



Legislative Fiscal Bureau

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22

June 1, 1999

Joint Committee on Finance

Paper #1110

TANF

New Transfers of TANF Funding to Other Agencies (DWD -- Economic Support and Child Care)

[LFB 1999-01 Budget Summary: Page700, #52]

CURRENT LAW

Federal law and regulations specify that federal funding under the temporary assistance to needy families (TANF) program must be used to accomplish one or more of the following purposes: (a) to provide assistance to needy families so children may be cared for in their homes or in the homes of relatives; (b) to end the dependence of needy parents on government benefits by promoting job preparation, work and marriage; (c) to prevent and reduce the incidence of out-of-wedlock pregnancies; and (d) to encourage the formation and maintenance of two-parent families. More detailed information regarding the allowable uses of TANF funding and of state expenditures that may be counted for the TANF maintenance of effort requirement is presented in Paper #1080.

GOVERNOR

Provide \$24,811,100 annually for new expenditures of funding under the temporary assistance to needy families (TANF) program for programs administered by other agencies. The following table summarizes these expenditures.

<u>Item</u>	<u>1999-00</u>	<u>2000-01</u>
Head Start Supplement	\$9,900,000	\$9,900,000
Aid to Milwaukee Public Schools	7,570,000	7,570,000
Brownfields	5,000,000	5,000,000
Adolescent Services and Pregnancy Prevention Services	1,806,400	1,806,400
Badger Challenge Program	332,700	332,700
Early Identification of Pregnancy	100,000	100,000
Affirmative Action Recruiter (DER)	52,000	52,000
Literacy Advocate/Grants	50,000	50,000
TOTAL	\$24,811,100	\$24,811,100

Under current law, TANF funding is not provided for these programs.

DISCUSSION POINTS

1. The following items shown in the above table are addressed in separate papers: (a) aid to Milwaukee Public Schools (Paper #1111); (b) Brownfields (Paper #1112); (c) Adolescent Services and Pregnancy Prevention (these funds are provided for the Adolescent Pregnancy Prevention and Pregnancy Services Board and services under the Brighter Futures program) (Papers #1103 and #1113); (d) the Badger Challenge program (Paper #1114); and (e) the literacy advocate (Paper #1104).

2. The following sections provide more information regarding the use of TANF for the Head Start program, the early identification of pregnancy program and the affirmative action recruiter position.

The Head Start Program

3. Under current law, \$4,950,000 GPR annually is provided for the Head Start program in the Department of Public Instruction (DPI). These funds are distributed to 34 federally-designated Head Start agencies, with preference given to those already receiving federal funding, to enable expansion of their programs. The Governor's proposal would delete the base level GPR funding for the Head Start program, and instead provide \$9.9 million annually in federal funding. For budgeting purposes, this would involve an increase in expenditure authority under the Department of Workforce Development's federal appropriation for TANF funding. The bill would also require the State Superintendent to give preference when awarding funding under the program to agencies that operate full-time or early Head Start programs in addition to giving preference to agencies participating in the federal Head Start program. If the Finance Committee does not approve the Governor's recommendation, it could replace these funds with GPR or restore base level funding to the program. Because Head Start monies are counted towards state two-thirds funding of partial school revenues, if the amount of monies for Head Start is changed, then state equalization aid funding would need to be adjusted to maintain the two-thirds goal. Recent guidelines indicate that the use of TANF funds for the Head Start program is allowable.

State Recruiter Position

4. The Governor's proposal would replace \$52,000 GPR annually with federal TANF funds for one state employe recruiter position in the Department of Employee Relations. This position (an executive human resources specialist) is currently assigned to the Division of Merit Recruitment and Selection and functions primarily as an affirmative action recruiter in the Milwaukee area. The administration indicates that potential future employes currently served by this recruiter position are individuals who are low-income adults with minor children that would be TANF-eligible. The administration further indicates that under the Governor's proposal this recruiter's job responsibilities would be modified so that the person's recruiting activities would focus entirely on TANF-eligible individuals. In this case, the use of TANF funding for this purpose

would be allowable under federal law and regulations. Alternatively, if the Committee chooses not to approve the Governor's recommendation, it could restore the \$52,000 GPR annual funding amount.

Early Identification of Pregnancy

5. The Governor's proposal would provide \$100,000 annually in TANF funding for the early identification of pregnancy (EIDP) program administered by the Department of Health and Family Services (DHFS). These funds would not replace GPR. Under current law, the EIDP program funds pregnancy tests and other services primarily for women whose incomes are below 250% of the federal poverty level. Under a waiver that DHFS is required by state law to submit to the federal government, women whose initial pregnancy tests are negative would be able to have access to MA-funded family planning services with the goal of preventing future unwanted pregnancies. TANF funding would be provided for outreach activities to increase public awareness of the program and for case management services that will inform individual women about particular services. These activities would be allowable uses of federal TANF funds.

ALTERNATIVES

A. The Head Start Program

1. Approve the Governor's recommendation to delete \$4,950,000 GPR and provide \$9,900,000 PR annually in the Department of Public Instruction for the Head Start program.

2. Modify the Governor's proposal by providing \$9,900,000 GPR annually in DPI, instead of federal TANF funding, for the Head Start program.

<u>Alternative A2</u>	<u>GPR</u>	<u>PR</u>	<u>FED</u>	<u>TOTAL</u>
1999-01 FUNDING (Change to Bill)	\$19,800,000	-\$19,800,000	-\$19,800,000	-\$19,800,000

3. Maintain current law by deleting federal TANF funding for the Head Start program and providing \$4,950,000 GPR annually in DPI for the Head Start program. Provide \$1,650,000 GPR annually for equalization aid in order to maintain two-thirds funding of partial school revenues.

<u>Alternative A3</u>	<u>GPR</u>	<u>PR</u>	<u>FED</u>	<u>TOTAL</u>
1999-01 FUNDING (Change to Bill)	\$13,200,000	-\$19,800,000	-\$19,800,000	-\$26,400,000

B. State Recruiter Position

1. Approve the Governor's proposal to eliminate \$52,000 GPR and provide \$52,000 PR annually for one state recruiter position in the Department of Employee Relations.

2. Maintain current law by providing \$52,000 GPR annually in the Department of Employee Relations for one state recruiter position and deleting \$52,000 of monies to be allocated the transfer of federal TANF monies.

<u>Alternative B2</u>	<u>GPR</u>	<u>PR</u>	<u>FED</u>	<u>TOTAL</u>
1999-01 FUNDING (Change to Bill)	\$104,000	-\$104,000	-\$104,000	-\$104,000

C. Early Identification of Pregnancy

1. Approve the Governor's recommendation to provide \$100,000 FED annually for the early identification of pregnancy program.

2. Maintain current law. Under this option, no additional funding would be provided for the early identification of pregnancy program.

<u>Alternative C2</u>	<u>FED</u>
1999-01 FUNDING (Change to Bill)	-\$200,000

Prepared by: Joanne T. Simpson

Gov Agency: Public Instruction—Categorical Aids—Aid to Milwaukee Public Schools

Recommendations:

Paper No. 1111 Alternative 1

Comments: Based on an Audit Bureau review, LFB says that first grade programs and full-day kindergarten would not be an eligible use of TANF funding. Therefore, Alt. 1, deletes this funding from the governors proposal and replaces it with GPR. See points 4 and 5 for support.

Prepared by: Julie



Legislative Fiscal Bureau

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June 1, 1999

Joint Committee on Finance

Paper #1111

TANF

Aid to Milwaukee Public Schools (DPI -- Categorical Aids)

[LFB 1999-01 Budget Summary: Page 490, #4]

CURRENT LAW

Under current law, \$8,000,000 GPR annually is provided to the Milwaukee Public Schools (MPS) to be used to correct the academic deficiencies of educationally and economically disadvantaged pupils and to achieve a more effective and responsive educational program. Funding is distributed to the following programs: (a) extended-day preschool to grade six programs; (b) four- and five-year-old kindergarten; (c) alcohol and other drug abuse; (d) family resource centers; (e) early childhood education contracts with day care centers; (f) first grade; and (g) alternative educational programs for learnfare pupils. Funding is distributed according to a spending plan submitted by the MPS Board to the Governor and approved by the Joint Committee on Finance (JFC) annually.

