennial plate is \$15 and DOT's cost of production is approximately \$6.25 per plate. Thus, net proceeds to the Commission equal \$8.75 per plate or an estimated \$3.6 million.

DOA indicates that the intention of this provision is for the Joint Committee on Finance to provide an amount in the new DOT appropriation that, when added to license plate revenue, would give the Sesquicentennial Commission a total of \$4,150,000. Thus, under the amendment, an estimated \$550,000 SEG would be transferred from the transportation fund to the Commission. The provision would allow the Committee to supplement the appropriation under s. 13.10 without the finding of an emergency.

[Amendment Items: 4, 18, 21, 22, 53, 54 and 70]

2. LIABILITY EXEMPTION FOR HIGHWAY CONTRACTORS HANDLING PETROLEUM-CONTAMINATED SOIL

Governor: Specify that any person (defined as an individual, owner, operator, corporation, limited liability company, partnership, association, municipality, interstate agency, state agency or federal agency) is immune from liability for current law responsibilities arising from hazardous substance spills and from any liability for the removal or remedying of petroleum-contaminated soil (defined as soil contaminated with material derived from petroleum, natural gas or asphalt deposits, including gasoline, diesel and heating fuels, liquified petroleum gases, lubricants, waxes, greases and petrochemicals), or for damages resulting from the person's actions or omissions relating to petroleum-contaminated soil if all the following apply: (a) the acts or omissions by the person occurred while

performing a highway or mass transit system improvement contract, including the acts or omissions by any subcontractor providing materials or performing labor; (b) in the course of performing the contract, petroleum-contaminated soil was encountered on the property on which the contract activity was taking place, and the soil cannot be avoided; and (c) the acts or omissions involving the petroleum-contaminated soil on the property were required by reasonably precise specifications in the contract and the acts or omissions conformed to those specifications, or were otherwise directed by DOT or DNR.

Specify that this immunity from liability does not apply if any of the following apply: (a) the person brought petroleum-contaminated soil onto the property or otherwise caused the initial contamination of the property with a hazardous substance; (b) the person's act or omission constitutes gross negligence or involves reckless, wanton or intentional misconduct; (c) the person fails to warn DOT or DNR about the presence of petroleum-contaminated soil encountered at the site, if the petroleum-contaminated soil was reasonably known to the person but not to DOT or DNR; (d) the person is under a previous or separate contract with a state agency solely to remove or remedy petroleum-contaminated soil or hazardous substances on the property; or (e) the person causes personal injury or wrongful death.

[Amendment Items: 5 and 49]

UNIVERSITY OF WISCONSIN SYSTEM

1. BIOLOGICAL SCIENCES POSITIONS AND FUNDING

	Chg. to Bill	
	Funding	Positions
GPR	\$1,500,000	8.00

Governor: Provide \$1,500,000 and 8.0 positions in 1998-99 in the UW System's general program operations appropriation for the purpose of expanding interdisciplinary programs in the biological sciences at UW-Madison. Of the total amount provided, \$575,000 would be used for salaries and fringe benefits for 8.0 new faculty positions and \$925,000 in one-time funding would be used to purchase laboratory equipment and to hire research staff whose positions would subsequently be transferred to other fund sources. Require that the UW Board of Regents, as part of its 1999-01 biennial budget request, include only \$575,000 of the \$1,500,000 provided in 1998-99, in the UW System's base budget.

[Amendment Item: 65]

2. UNIVERSITY OF WISCONSIN SYSTEM SENIOR EXECUTIVE SALARIES

Governor: Establish a compensation plan consisting of six University senior executive salary groups for certain UW System administrative positions. Require that the salary ranges, and adjustments to the salary ranges, for these groups be contained in the recommendations of the Secretary of the Department of Employment Relations relating to compensation adjustments for UW faculty and academic staff. Require the Board of Regents to set the salaries for the senior executive positions within the ranges to which the positions are assigned to reflect the hierarchical structure of the System, to recognize merit, to permit orderly salary progression and to recognize competitive factors. Require that the Secretary of DER's recommendations for compensation adjustments for faculty and academic staff include a proposal for adjusting the compensation and benefits for employes in positions assigned to the University senior executive salary groups.