GOVERNOR

Delete \$7,570,000 GPR annually from the appropriation for aid to MPS. Modify the current GPR appropriation to specify that it would be for GPR aid to MPS. The remaining \$430,000 GPR of annual funding would be utilized for: (a) extended-day preschool to grade six programs; (b) four-year-old kindergarten; (c) alcohol and other drug abuse programs; and (d) family resource centers. Delete the requirement that the funding be used to correct the academic deficiencies of educationally and economically disadvantaged pupils and to achieve a more effective and responsive educational program.

Create an annual, program revenue service appropriation for aid to MPS from federal block grant aid, which is temporary assistance to need families (TANF) funding. Provide \$7,570,000 PR annually and specify that this funding be utilized for: (a) five-year-old kindergarten programs; (b) early childhood education contracts with day care centers; (c) first

grade programs; and (d) alternative educational programs for learnfare pupils. All funding would continue to be distributed according to a spending plan submitted by the MPS Board to the Governor and approved by JFC annually.

DISCUSSION POINTS

1. A special aid program was created in 1988-89 in order to fulfill an agreement made by the Governor and the State Superintendent with the Milwaukee School Board, as part of the 1987 desegregation lawsuit settlement. Under the agreement, state funds were provided to MPS for compensatory education programs, either new or supplemental to existing programs, to address the academic deficiencies of disadvantaged pupils. A total of \$30 million was distributed over five years (1988-89 through 1992-93) according to the provisions of the agreement. While there was no provision in the agreement for continued funding after 1992-93, the Legislature has maintained the program at \$8.0 million annually since that time.

2. In 1998-99, the funds were distributed according to an annual spending plan developed by the MPS School Board with the approval of the Governor, the appropriate legislative standing committees and the Joint Committee on Finance. The following table provides an outline of the funding distribution for the program.

1998-99 Aid to Milwaukee Public Schools

<u>Program</u>	<u>Funding Amount</u>
Extended-Day Preschool to Grade Six Program	\$430,000
Alternative Education Programs	500,000
Early Childhood Education Contracts with Private Day Care Centers	910,000
First Grade Programs	1,070,000
Full-Day, Five-Year-Old Kindergarten Programs	5,090,000
TOTAL	\$8,000,000

3. The Governor recommended maintaining GPR funding for the extended-day preschool to grade six program and converting the remaining \$7,570,000 to program revenue funded through federal TANF revenues that would be transferred to a Department of Public Instruction (DPI) appropriation from the Department of Workforce Development (DWD). Staff at the Department of Administration (DOA) indicate that, under the Governor's recommendation, the funding for the extended-day program would remain GPR because such a program would not be an eligible use of TANF funding.

4. Based on a further review regarding eligible uses of TANF funding, the Legislative Audit Bureau (LAB) indicates that supporting first grade programs and full-day kindergarten would not be an eligible use of TANF funding. In the April, 1999, federal regulations governing the use of

TANF funding, the U.S. Department of Health and Human Services reports that "Congress intended to prohibit States from substituting program funds for existing expenditures from general funds on the traditional, free public education system." The LAB believes that full-day kindergarten and first grade programs are representative of traditional, free public education system services. Therefore, the LAB indicates that replacing GPR with TANF funding for these programs appears to contradict congressional intent and would not be allowable.

5. Due to this LAB analysis, it appears that alternative education programs and early childhood education contracts could be supported by TANF funding, but that the other programs would have to be funded through GPR, as under current law. In order to ensure that the state is following congressional intent for the use of TANF monies and therefore, not jeopardizing the state's TANF funding, it would be necessary to delete \$6,160,000 PR annually and provide \$6,160,000 GPR annually for MPS full-day kindergarten and first grade programs. In addition, a statutory language change that would maintain the current law language related to these programs would be necessary.

6. Alternatively, the Committee could delete any funding for these specific full-day, five-year-old kindergarten and first grade programs. Because under current law a five-year-old kindergartener requiring full-day attendance and all first grade pupils are counted as 1.0 FTE pupil for both general school aids and revenue limit purposes, it could be argued that MPS already receives sufficient state aid for these programs. If the Committee would wish to delete this funding, it could delete \$6,160,000 PR annually and the related statutory language. Because this funding currently counts toward the state's commitment to fund two-thirds of partial school revenues, in order to maintain two-thirds funding, \$2,053,300 GPR annually would have to be provided for general school aids.

7. On the other hand, because MPS receives these funds in the context of a desegregation lawsuit settlement that generally remains intact for all school districts involved, it may be appropriate to ensure that MPS continues to receive these funds. In addition, it could be argued that while MPS receives general school aids for these programs, additional funding is appropriate due to the level of poverty among elementary-level pupils in MPS. Based on information provided to DPI for the 1998-99 school year, 111 of MPS's 115 elementary schools report that 30% or more of their pupils qualify for free or reduced-price school lunches; 75% of all elementary schools in the state with poverty rates of 70% and above are MPS schools. Because the current law purposes of this funding is to correct the academic deficiencies of educationally and economically disadvantaged pupils, it may be desirable to ensure that MPS receive sufficient resources to address the needs of its low-income kindergarten and first grade pupils.

8. Finally, in order to ensure a stable funding source for all of these programs in future years, it may be desirable to continue funding each of these programs with GPR, as under current law. In order to maintain current law, the Committee would need to provide \$7,570,000 GPR annually for these purposes.

ALTERNATIVES

1. Delete \$6,160,000 PR annually and provide \$6,160,000 GPR annually for MPS full-day kindergarten and first grade programs. Maintain the current law statutory language related to full-day kindergarten and first grade programs.

<u>Alternative 1</u>	<u>GPR</u>	<u>FED</u>	<u>PR</u>	<u>TOTAL</u>
1999-01 FUNDING (Change to Bill)	\$12,320,000	-\$12,320,000	-\$12,320,000	-\$12,320,000

2. Delete \$6,160,000 PR annually and the related statutory language for these MPS full-day, five-year-old kindergarten and first grade programs. Provide \$2,053,300 GPR annually for general school aids, in order to maintain two-thirds funding of partial school revenues.

<u>Alternative 2</u>	<u>GPR</u>	<u>FED</u>	<u>PR</u>	<u>TOTAL</u>
1999-01 FUNDING (Change to Bill)	\$4,106,600	-\$12,320,000	-\$12,320,000	-\$20,533,400

3. Maintain current law. Provide \$7,570,000 GPR and delete \$7,570,000 PR annually for aid to MPS.

<u>Alternative 3</u>	<u>GPR</u>	<u>FED</u>	<u>PR</u>	<u>TOTAL</u>
1999-01 FUNDING (Change to Bill)	\$15,140,000	-\$15,140,000	-\$15,140,000	-\$15,140,000

Prepared by: Ruth Hardy

(Gov) Agency: TANF - Brownfields Grant Program
Grants for Jobs for Low Income Individuals

Recommendations:

Paper No. 1112: Burke Motion

Comments: The FB memo says the Legislative Audit Bureau is the entity under federal law that determines what expenditures are allowable uses of TANF funds. The Audit Bureau says it is not appropriate to use TANF funds for the brownfields grant program. So, you have to maintain current law with respect to the grant program.

Burke Motion: \$1 million TANF funds a year to help train W-2 workers to do environmental remediation and redevelopment work. Worked with Michael Murphy, consultant, and YWCA in Milwaukee to draft this motion. Also modeled it after the successful USEPA job-training program.

prepared by: Barry



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June 1, 1999

Joint Committee on Finance

Paper #1112

TANF

Brownfields Grant Program -- Grants for Jobs for Low Income Individuals (Commerce -- Departmentwide and Economic Development)

[LFB 1999-01 Budget Summary: Page 129, #2]

CURRENT LAW

The Brownfields Grant program was created in the 1997-99 biennial budget to provide financial assistance to persons (individuals, partnerships, corporations or limited liability companies), municipalities and local development corporations that conduct brownfields redevelopment and related environmental remediation projects. Annual funding of \$5 million is provided for brownfields grants. In 1997-98, grant funds consisted of \$2.3 million GPR and \$2.7 million from the segregated (SEG) environmental fund. Beginning in 1998-99, base funding of \$5 million SEG from the environmental fund is provided.