The positions would be assigned as follows:

University senior executive group 1 -- The chancellors of the 11 comprehensive campuses, the Chancellor of the UW-College System and the Chancellor of UW-Extension.

University senior executive group 2 -- The vice chancellor who is serving as deputy at UW-Milwaukee.

University senior executive group 3 -- The vice chancellor who is serving as deputy at UW-Madison.

University senior executive group 4 -- The Chancellor of UW-Milwaukee.

University senior executive group 5 -- The Chancellor of UW-Madison.

University senior executive group 6 -- The President of the UW System.

Specify that the salary of incumbents in these positions could not exceed the maximum of the salary range for the group to which the position is assigned. However, current law freezes the salary of an incumbent of a position that is assigned to an executive salary group, if that salary exceeds the maximum of the salary range of that group, until the maximum of the salary range exceeds the salary. The amendment would specify that this current law provision would also apply to positions in these six UW senior executive salary groups.

The amendment would eliminate a current law provision that limits the salary of the president of the UW System to 115% of executive salary group 10. The amendment would also delete the current statutory listing for executive salary group 10, which only refers to the chancellors of UW-Madison and UW-Milwaukee. However, as drafted, certain UW executive positions would retain, as the upper limit

of their salary ranges, the maximum salary for executive salary group 10. (A technical change should be made to address this.)

Provide that salary adjustments for the positions in the University senior executive salary groups would be governed by the provisions of the compensation plan for faculty and academic staff, rather than the compensation plan which covers position in the current law executive salary groups.

Under current law, the Board of Regents may authorize a salary increase for these positions to correct a salary inequity or to recognize competitive factors. The amendment would modify this provision so that it would continue to apply to the positions in the University senior executive salary groups. However, the amendment would specify that the Board could not increase the salary for the positions in the University senior executive salary groups to correct a salary inequity that results from an appointment to one of these positions, without approval by the Department of Administration.

Specify that the current law provision that provides that sick leave for faculty and academic staff is regulated by the Board, would also apply to these positions, as well as other senior administrative staff appointed as limited appointments under s. 36.17 of the statutes.

Require that the salary of the incumbents in these positions for 1997-98 would be the same salary received on the day before the effective date of the bill. However, provide that before June 30, 1998, the Board could authorize a one-time market adjustment to the salary of these incumbents in 1997-98. The Board would be authorized to adjust the salary of any of these incumbents to be the mid-point of the salary range established for that position. In addition, provide that for 1998-99, the Board could not award a pay increase, including any lump sum payments or adjustments to correct a salary inequity or to recognize competitive factors, which, when combined with any other payment or adjustment, would cause the employe's base pay to exceed 110% of the employe's base pay as of June 30, 1998, unless the adjustment is approved by the Department of Administration.

[Amendment Items: 1, 17, 24, 25, 27, 42, 50, 57 and 70]



Legislative Fiscal Bureau

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May 7, 1998

TO: Members
Wisconsin Legislature

FROM: Bob Lang, Director

SUBJECT: Assembly Amendment 48 to ASA 1 to AB 768

On Wednesday, May 6, 1998, the Assembly passed Assembly Substitute Amendment 1 to 1997 Assembly Bill 768 (the 1997-99 budget adjustment bill). The only amendment adopted by the Assembly to ASA 1 was Assembly Amendment 48, which would require that any additional surplus estimated by the Legislative Fiscal Bureau be used to expand the property tax/rent credit (PTRC) under the individual income tax. This memorandum describes the PTRC under current law and the provisions of AA 48.

Current Property Tax/Rent Credit

Under current law, a nonrefundable property tax/rent credit equal to 10% of property taxes, or rent constituting property taxes, paid on a principal residence is provided. The credit may be claimed on up to \$2,000 of property taxes or rent, and the maximum credit is \$200. For homeowners, the credit is equal to 10% of property taxes paid on a principal residence during the tax year. The credit is available to renters based on 10% of rent constituting property taxes, which is defined as 25% of actual rent if payment for heat is not included in rent or 20% of actual rent if heat is included. As a nonrefundable credit, the PTRC may be used to reduce or eliminate income tax liability, but a check from the state will not be issued if the amount of credit exceeds the amount of tax due.