GOVERNOR

Expand the brownfields grant program to add a new component for financial assistance to persons, municipalities or local development corporations for brownfields redevelopment and associated environmental remediation projects which provide jobs primarily to individuals who are eligible to benefit from federal Temporary Assistance to Needy Families (TANF) funding. A total of \$5,000,000 PR in federal TANF funds would be provided annually through a new, program revenue continuing appropriation.

DISCUSSION POINTS

1. The Brownfields Grant program was created in the 1997-99 biennial budget to provide financial assistance to persons (individuals, partnerships, corporations, or limited liability

companies), municipalities and local development corporations that conduct brownfields redevelopment and related environmental remediation projects. Brownfields are abandoned, idle or underused industrial or commercial facilities or sites, the expansion or redevelopment of which is adversely affected by actual or perceived environmental contamination. Brownfields redevelopment includes any work or undertaking to: (a) acquire a brownfields facility; and (b) raze, demolish, remove, reconstruct, renovate or rehabilitate the facility or existing buildings, structures or other improvements at the site. The redevelopment project must be for promoting the facility or site for commercial, industrial or similar economic development purposes.

Grant recipients are required to provide cash or in-kind matches equal to a certain percent of project costs as follows: (a) 20% for grants of \$300,000 or less; (b) 35% for grants between \$300,000 and \$700,000; and (c) 50% for grants between \$700,000 and \$1,250,000.

Base level funding of \$5,000,000 SEG annually from the environmental fund is appropriated for brownfields grants. For fiscal years 1997-98 and 1998-99, total funding is required to be allocated as follows: (1) \$750,000 in grants that do not exceed \$300,000; (2) \$1,750,000 in grants that are greater than \$300,000 but do not exceed \$700,000; and (3) \$2,500,000 in grants that are greater than \$700,000 but do not exceed \$1,250,000. The maximum grant amount is \$1,250,000. In 1997-99, 26 brownfields grants were awarded. Appendix I provides summary information about the grants.

2. Under the component of the brownfields program that would be created under the bill, Commerce could award a grant to a person, municipality or local development corporation if:

a. The recipient uses the grant proceeds for brownfields redevelopment and related environmental remediation projects;

b. The party that caused the environmental contamination and any person who possessed or controlled the environmental contaminant before it was released is unknown, cannot be located or are financially unable to pay the cost of brownfields redevelopment or associated environmental remediation activities;

c. The recipient contributes the required match to the cost of the project; and

d. The recipient will use the grant proceeds to create or retain jobs, of which at least 80% will be filled by individuals who are parents of minor children and whose family income does not exceed 200% of the poverty line. [Items (a) through (c) are current law requirements.]

In awarding the grants, the Department would be required to consider the following criteria: (a) the potential of the project to promote economic development in the area; (b) the number of jobs likely to be created or retained; (c) whether the project will have a positive effect on the environment; (d) the amount and quality of the recipient's contribution to the project; and (e) the innovativeness of the recipient's proposal for remediation and redevelopment. If possible, the Department would weight the criteria by applying a 50% weight to the first two criteria, a

25% weight to the third criterion, a 15% weight to the fourth criterion and a 10% weight to the fifth criterion.

A total of \$5,000,000 PR in federal TANF funds would be provided annually through a new, program revenue continuing appropriation. Current funding limits for the brownfields grant program would be modified to reflect the additional funds. Consequently, total brownfields grant program funds would be required to be annually allocated as follows: (a) \$3,000,000 in grants that do not exceed \$300,000; (b) \$3,000,000 in grants that are greater than \$300,000 but do not exceed \$700,000; and (c) \$4,000,000 in grants that are greater than \$700,000 but do not exceed \$1,250,000. The maximum grant would remain \$1,250,000. In addition, the current provision that annually seven grants be made to municipalities with populations of less than 30,000 would be expanded to require 14 grants to municipalities with populations of less than 50,000.

3. The proposed expansion of the brownfields program would provide grants to eligible recipients if the recipients would use the grant proceeds to create or retain jobs for parents of minor children whose family income did not exceed 200% of the federal poverty level. The administration indicates that the jobs would have to be created or retained by a business that located on a brownfields site after the redevelopment or remediation project. The grants would not be provided for hiring temporary employees to work on the redevelopment or remediation project. The Legislative Reference Bureau indicates the statutory language in the bill is sufficient to be interpreted in this manner.

4. Under the current Brownfields grant program, each successful applicant enters into a contract with Commerce. Each contract requires the grant recipient to guarantee that the brownfields redevelopment or environmental remediation project will cause to create or retain a certain number of full-time jobs. These jobs are with the business or businesses that locate on the brownfields site after the project is completed. The recipient must indicate the total wages that will be paid to new employees and also guarantee that the jobs created or retained will be kept and maintained for at least two years. The Department may void a contract and seek return of any funds released under the contract for failure of the grant recipient to perform its obligations under the contract. The Department indicates that the contracting process would be the same under the new program.

5. The new grant program is intended to stimulate employment of individuals from TANF-eligible families. In cases where the business that would locate on the site was also conducting the brownfields redevelopment or remediation project, it would act as a direct incentive by lowering the relative cost of hiring low-income individuals. In theory, the grant should induce firms to use these individuals because it would reduce the marginal cost of hiring such workers and cause businesses to substitute these workers for other workers or inputs. In cases where another entity was conducting the project, it could act as an indirect incentive by reducing the cost of the brownfields project relative to projects that were not directly tied to job creation.

6. Most business investments are evaluated on their likely future return compared to other investment opportunities. The brownfields grant program is designed to provide an incentive

for environmental remediation projects and brownfield redevelopment projects on sites where tax incentives and loans would not be sufficient to offset the lower return on investment associated with the remediation and redevelopment project. In some cases, the cost of remediation and redevelopment will exceed the increase in value that would result from the remediation and redevelopment projects. In these instances, the grant can be used to offset the difference between project cost and final value. In addition, the grants could be used to provide financial assistance for projects on severely contaminated sites, that might not otherwise be undertaken. In the absence of any brownfield redevelopment, many contaminated areas will remain in their present state, with minimal potential for any cleanup of the existing contaminants.

7. Environmental contamination has caused urban redevelopers to avoid urban land that could potentially have soil contamination problems. This has often led to "green field" development on the outer borders of urban areas. Development of outlying areas extends the urban infrastructure, can lead to sprawl and eliminates valuable agricultural land. Again, the brownfields grant program would provide funds to offset the lower expected return on investment from urban brownfield projects. As a result, it would provide an incentive for developers to purchase urban sites for redevelopment projects.

8. There are a number of state programs which provide financial assistance to fund the costs of the remediation or cleanup of environmental contamination including:

Land Recycling Loan Program. Provides loans for financial assistance to municipalities for projects to remedy environmental contamination of sites or facilities at which environmental contamination has affected or threatens to affect groundwater or surface water. A total of \$20 million from loan repayments to the clean water fund is available.

Environmental Remediation Tax Incremental Financing. Authorizes cities, villages, towns and counties to use an environmental remediation tax increment district on property they own to be reimbursed for environmental investigation and remediation costs. The local government transfers the property to another person after it is remediated.

Development Zone Tax Credits. A tax credit is provided for amounts spent on environmental remediation and the number of full time jobs created or retained by businesses that expand or locate in a development or enterprise development zone. A credit against income taxes due can be claimed for 50% of the amount expended for environmental remediation in a development, or enterprise development zone. "Environmental remediation" is defined as removal or containment of environmental pollution, and restoration of soil or groundwater that is affected by environmental pollution in a brownfield if removal, containment or restoration began after the area that contains the site where the work was done was designated a development or enterprise development zone. Investigation costs are eligible unless the investigation determines that remediation is required and remediation is not undertaken.

Environmental Fund. The environmental fund is administered by DNR and is used for program activities related to groundwater management, environmental response and repair, and

nonpoint source water pollution abatement programs. The appropriations fund administrative, enforcement, preventative and cleanup activities.

Petroleum Environmental Cleanup Fund Award (PECFA) Program. The program reimburses owners for a portion of the cleanup costs of discharges from petroleum product storage systems and home heating oil systems. The amount of reimbursement varies from a minimum 75% to over 99% of eligible cleanup costs.

Agricultural Chemical Cleanup Program. The Department of Agriculture and Consumer Protection (DATCP) oversees the investigation and remediation of agricultural chemical spills. A grant program funds certain cleanup costs.