The \$2,000 limit on property taxes, or rent constituting property taxes, was established in 1987 Wisconsin Act 27, beginning in tax year 1987. The current rate of 10% was established in 1989 Wisconsin Act 31, beginning with tax year 1989. The PTRC is estimated to cost \$245 million in 1998-99.

Assembly Amendment 48

AA 48 would establish a procedure under which any estimated surplus in the general fund exceeding \$20 million in the 1997-99 biennium would be used to increase the property tax/rent credit.

Under this procedure, the Legislative Fiscal Bureau would be required, no later than September 4, 1998, to prepare an estimate of the net general fund balance as of June 30, 1999 (the end of the 1997-99 biennium). The Fiscal Bureau would be required to certify the amount by which the estimated closing balance exceeds \$20 million to the Joint Committee on Finance and the Secretary of the Department of Revenue (DOR).

By September 15, 1998, the Secretary of DOR would be required to submit to the Finance Committee a proposal to expand the PTRC by increasing the credit percentage or the maximum amount of property taxes or rent, or both. The expansion of the credit would first apply to the 1998 tax year.

The Finance Committee would have to either approve or modify DOR's proposal at the Committee's third quarterly meeting (September) in 1998. The Secretary of DOR would be required to publish the proposal, as approved or modified by the Finance Committee, in the administrative register. DOR would also be required to modify the individual income tax forms and instructions to incorporate the modifications made to the PTRC under this provision.

BL/RR/sas



STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
101 East Wilson Street, Madison, Wisconsin

TOMMY G. THOMPSON
GOVERNOR
MARK D. BUGHER
SECRETARY

Mailing Address:
Post Office Box 7864
Madison, WI 53707-7864



April 23, 1998

The Honorable Tim Weeden, Co-Chair
Joint Committee on Finance
203 East State Capitol
Madison, WI 53702

The Honorable John Gard, Co-Chair
Joint Committee on Finance
315 North State Capitol
Madison, WI 53702

Dear Senator Weeden and Representative Gard:

The Administration requests that the Budget Adjustment Bill (AB 768) being considered in extraordinary session be amended by a simple amendment that includes a number of technical and other needed modifications brought to our attention since the bill was introduced in February. These items are described below and contained in the amendment that will be transmitted to you. A number of these items have previously been transmitted to you as individual items by the Department of Administration or other agencies.

1. Administration - Provide technical modifications to the budget adjustment bill language related to payment and performance bond requirements for public projects. Amend the bill by eliminating the phrase, "or other type of instrument", as an acceptable substitution of a payment and performance assurance bond for state and local government contracts. This phrase was inadvertently added in drafting. The language also makes two technical corrections: clarifies that the public body instead of the Department of Administration approves a payment and performance bond for local government contracts; and exempts highway and airport construction contractors from direct subcontractor payment provisions for state contracts. (LRBb2820/3)

(Fiscal Change to AB 768: None.)

2. Administration - Provide \$150,000 GPR to fund expenses related to the National Governor's Association meeting in Milwaukee in 1998. (LRBb2852/P1)

(Fiscal Change to AB 768: Increases GPR appropriations by \$150,000 in FY99.)

The Honorable Tim Weeden
The Honorable John Gard
Joint Committee on Finance
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3. Administration - Designate a room in the State Capitol as the Press Corps Room. (LRBb2869/1)

(Fiscal Change to AB 768: Minimal.)

4. Commerce - Require a lapse of \$2.8 million GPR from the Wisconsin Development Fund appropriation to the general fund at the end of June 1999. Since this appropriation is converted from biennial to continuing in the bill, this change is necessary to ensure that a lapse will occur. (LRBb2744/1)

(Fiscal Change to AB 768: Increases GPR revenue by \$2.8 million in FY99 to offset the lapse assumed in AB768, which won't occur without this language. As originally drafted, AB 768 would be short \$2.8 million because the appropriation is converted from a biennial to a continuing appropriation, and the lapse would otherwise not occur.)

5. Commerce - Transfer GPR balances from the separate continuing Physicians and Health Care Provider Loan repayment appropriations repealed in Act 27 into the new consolidated Physicians and Health Care Provider Loan repayment appropriation created in Act 27. (LRBb2818/1)

(Fiscal Change to AB 768: None. The balances of approximately \$200,000 are currently not reflected in the general fund condition, so the amendment will have no effect on the current ending balance.)

6. Commerce - Modify the manufacturing assessment grant allocation from the Wisconsin Development Fund to allow use of \$500,000 for grants to original equipment manufacturers to provide customized training to suppliers. In addition, allocate the remaining \$250,000 to match National Institute of Standards and Technology (NIST) funds for technology transfer activities between the Wisconsin Manufacturing Extension Partnership and small businesses. (LRBb2803/1)

(Fiscal Change to AB 768: None.)

7. Corrections - Delete \$713,700 GPR in FY98 that was included in the budget adjustment bill to meet the pay plan shortfall for correctional officers only. The FY98 additional funding is no longer projected as needed for this purpose. (LRBb2841/1)

(Fiscal Change to AB 768: Reduces GPR appropriations by \$713,700 in FY98.)

8. Financial Institutions - Amend the Wisconsin Consumer Act (WCA) to exclude agricultural lending if related to production, harvesting, marketing, transportation, processing or manufacturing of agricultural products. Unless specifically excluded, the WCA generally applies to all consumer credit transactions in the state. (LRBb2897/1)

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(Fiscal Change to AB 768: Minimal PR reduction.)

9. HEAB - Increase program funding for the Minority Teacher Loan Program from \$120,000 to \$500,000 GPR in FY99, to increase the number of minority teachers in Wisconsin. (LRBb2851/1)

(Fiscal Change to AB 768: Increases GPR appropriations by \$380,000 in FY99.)

10. Health and Family Services - Authorize foster parents, if they are caring for children whose biological parents are at or below 200% of poverty, to claim child care assistance from low income child care funds, in order to increase the pool of foster parents. (LRBb2858/1)

(Fiscal Change to AB 768: None.)

11. Health and Family Services - Reduce the statutory contribution required of Milwaukee County for support of the child protective services system by \$1,833,900 in FY98 and \$3,667,900 in FY99 to reflect a reestimate of ongoing revenue available for child welfare services. Statutes require the Milwaukee contribution to equal the Milwaukee County 1995 budget for child welfare. However, some of that budget reflected revenue passed through by the State that is no longer available. (LRBb2842/1)

(Fiscal Change to AB 768: None.)

12. Health and Family Services - Authorize the department to more broadly allocate funding for dental services to low-income children in Milwaukee. (LRBb2894/1)

(Fiscal Change to AB 768: None.)

13. Historical Society - Extend the deadline for developing the Touring Wisconsin State Capitol Exhibit from June 30, 1998 to June 30, 1999, and authorize the Society to contract with a nonprofit organization for exhibit development. (LRBb2895/1)

(Fiscal Change to AB 768: None.)

14. Military Affairs - Provide an additional 10.75 FTE GPR positions and 32.25 FTE FED positions to the Department of Military Affairs to provide the position authority for positions funded in but inadvertently omitted from the original budget adjustment bill for the expanded Youth ChalleNGe program. (LRBb2816/1)

(Fiscal Change to AB 768: None.)

15. Natural Resources - Provide \$709,500 GPR and 18.0 FTE GPR positions in FY99 to increase the number of DNR conservation wardens. (LRBb2840/2)

(Fiscal Change to AB 768: Increases GPR appropriations by \$709,500 in FY99.)

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16. Natural Resources – Authorize DNR to collect and disburse revenue from licenses sold by the Lac du Flambeau tribe. The department was authorized under 1997 Act 27 to establish a licensing agreement with the Lac du Flambeau tribe that allows the tribe to sell state licenses and registrations and retain the associated revenue. In order to maximize the amount of federal conservation aid received by the state, revenue from sales of these licenses needs to be first collected by the department and then remitted to the Lac du Flambeau tribe. (LRBb2883/1).

(Fiscal Change to AB 768: None.)