In addition to these existing programs, AB 133 would create a brownfields component of certain stewardship land acquisition grants and a local government site assessment grant program which would provide financial assistance for brownfields redevelopment and remediation projects. An argument against expanding the current brownfields grant program is that current and proposed state programs provide funding for brownfields remediation and redevelopment.

9. Under federal law, the Legislative Audit Bureau is responsible for initial determinations of whether specific expenditures are allowable uses of TANF funds. Since the bill was introduced, the Audit Bureau has determined that it would not be allowable under federal law to use TANF funds for grants under the AB 133 brownfields grants. The lump-sum nature of the grants is problematic because the grants are not directly tied to the actual costs of employing TANF-eligible individuals. The Audit Bureau notes that, under the proposal, a business that received the grant would not be required to create or retain a predetermined number of jobs. Therefore, an award could greatly exceed necessary and reasonable costs of creating or retaining the jobs. The Audit Bureau also indicates that TANF funds could be used to create or retain jobs only if the state required that the grants be for the actual, necessary and reasonable costs of creating or retaining jobs for TANF-eligible individuals. These costs could include payments for wages, fringe benefits, supervision and training.

10. At the May 26 meeting, the Joint Committee on Finance voted to make the following modifications related to the Brownfields Grant program:

a. Repeal the June 30, 2001 sunset on the \$5 per vehicle environmental impact fee. In addition, increase the fee from \$5 to \$6 on the first day of the second month after the effective date of the bill. This would generate additional revenues of approximately \$800,000 in 1999-00 and \$1,400,000 in 2000-01, which would be deposited in the environmental management account of the environmental fund. (When the Brownfields Grant program was created this fee was set at an amount equal to the funding transfer to the program.)

b. Provide an additional \$800,000 SEG in 1999-00 and \$1,400,000 SEG in 2000-01 for the existing Brownfields Grant program. (Revenue would be provided from the \$1 per vehicle increase in the vehicle environmental impact fee.)

c. Require Commerce to award one-half the annual brownfields grant funding for projects, such as recreational or housing development, that are scored without considering the number of jobs created by the project.

d. Authorize Commerce to award grant funding for projects that address area-wide groundwater contamination.

e. Require grant applicants to document that they were unable to secure funding that was sufficient to support the project from another source.

f. Specify that grant recipients could be awarded other state grants or loans if they were eligible.

11. As noted, the per vehicle environmental impact fee generates revenues for the environmental fund which are sufficient to fund the Brownfields Grant program. The \$1 fee increase approved by the Committee was used to increase total Brownfields Grant funding to \$5,800,000 SEG in 1999-00 and \$6,400,000 SEG in 2000-01 (a \$2.2 million biennial increase over current law). If the Committee wished to replace the TANF funding it could increase the per vehicle fee to generate additional revenues for the program. Each increase of \$1 in the fee would generate an additional \$800,000 in 1999-00 and \$1,400,000 in 2000-01. As an alternative, if the Committee wishes to further increase brownfields grant funding, GPR could be provided.

ALTERNATIVES TO BASE

1. Delete the TANF funding and increase the per vehicle environmental impact fee by \$1 and transfer the revenue to the Brownfields Grant program.

<u>Alternative 1</u>	<u>PR</u>	<u>SEG</u>	<u>FED</u>	<u>TOTAL</u>
1999-01 REVENUE (Change to Base)		\$2,200,000		
1999-01 FUNDING (Change to Base)	-\$10,000,000	\$2,200,000	-\$10,000,000	-\$17,800,000

2. Delete the TANF funding and increase the per vehicle environmental impact fee by \$2 and transfer this revenue to the Brownfields Grant program.

<u>Alternative 2</u>	<u>PR</u>	<u>SEG</u>	<u>FED</u>	<u>TOTAL</u>
1999-01 REVENUE (Change to Base)		\$4,400,000		
1999-01 FUNDING (Change to Base)	-\$10,000,000	\$4,400,000	-\$10,000,000	-\$15,600,000

3. Delete the TANF funding and increase the per vehicle environmental impact fee \$3

and transfer this revenue to the Brownfields Grant program.

<u>Alternative 3</u>	<u>PR</u>	<u>SEG</u>	<u>FED</u>	<u>TOTAL</u>
1999-01 REVENUE (Change to Base)		\$6,600,000		
1999-01 FUNDING (Change to Base)	-\$10,000,000	\$6,600,000	-\$10,000,000	-\$13,400,000

4. Delete the TANF funding and provide \$1,000,000 GPR annually to the Brownfields Grant Program.

<u>Alternative 4</u>	<u>GPR</u>	<u>PR</u>	<u>FED</u>	<u>TOTAL</u>
1999-01 FUNDING (Change to Base)	\$2,000,000	-\$10,000,000	-\$10,000,000	-\$18,000,000

5. Delete the TANF funding and provide \$4,200,000 GPR in 1999-00 and \$3,600,000 GPR in 2000-01 to the Brownfields Grant Program (this would provide total grant funding of \$10 million annually).

<u>Alternative 5</u>	<u>GPR</u>	<u>PR</u>	<u>FED</u>	<u>TOTAL</u>
1999-01 FUNDING (Change to Base)	\$7,800,000	-\$10,000,000	-\$10,000,000	-\$12,200,000

6. Maintain current law.

<u>Alternative 6</u>	<u>PR</u>	<u>FED</u>	<u>TOTAL</u>
1999-01 FUNDING (Change to Base)	-\$10,000,000	-\$10,000,000	-\$20,000,000

Prepared by: Ron Shanovich
Attachment

ATTACHMENT

Brownfields Grant Awards

1997-99 Biennium

1997-98

Municipality	Recipient	Project Description	Amount
Glendale*	City	Grant to clean up soil and groundwater contamination to develop properties in West Silver Spring Drive Redevelopment Corridor	\$850,000
Kenosha	City	Grant to fund integrated site barrier from contamination in Kenosha Harbor Park Development Project	850,000
Green Bay	City	Grant to cleanup coal residue to redevelop properties along the Fox River	800,000
Wauwatosa	Wauwatosa Economic Development Corporation, City of Wauwatosa and Outpost Natural Foods	Grant for development of an Outpost Natural Foods Store on a vacant brownfield in downtown Wauwatosa	300,000
Milwaukee	Marshall Erecting, Inc.	Grant for remediating soil and ground water to redevelop Solar Paint and Varnish brownfield into manufacturing facility, warehouse and office	400,000
Milwaukee	Thirtieth Street Industrial Corridor Corporation	Grant to eradicate soil and groundwater contamination to allow operation and expansion of the Metals Processing Company	400,000
West Allis	City	Grant to fund the cleanup of soil and groundwater contaminated by chlorinated solvents to develop a medical clinic and office	200,000
West Milwaukee*	Village	Grant to fund removal of PCBs, pesticides and other hazardous substances from former Mobile Blasting facility to develop a manufacturing facility	390,000
West Milwaukee*	Kubenik Mechanical Company	Grant to further redevelopment of former Inrycol/Babcock Wilcox property into a light manufacturing complex	260,000
Superior*	City of Superior and Redevelopment Authority of Superior	Grant to clean up metals contaminated soil to redevelop a downtown brownfields for a manufacturing firm expansion	100,000
Columbus*	Columbia County	Grant to eliminate environmental contamination, primarily PCBs in the soil and groundwater, and some abandoned containers and to renovate a deteriorating building to develop a brownfield in Columbus for an expansion	167,000
Medford*	Taylor County	Grant for cleanup of arsenic from soil and groundwater and for renovation of a deteriorating building to redevelop site for a business expansion	150,000
Ladysmith*	City	Grant to clean up arsenic and cadmium in soil and groundwater and renovate a building to redevelop site for trucking firm	100,000
Town of Flambeau*	Rusk County	Grant to fund repairs at former Balko Trailers facility and to leverage federal grant to redevelop site for industrial use	33,000
		1997-98 Total	\$5,000,000

*Indicates project community with a population under 30,000.