17. Public Instruction – Amend recently enacted 1997 Wisconsin Act 164 to address a technical oversight affecting the Departments of Corrections (DOC) and Health and Family Services (DHFS). The amendment would repeal DOC and DHFS responsibility for coordinating educational planning for disabled students who are released from DOC and DHFS institutions to local child caring institutions (CCIs). The amendment assigns this responsibility to the school district in which the CCI is located. (LRB b2786/1)

(Fiscal Change to AB 768: None.)

18. Revenue – Provide technical changes to language relating to tax amnesty revenues and the integrated tax system. The budget adjustment bill creates a new PRO appropriation allocating 5% of the monies received from the Tax Amnesty program to help fund a portion of the Department of Revenue's integrated tax system modifications. A 5% allocation would result in a \$2 million reduction of the tax amnesty revenues otherwise assumed to be available to the general fund. Instead, the language creating the PRO appropriation and the 5% allocation should be deleted and a new GPR appropriation for the integrated tax system created with \$2 million GPR in FY99 in the new appropriation. The funding for this would come from recognizing \$2.7 million of additional enforcement tools included in the budget adjustment bill. This additional \$2.7 million in GPR tax revenue should have been built into the budget adjustment bill on top of the assumed \$40 million in revenues from tax amnesty itself. (LRBb2854/1)

(Fiscal Change to AB 768: Increases GPR revenue by \$4,700,000 in FY99, increases GPR expenditures by \$2,000,000 in FY99, and decreases PR revenue by \$2,000,000 in FY99 compared to the LFB summary of the budget adjustment bill.)

19. Revenue - Modify ch. 77 to clarify the intent of the statute to hold a person acting in a responsible capacity in a company liable for all sales and use taxes accrued during the time the person was employed by that company. (LRBb2829/1)

(Fiscal Change to AB 768: None.)

20. Revenue – Modify ch. 71 to permit the manufacturer's sales tax credit to offset an individual's alternative minimum tax liability. Under current law, the relationship

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between the manufacturing sales tax credit as enacted in 1997 Wisconsin Act 27 and the alternative minimum tax is unclear. (LRBb2882/1)

(Fiscal Change to AB 768: Minimal.)

21. Revenue - Amend the bill to include language needed to implement an increased sales tax late filing fee, which should have been included as part of the post-tax amnesty enforcement tools contained in the budget adjustment bill. (LRBb2854/1)

(Fiscal Change to AB 768: None.)

22. Revenue - Amend the statutes relating to the manufacturer's sales tax credit to prohibit S corporation shareholders from claiming any credits computed by the corporation during the period beginning with the 1987 taxable year and ending with the taxable year beginning before January 1, 1998. (LRBb2823/1)

(Fiscal Change to AB 768: None.)

23. Revenue - Define "meal" and "sandwich" for the sales tax and use tax on food and specify the tax status of exempt food and similar goods that are packaged with other property. (LRBb2901/1)

(Fiscal Change to AB 768: Reduces GPR revenue by \$596,000 in FY98 and \$840,000 in FY99.)

24. Transportation - Create an appropriation to fund any shortfall between amounts provided by vehicle license plate revenues and a revenue goal of \$4,150,000 for Sesquicentennial Commission activities. Authorize the Sesquicentennial Commission supplement appropriation to receive funding from this new appropriation. (LRBb2866/2)

(Fiscal Change to AB 768: None.)

25. Transportation - Provide a liability exemption for contractors handling petroleum-contaminated soil as part of highway construction projects. This change reflects a joint effort by DOT, DNR and contractors to address this issue as requested by the Governor in his veto message to 1997 Act 27. (LRBb2874/1)

(Fiscal Change to AB 768: None.)

26. University of Wisconsin System - Create a university senior executive salary group with pay ranges relating to the competitive market environment. (LRB2825/1)

(Fiscal Change to AB 768: Any FY99 cost would be absorbed.)

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27. University of Wisconsin System - Provide \$1,500,000 GPR to fund up to 8.0 FTE faculty positions and supporting staff, supplies and equipment as part of a UW biological sciences initiative. (LRBb2843/2)

(Fiscal Change to AB 768: Increases GPR appropriations by \$1,500,000 in FY99.)