ATTACHMENT (continued)

1998-99

Municipality	Recipient	Project Description	Amount
West Allis	West Allis Community Development Authority	Grant for soil and groundwater remediation and demolition of existing structures to redevelop site for two businesses	\$350,000
Milwaukee	Milwaukee Forge	Grant to assist in remediation and renovation of former Zecol Line property for expansion project	450,000
Milwaukee	Sigma Environmental Services, Inc.	Grant to clean up soil and groundwater contamination at Menomonee River Valley site to develop an office and a fabrication plant	155,000
Glendale*	City	Grant to restore site in Glendale Technology Center for construction of facility.	240,000
Hartford*	Helgesen Leasing, LLC	Grant to assist in acquisition and renovation of former Mercury marine Manufacturing facility	750,000
Brookfield*	Brookfield Properties LLC	Grant to clean up soil and groundwater contamination to renovate former Cartec Industries property to develop a warehousing facility	400,000
La Crosse	City	Grant to purchase a portion of Riverfront Redevelopment Project area for development of Century Telephone Enterprises, Inc., regional headquarters facility	1,000,000
Viroqua*	City of Viroqua Redevelopment Authority	Grant for investigation, remediation of petroleum contamination and redevelopment activities such as removal of concrete, pilings and remaining structures on former Viroqua Whey plant property	65,000
Town of Hustler*	Hotel Hustler, Inc.	Grant to redevelop the former Hustler Hotel	50,000
Beaver Dam*	Dodge County	Grant for remediation activities and renovation of former Metal Fab property to develop site for fabrication company	550,000
Elkhorn*	City	Grant to renovate Getzen Muscal Instrument facility to prepare site for industrial tenants	240,000
Madison	Home Depot	Grant for remediation and redevelopment of Nakoma Plaza site and former Fiore Coal and Oil Company property to develop site for home improvement facility and other retail and commercial stores	750,000
1998-99 Total			\$5,000,000
BIENNIAL TOTAL			\$10,000,000

*Indicates project community with a population under 30,000.

Gov Agency: APPS Board - Adolescent Pregnancy Prevention Grant Funding

Recommendations:

Paper No. 1113 **Alternative:** 2

Comments:

Under this alternative, all of the GPR funding would not be supplanted by TANF dollars as a way of minimizing the disruption to current programs and maintaining flexibility for projects funded by the Board.



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June 1, 1999

Joint Committee on Finance

Paper #1113

TANF

Adolescent Pregnancy Prevention Grant Funding (APPPS Board)

[LFB 1999-01 Budget Summary: Page 92, #2]

CURRENT LAW

The Adolescent Pregnancy Prevention and Pregnancy Services (APPPS) Board is a 13-member Board that operates as an independent state agency, although it is attached to the Department of Health and Family Services for administrative purposes. The Chairperson of the Board, who serves as a nonvoting member, is the Executive Director of the Women's Council. Six nonvoting members of the Board are state employees who are appointed for membership by the Women's Council. The remaining six members are appointed by the Governor for three-year terms, based on nominations by statewide organizations that together represent an equal balance of points of view on pregnancy prevention and pregnancy services.

The Board distributes grants for adolescent pregnancy prevention programs and pregnancy services projects that include health care, education, counseling and vocational training services. Each project must serve high-risk adolescents between the ages of ten and 18 years old. Grant recipients are required to provide a 20% match to funds received. The Board currently funds nine projects throughout the state, which are funded on a staggered, three-year basis. The Board is currently in the process of selecting recipients for grant awards to be distributed beginning July 1, 1999.

Base funding for the Board includes grants to organizations (\$439,300 GPR annually) and state operations (\$108,900 GPR annually).

GOVERNOR

Provide \$439,300 PR annually and delete \$439,300 GPR annually to fund grants awarded by the Board with federal temporary assistance to needy families (TANF) block grant funds transferred from the Department of Workforce Development (DWD), rather than GPR as provided under current law. Repeal the current GPR appropriation for grants and create a PR appropriation for interagency and intra-agency aids that would authorize the Board to expend up to \$439,300 PR annually for grants. Delete references to grant amounts for fiscal years 1997-98 and 1998-99. Under the Governor's recommendations total funding for the Board would include \$439,300 PR annually for grants and \$108,900 GPR annually for state operations.

DISCUSSION POINTS

1. Three of the Board's current nine projects are in the middle of the three-year grant cycle. Six of the Board's current projects will expire at the end of this fiscal year. The Board is currently in the process of selecting programs that would receive a grant beginning July 1, 1999. Funding for these grants is available from funding that is currently provided to the six projects that expire at the end of this fiscal year.

2. Using TANF funding for the APPPS Board would meet the purpose of the TANF program to prevent and reduce the incidence of out-of-wedlock pregnancies. Under final federal regulations related to the TANF program, it is clarified services that are designed to meet this purpose do not have to be associated with a "needy" family. Therefore, families receiving such services would not have to meet particular income eligibility criteria.

3. However, certain requirements must be met when using TANF funds, and current projects funded by the APPPS Board would have to comply with these requirements. Consequently, restrictions may be imposed upon current projects that may affect the kinds of services they provide. These provisions are as follows:

- TANF funds cannot be used for medical services, except for pre-pregnancy family planning services. Current statutory provisions authorize the Board's projects to provide health services. The Governor's recommendations do not modify this provision. In some cases, current projects fund services provided by adolescent health clinics or specific health services, such as prescription medications or copayments for certain medical services in order to help stabilize the recipient's health. Many of these services would not be considered pre-pregnancy family planning. Therefore, TANF funding could not be used for these services.

- TANF funds cannot be used to fund services for certain legal immigrants. Currently, the Board's projects do not track the immigrant status of program participants. If TANF funds are used, grant recipients would have to verify the immigrant status of all program participants. Conceivably, a project would have to turn away a program participant if that person were a legal immigrant not considered eligible for TANF-funded services.

• Currently, some grantees provide stipends to program participants or volunteers which could be considered an ongoing cash benefit under federal TANF regulations. Recipients of TANF-funded services that include an ongoing cash benefit would be subject to work requirements and time limits on the receipt of benefits, and would have to assign child support rights to the state. These provisions would also involve more detailed data reporting in order to comply with federal regulations.

4. While projects are expected to provide a 20% match, this match could be provided with cash or in-kind contributions. As a result, it is not clear how much of the match would be available to fund services provided by the projects that would not be TANF-eligible.

5. The Board's staff indicate that potential applicants for projects may be discouraged from applying for grants if the TANF restrictions are seen as too burdensome. Staff indicate that the value of many of their projects is the result of the small organizations that develop innovative projects to reduce adolescent pregnancy among high-risk youth. Any restrictions placed on the use of funds reduce the ability of the organizations to develop innovative projects.

6. The Committee could choose not to supplant all of the GPR funding budgeted for grants as a way of minimizing the disruption to current programs and maintaining flexibility for projects funded by the Board. Instead, the Committee could fund 80% of the Board's grants (\$351,400 PR annually) with TANF and maintain GPR funding for 20% of the Board's grants (\$87,900 GPR annually). This approach would ensure that the Board's projects would have sufficient flexibility to continue to fund innovative projects to reduce adolescent pregnancies among high-risk youth. To offset the GPR increase to the Governor's bill as a result of this alternative, the Committee could provide TANF funds to support 80% of the administrative costs of the Board (\$89,800 PR annually) and reduce GPR funding by a corresponding amount. As a result, the Committee would reduce total GPR budgeted for the Board by \$1,900 annually and increase total TANF funds budgeted in the Board by a corresponding amount from the amounts recommended by the Governor.

The Board is currently authorized 1.5 GPR positions. Under this alternative, the Committee would convert 1.2 GPR positions to 1.2 PR positions, beginning in 1999-00, to reflect that 80% of the Board's operations budget would be PR (TANF) funded.

7. Alternatively, the Committee could maintain maximum flexibility for the Board's projects by maintaining current law.

ALTERNATIVES

1. Adopt the Governor's recommendations to supplant GPR funds budgeted for grants with federal TANF funds transferred from DWD.

2. Modify the Governor's recommendations by reducing GPR funding budgeted for the Board by \$1,900 annually and provide an additional \$1,900 PR annually so that 80% of the Board's

projects and state operations would be funded with TANF funds transferred from DWD. Modify the federal TANF appropriation in DWD by a corresponding amount. Retain the current GPR appropriation for grants and create an interagency and intra-agency PR appropriation for the Board's operations. Convert 1.2 GPR positions to PR positions, beginning in 1999-00.

Alternative 2	GPR	FED	PR	TOTAL
1999-01 FUNDING (Change to Bill)	- \$3,800	\$3,800	\$3,800	\$3,800
2000-01 POSITIONS (Change to Bill)	- 1.20	0.00	1.20	0.00

3. Delete the Governor's recommendation, except the provision which would delete references to grant amounts for 1997-98 and 1998-99.

Alternative 3	GPR	FED	PR	TOTAL
1999-01 FUNDING (Change to Bill)	\$878,600	- \$878,600	- \$878,600	- \$878,600

Prepared by: Rachel Carabell

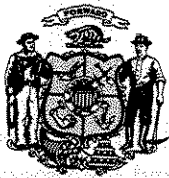
Gov Agency: Military Affairs—Badger Challenge Program

Recommendations:

Paper No. 1114 Alternative 4

Comments: The governor wants to fund the Badger Challenge program with TANF funds. Military Affairs and Sen. Moen think this is a very bad idea. Alt. 4 maintains current law and funds the program with GPR. See points 4 and 5 for support.

Prepared by: Julie



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June 1, 1999

Joint Committee on Finance

Paper #1114

TANF

Badger Challenge Program (Military Affairs)

[LFB 1999-01 Budget Summary: Page 399, #6]

CURRENT LAW

Under current law, the Badger Challenge program, located at Fort McCoy, is a two-phase program for "at risk" 14-16 year-olds. Eligibility is open to any youth that is at risk of dropping out of school regardless of income. Phase I consists of a six week residential stay where cadets participate in activities to improve anger management, teamwork, leadership, following and personal growth. Phase II consists of post-residential mentoring with community volunteers. In 1998-99, \$330,000 GPR was provided for the program.

GOVERNOR

Shift funds for the Badger Challenge program from GPR to PR funding. Base level funding of a total of \$332,700 GPR annually would be deleted and a total of \$332,700 PR annually would instead be provided. Repeal the GPR appropriation for the program and create a new program revenue appropriation with the source funding being monies from the federal TANF program. Further, restrict eligibility for the Badger Challenge program to disadvantaged youth that are members of families who would be eligible to receive TANF funding. Federal law and proposed regulations describe who may be eligible for TANF funded benefits and services, and under what conditions. In general, in Wisconsin, TANF funds may be spent on families whose income is below 200% of the federal poverty level. In addition, TANF-eligible families generally must include a minor child or pregnant individual.

DISCUSSION POINTS

1. The Badger Challenge program started in fiscal year 1994-95 and there have been a total of six summer sessions held to date. In total, 301 individuals have completed the program. The goal of the program is to provide positive growth for these youths through personal experience, self-discipline, leadership and responsibility. The six-week program consists of work projects, classroom instruction, field trips and other activities. Topic areas covered in the classes include self-awareness, health, survival, personal improvement, government and career planning.

2. The Governor's recommendation would add certain eligibility requirements and shift the funding source for the program. Under the bill, the participants would have to come from families who would be eligible for TANF funding. TANF-eligible families must generally include a minor child or pregnant individual. Federal law allows the state to determine the income level at which a family is eligible for TANF. This income level may differ for various programs. The administration has indicated that it would specify that, for the Badger Challenge program, a family's income must be less than 200% of the federal poverty level [currently \$33,400 for a family of four]. Currently, there are no income restrictions for eligibility for the Badger Challenge program. The Governor's recommendation would provide \$332,700 PR annually from TANF funding instead of GPR funding. According to the DOA Budget Office, the rationale for shifting the funding source to TANF funding was the belief that the majority of applicants for the Badger Challenge program would qualify for the program. Using TANF funds for eligible families participating in the Badger Challenge program would be allowable under federal law and regulations.

3. DMA does not currently collect the information necessary to allow a determination of how many of the past participants in for the program would have met TANF eligibility requirements. As a proxy for that number, DMA examined the health care coverage of the youth that have participated in the past three Badger Challenge sessions to gain an indication of how many would have potentially been TANF-eligible recruits. With the assistance of DWD, DMA found that between 13% and 17% of youths that participated in the program in the last three sessions were on medical assistance or had no medical insurance. DMA then used this number as a proxy for the percent of participants who would have been TANF eligible from an income basis. While this exercise provides some insight, it is to be noted that there can be reasons other than simply family income for why these families did not have their own health insurance.

4. DMA has raised concerns regarding the Governor's recommendation. First, if the changes were adopted, DMA does not believe many of the individuals in the recruited class for this summer would meet the TANF requirements, although it has not actually investigated the income status of this class of recruits. DMA has indicated that if the Governor's proposal becomes law they would proceed with a much smaller class, 10-20 participants rather than the original estimate of 70 participants. Second, DMA is concerned that uncertainty about the eligibility of cadets for TANF funding may disrupt program staffing and planning if not enough TANF-eligible participants are recruited. Lastly, DMA is concerned that there are significant additional administrative and reporting requirements associated with the use of TANF funding. Given these DMA concerns, the Committee could restore GPR funding for the program as under current law. The Committee could increase GPR funding by a total of \$665,400 GPR and delete TANF funding of an equivalent

amount.

5. The Senate Committee on Health, Utilities and Veterans and Military Affairs voted 6 to 1 to recommend that the Governor's recommendation be deleted and that full GPR funding for the program be restored. The Assembly Committee on Veterans and Military Affairs also voted to recommend funding the program entirely from GPR.

6. One alternative the Committee could consider would be to provide a more gradual phase-in of the Governor's proposed shift of the program to TANF funding. The Committee could provide 90% GPR and 10% TANF in 1999-00 to allow DMA to proceed with the current class of recruits assuming that at least 10% of the class would be from TANF-eligible families. The Committee could then provide 75% GPR and 25% TANF in 2000-01 which would require DMA to have at least 25% of the recruit class for the following summer session be TANF-eligible. Under this alternative, the Committee could increase GPR funding by \$299,400 in 1999-00 and \$249,500 in 2000-01 and decrease TANF funding by \$299,400 in 1999-00 and \$249,500 in 2000-01.

7. A second alternative the Committee could consider would be to adopt a more aggressive phase-in of TANF funding and provide 75% GPR funding and 25% TANF funding for the program in 1999-00 to require DMA to have at least 25% of its recruit class for the upcoming summer session be from TANF-eligible families. Further, the Committee could then provide 50% GPR funding and 50% TANF funding in 2000-01 which would require DMA to have at least 50% of its recruit class for the following summer session be from TANF-eligible families. Under this alternative, the Committee could increase GPR funding by \$249,500 in 1999-00 and by \$166,300 in 2000-01 and decrease TANF funding by \$249,500 in 1999-00 and by \$166,300 in 2000-01.

ALTERNATIVES

1. Approve the Governor's recommendation to fund the Badger Challenge program entirely from TANF funds.

2. Increase GPR funding by \$299,400 in 1999-00 and by \$249,500 in 2000-01 and decrease TANF funding by \$299,400 in 1999-00 and by \$249,500 in 2000-01 to reflect providing TANF funding for 10% of the recruit class in 1999-00 and for 25% of the recruit class in 2000-01. Also, modify the Governor's proposed statutory language to direct DMA to recruit a certain percentage of TANF-eligible recruits based on the annual funding level provided from TANF instead of requiring all recruits to be from TANF-eligible families.

<u>Alternative 2</u>	<u>GPR</u>	<u>PR</u>	<u>TOTAL</u>
1999-01 FUNDING (Change to Bill)	\$548,900	- \$548,900	\$0

3. Increase GPR funding by \$249,500 in 1999-00 and by \$166,300 in 2000-01 and decrease TANF funding by \$249,500 in 1999-00 and \$166,300 in 2000-01 to reflect providing TANF funding for 25% of the recruit class in 1999-00 and for 50% of the recruit class in 2000-01.

Also, modify the Governor's proposed statutory language to direct DMA to recruit a certain percentage of TANF-eligible recruits based on the annual funding level provided from TANF instead of requiring all recruits to be from TANF-eligible families.