In addition to the items listed above, one item not presently drafted in the simple amendment is also requested:

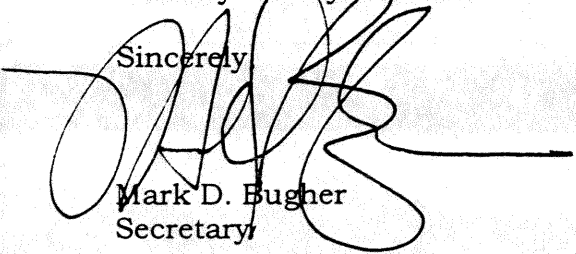
1. Revenue - Amend the bill to make various technical changes to the license denial for tax delinquency provisions included in the budget adjustment bill. The changes basically make additions and deletions to the list of licenses to which the provisions apply, and make the proposal more consistent with the license denial for delinquent child support provisions of enrolled SB494.

(Fiscal Change to AB 768: Minimal.)

This item is being drafted and will be provided as soon as it is finished.

Thank you for your assistance.

Sincerely,



Mark D. Bugher
Secretary

Cc: Members, Joint Committee on Finance
Bob Lang, Legislative Fiscal Bureau
Rick Chandler, State Budget Office



Legislative Fiscal Bureau

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May 7, 1998

TO: Members
Wisconsin Legislature

FROM: Bob Lang, Director

SUBJECT: Assembly Amendment 48 to ASA 1 to AB 768

On Wednesday, May 6, 1998, the Assembly passed Assembly Substitute Amendment 1 to 1997 Assembly Bill 768 (the 1997-99 budget adjustment bill). The only amendment adopted by the Assembly to ASA 1 was Assembly Amendment 48, which would require that any additional surplus estimated by the Legislative Fiscal Bureau be used to expand the property tax/rent credit (PTRC) under the individual income tax. This memorandum describes the PTRC under current law and the provisions of AA 48.

Current Property Tax/Rent Credit

Under current law, a nonrefundable property tax/rent credit equal to 10% of property taxes, or rent constituting property taxes, paid on a principal residence is provided. The credit may be claimed on up to \$2,000 of property taxes or rent, and the maximum credit is \$200. For homeowners, the credit is equal to 10% of property taxes paid on a principal residence during the tax year. The credit is available to renters based on 10% of rent constituting property taxes, which is defined as 25% of actual rent if payment for heat is not included in rent or 20% of actual rent if heat is included. As a nonrefundable credit, the PTRC may be used to reduce or eliminate income tax liability, but a check from the state will not be issued if the amount of credit exceeds the amount of tax due.

The \$2,000 limit on property taxes, or rent constituting property taxes, was established in 1987 Wisconsin Act 27, beginning in tax year 1987. The current rate of 10% was established in 1989 Wisconsin Act 31, beginning with tax year 1989. The PTRC is estimated to cost \$245 million in 1998-99.

Assembly Amendment 48

AA 48 would establish a procedure under which any estimated surplus in the general fund exceeding \$20 million in the 1997-99 biennium would be used to increase the property tax/rent credit.

Under this procedure, the Legislative Fiscal Bureau would be required, no later than September 4, 1998, to prepare an estimate of the net general fund balance as of June 30, 1999 (the end of the 1997-99 biennium). The Fiscal Bureau would be required to certify the amount by which the estimated closing balance exceeds \$20 million to the Joint Committee on Finance and the Secretary of the Department of Revenue (DOR).

By September 15, 1998, the Secretary of DOR would be required to submit to the Finance Committee a proposal to expand the PTRC by increasing the credit percentage or the maximum amount of property taxes or rent, or both. The expansion of the credit would first apply to the 1998 tax year.

The Finance Committee would have to either approve or modify DOR's proposal at the Committee's third quarterly meeting (September) in 1998. The Secretary of DOR would be required to publish the proposal, as approved or modified by the Finance Committee, in the administrative register. DOR would also be required to modify the individual income tax forms and instructions to incorporate the modifications made to the PTRC under this provision.

BL/RR/sas