<u>Alternative 3</u>	<u>GPR</u>	<u>PR</u>	<u>TOTAL</u>
1999-01 FUNDING (Change to Bill)	\$415,800	- \$415,800	\$0

4. **Maintain current law.**

<u>Alternative 4</u>	<u>GPR</u>	<u>PR</u>	<u>TOTAL</u>
1999-01 FUNDING (Change to Bill)	\$665,400	- \$665,400	\$0

Prepared by: David Worzala

Gov Agency: DHFS(Public Health) Immunization Administration and Outreach Funding

Recommendations:

Paper No. 1115 **Alternative:** 1

Comments:

Provides TANF dollars to support immunization education and outreach activities. Recent immunization action plan (IAP) reductions could adversely affect the public immunization system and may result in fewer children being immunized.

Prepared by: Deb



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June 1, 1999

Joint Committee on Finance

Paper #1115

TANF

Immunization Administration and Outreach Funding (DHFS -- Public Health)

CURRENT LAW

The Department of Health and Family Services (DHFS), Division of Public Health (DPH) carries out a statewide immunization program to eliminate mumps, measles, rubella (German measles), diphtheria, pertussis (whooping cough), poliomyelitis and other diseases that DHFS specifies by rule, and to protect against tetanus.

DHFS provides the vaccines without charge, if federal or state funds are available for the vaccines, upon request of a school district or local health department. Individuals may not be charged for vaccines furnished by DHFS.

GOVERNOR

No provision.

DISCUSSION POINTS

1. The state receives immunization action plan (IAP) funds and incentive funds that are allocated to local health departments (LHDs), federally qualified health centers and tribes to build immunization delivery systems. These funds may be used for outreach and to support staff who provide immunizations. Specifically these funds can support: (a) establishment of an immunization record system; (b) notification of parent and children identified as being behind schedule for immunization services (for example, assessing clinic hours and staffing patterns); (c) identification of transportation needs of clients; and (d) provision of assistance to clients experiencing difficulty in

obtaining up to date records of previous immunizations.

2. Prior to 1997 Wisconsin Act 27, the biennial budget act, GPR funding for the state immunization program was \$2,660,000 annually. Although GPR funds could have been used to supplement federal IAP funds, these funds were only used to support vaccine purchases. Currently, there is no GPR funding budgeted for the immunization program.

3. While nearly all school-age children in Wisconsin are immunized, the state and national goal is for children to complete their primary immunization series by two years of age because most childhood diseases that are prevented by vaccination are more dangerous to very young children. The Centers for Disease Control and Prevention (CDC) conducts an annual survey to measure the percentage of vaccinated children under age two in each state.

The following table provides a summary of the estimated immunization rate for children under age two from 1995 to 1998.

**Estimated Immunization Rates
1995 through 1998**

	<u>Calendar Year 1995</u>	<u>Calendar Year 1996</u>	<u>State Fiscal Year 1997-98*</u>
Statewide	77%	78%	77%
Milwaukee County	71	74	71
Rest of State	79	80	79

Source: CDC Annual Survey

*1997-98 information is not available on a calendar year basis.

As this table illustrates, the statewide immunization rate has been relatively constant over the last few years, while the Milwaukee County rate increased from 1995 to 1996, but decreased to the County's 1995 level in 1997-98.

4. The state immunization program awards IAP funds to LHDs, federally qualified health centers (FQHCs) and tribes on a calendar year basis. In the past, due to the timing and level of federal immunization awards, it was difficult for local agencies to expend their entire grant within the calendar year it was awarded. As a result, agencies would carry over funds between calendar years. Over time, a balance of "carryover" funds was built up. In 1996, agencies began to catch up and expend these carryover funds. In 1997, approximately \$1.1 million of the \$2.0 million awarded to local agencies represented carryover funds. As of calendar year 1998, all carryover funds were expended. As a result, 1998 IAP awards were approximately 50% of 1997 awards. DHFS requested an increase in federal IAP funds to offset the loss of carryover funding. However, the

CDC denied the request due to a lack of available federal funding. The following table summarizes IAP funding for local agencies for calendar years 1995 through 1999.

**IAP Funding Awarded to Local Agencies
1995 through 1999**

	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>
New IAP & Incentive Funding	\$733,600	\$570,000	\$899,500	\$1,054,300	\$913,900
Carryover Funds	1,036,300	\$3,451,400	1,125,000	0	0
MA Outreach Funds	<u>0</u>	<u>0</u>	<u>0</u>	<u>1,000,000</u>	<u>0</u>
Total	\$1,769,900	\$4,021,400	\$2,024,500	\$2,045,300	\$913,900

5. A significant number of children rely on the public immunization delivery system. Of the children who are immunized, approximately 30% are immunized at LHDs, FQHCs and tribal clinics. Children who are immunized at public clinics are likely to be: (a) uninsured; (b) covered by an insurance plan that does not cover childhood immunizations; or (c) covered by an insurance plan that has high deductibles or copayments relative to the family's income.

6. 1997 Wisconsin Act 237, the budget adjustment bill, provided \$1.0 million (\$100,000 GPR and \$900,000 FED) of enhanced medical assistance (MA) outreach funding in 1997-98 to address the IAP funding reduction. This funding was used by local agencies to identify MA eligible families and offer assistance in applying for health care to assure appropriate preventative care, including immunizations. Funding was distributed using the same formula DHFS uses to distribute IAP funding. These funds supported the following activities: (a) tracking of children who have not been immunized; (b) recalling children to come in and complete their vaccination series; (c) coalition building; and (d) public and private partnership activities.

7. The federal funds provided to the agencies were available on a one-time basis. P.L. 104-193, the 1996 federal welfare reform legislation, authorized \$500 million on a one-time basis to support MA administrative costs states would incur as a result of the separation of the MA program and economic assistance programs. Under P.L. 104-193, every state was allocated \$2.0 million and the remaining funding was allocated on a formula basis. The state matching rate for these activities is 25% for certain activities and 10% for other specified activities. Outreach activities are eligible for a 90% match. This funding is only available to the state until September 30, 1999.

8. Enhanced federal MA outreach funding was available to support local immunization infrastructure activities on a one-time basis. As a result, local agencies will receive approximately 55% less in 1999 than they received in 1998. Because there are so many factors that contribute to the state's immunization rate, it is difficult to identify the direct effect of these funding reductions. However, immunization rates in 1996, particularly in Milwaukee County, were higher than in 1995 and 1997. Local IAP funding was also significantly higher in 1996.

9. Unless local agencies are able to replace the IAP funds with local revenues or to

reallocate other public health dollars, it is expected that IAP funding reductions would adversely affect the public immunization system and may result in fewer children being immunized. In 1998, when faced with the IAP funding reductions, The City of Milwaukee Department of Health identified a number of consequences that would result from reduced IAP funding, including: (a) reduced immunization efforts at alternative settings, such as day care centers; (b) diminished translator services; and (c) decreased public and private partnership activities.

10. Under federal law, funding received by the state under the temporary assistance to needy families (TANF) block grant may be used to support medical outreach and education activities for low-income families who may be eligible for MA and BadgerCare. Under the Governor's budget bill, TANF funds are allocated for supplemental food program for women, infants and children (WIC) and WIC family planning outreach and education activities. Therefore, the Committee could provide \$1,000,000 TANF annually in 1999-00 and 2000-01 to increase funding for outreach activities for MA and BadgerCare eligible families, including activities related to immunizations. The Committee could direct DWD to transfer this funding to DHFS so that it could be distributed as part of the current IAP contract using the same distribution formula as current IAP funding.

ALTERNATIVES

1. Provide \$1 million annually in federal TANF funding to support immunization education and outreach activities. Specify that these funds would be transferred from the Department of Workforce Development (DWD) to DHFS to be distributed under the IAP contract using the existing IAP distribution formula.

<u>Alternative 1</u>	<u>FED</u>	<u>PR</u>	<u>TOTAL</u>
1999-01 FUNDING (Change to Bill)	\$2,000,000	\$2,000,000	\$4,000,000

2. Maintain current law.

Prepared by: Amie T. Goldman

Workforce Development

Other Economic Support Provisions

<u>Paper #</u>	<u>Title</u>
1116	Joint Committee on Finance Authority to Review Expenditures of Federal TANF and Child Care Block Grant Funds
1117	Public Assistance Overpayments and Collections
1118	Administration of the Food Stamp Program by W-2 Agencies
1119	Food Stamp Electronic Benefit Transfer

Gov Agency: DWD—Economic Support and Child Care—JFC Authority to Review Expenditures of Federal TANF and Child Care Block Grant Funds

Recommendations:

Paper No. 1116 Alternative 3(a)

4

Comments: The governor wants to waive JFC review for expenditures from block grants that have been budgeted for W-2 and related programs. LFB seems to think this is an okay idea (see point 4.) Just to be safe, you should go with Alt. 3(a) which requires JFC review for any block grants exceeding \$5 million. This would maintain some oversight for the larger grants. Otherwise, Alt. 5 (maintain current law) is also fine.

Prepared by: Julie



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June 1, 1999

Joint Committee on Finance

Paper #1116

Joint Committee on Finance Authority to Review Expenditures of Federal TANF and Child Care Block Grant Funds (DWD -- Economic Support and Child Care)

[LFB 1999-01 Budget Summary: Page 703, #56]

CURRENT LAW

W-2 Appropriations and Allocations

Under current law, funding from the federal temporary assistance to needy families (TANF) block grant and the federal child care development block grant (CCDBG) is deposited into two continuing appropriations in the Department of Workforce Development (DWD). Funding from these two appropriations, along with state GPR, other federal funds and program revenue from child support assigned to the state by public assistance recipients, is used to support the Wisconsin Works (W-2) program, child care subsidies, kinship care, the SSI caretaker supplement and related programs.

In general, the appropriations for the W-2 program, which appear in Chapter 20 of the statutes, do not indicate specific dollar amounts for the individual components of the program. Instead, s. 49.175 of the statutes directs DWD to allocate funding from these appropriations for the specific components of W-2. This provision also permits DWD, with the approval of the Secretary of Administration, to use up to 10% of any allocation for a purpose specified in any of the other statutory allocations in each fiscal year. DWD may transfer more than 10% if the Secretary of Administration approves the transfer and if the Joint Committee on Finance approves the transfer under a 14-day passive review process.

Joint Finance Approval of Certain Federal Block Grant Expenditures

A separate section of the statutes [s. 16.54(2)(a)2] provides that the Governor may not administer, and state agencies may not encumber or expend, federal block grant funds authorized

under any federal law enacted after August 31, 1995, without notifying the Joint Committee on Finance of the grant and the proposed expenditures. If the Co-chairs of the Committee do not notify the Governor within 14 working days after receiving the request that a meeting has been scheduled to review the proposal, the moneys may be expended as proposed by the Governor. If a meeting is scheduled, no moneys may be expended without the approval of the Committee. Because the federal welfare reform legislation that created the TANF and child care block grants was enacted after August 31, 1995, expenditure of these funds is currently subject to this review process.

GOVERNOR

Convert DWD's TANF and child care block grant appropriations from continuing to annual appropriations. In addition, specify that the review by the Joint Committee on Finance of federal block grant funds under s. 16.54(2)(a)2 would not apply to block grant funding that is allocated to specific components of W-2 and related programs under Chapter 49 of the statutes.

As under current law, the bill would maintain an allocation schedule in Chapter 49 that identifies the amounts to be expended from state and federal appropriations for specific components of the W-2 and child care programs, and would give the Department limited authority to transfer between the allocations (up to 10% with approval by the Secretary of DOA and more than 10% with approval by DOA and the Finance Committee).

DISCUSSION POINTS

1. The requirement for Joint Finance Committee review of federal block grant expenditures under s. 16.54(2)(a)2 was enacted in 1995 Wisconsin Act 132 and was primarily intended to require approval of expenditures of new federal block grants that have not been accounted for in the state budget. However, in practice, this provision has been interpreted to require Joint Finance review of TANF and CCDBG expenditures each Fall when the new federal fiscal year begins, even if DWD intends to expend the funds as budgeted.

2. It can be argued that additional legislative review of expenditures that have been authorized under the budget process is duplicative. The Governor's proposal would maintain the requirement for Finance Committee review of expenditures from new federal block grants, but would eliminate the requirement as it relates to block grants that have been budgeted for W-2 and related programs.

3. Under the current statutes, it is not clear whether DWD must receive approval from the Finance Committee under s. 16.54(2)(a)2 if the Department wishes to transfer less than 10% from one of the allocations in Chapter 49 to a different allocation. As noted, the Chapter 49 provision specifically allows such transfers without the Committee's approval. However, s. 16.54(2)(a)2 has been interpreted to require approval by the Committee. The Governor's recommendation would clarify that approval by the Committee would not be required unless the

amount to be transferred exceeds 10% of the allocation from which the transfer would be made.

4. The authority of DWD to transfer funds without the Committee's approval is intended to allow the Department to be responsive to changing needs for resources under the W-2 program. This provision was adopted in the 1997-99 biennial budget bill, prior to the start-up of W-2. It was believed that significant administrative flexibility would be needed during the initial years of the program. However, with W-2 entering its third year of implementation, there is now greater certainty regarding the amount of funding that will be needed for the various components of the program. Consequently, it could be argued that the amount of flexibility provided to the Department should be reduced or eliminated.

5. Some of the statutory allocations involve very large dollar amounts. For example, under the budget bill, the allocation for W-2 child care subsidies would be \$164.5 million in 1999-00 and \$171.2 million in 2000-01. Under the Governor's recommendation, DWD could transfer up to \$16.5 million in the first year and \$17.1 million in the second year from this allocation to one of the other W-2 allocations without review by the Finance Committee or any other legislative oversight.

6. If the Committee believes that this amount of administrative flexibility is excessive, the statutory threshold for Joint Finance review of transfers among the W-2 allocations could be reduced or eliminated. Another option would be to maintain the 10% limit up to a specific dollar amount, such as \$5 million.

7. The Governor's recommendation to convert the federal block grant appropriations from continuing to annual appropriations would provide greater legislative control over spending from these accounts. The current appropriation language allows the Department to expend "all moneys received" from these block grants for public assistance benefits and administration. Although the statutory allocations in Chapter 49 direct the Department to expend specific amounts for various components of the W-2 program, it is not clear whether DWD may expend excess TANF funding that has not been included in the allocations. The Governor's proposal would allow the Department to expend only the amounts specifically approved by the Legislature in the appropriation schedule, rather than all monies received.

ALTERNATIVES

1. Adopt the Governor's recommendation to: (a) convert DWD's TANF and child care block grant appropriations from continuing to annual appropriations; and (b) specify that the review by the Joint Committee on Finance of federal block grant funds under s. 16.54(2)(a)2 would not apply to block grant funding that is allocated to specific components of W-2 and related programs under Chapter 49 of the statutes.

2. Adopt the Governor's recommendation with a modification to reduce the percentage of W-2 allocations that DWD may transfer without review by the Joint Committee on Finance from 10% to:

- a. 5%
 - b. Some other percentage.
3. Adopt the Governor's recommendation with a modification to cap the amount that may be transferred from one of the statutory allocations for W-2 to another statutory allocation without approval by the Joint Committee on Finance at:
- a. \$5 million per allocation per year.
 - b. Some other amount.
4. Adopt the Governor's recommendation with a modification to eliminate the authority of DWD to use up to 10% of any allocation for a purpose specified in any of the other statutory allocations without approval by the Finance Committee. Under this option, any transfer among the statutory allocations would require approval by the Secretary of Administration and the Committee, under a 14-day passive review process.
5. Maintain current law.

Prepared by: Rob Reinhardt

MO# alt 4

1	BURKE	<input checked="" type="radio"/>	N	A
	DECKER	<input checked="" type="radio"/>	N	A
	JAUCH	<input checked="" type="radio"/>	N	A
	MOORE	<input checked="" type="radio"/>	N	A
	SHIBILSKI	<input checked="" type="radio"/>	N	A
	PLACHE	<input checked="" type="radio"/>	N	A
	COWLES	<input checked="" type="radio"/>	N	A
	PANZER	<input checked="" type="radio"/>	N	A
2	GARD	<input checked="" type="radio"/>	N	A
	PORTER	<input checked="" type="radio"/>	N	A
	KAUFERT	<input checked="" type="radio"/>	N	A
	ALBERS	<input checked="" type="radio"/>	N	A
	DUFF	<input checked="" type="radio"/>	N	A
	WARD	<input checked="" type="radio"/>	N	A
	HUBER	<input checked="" type="radio"/>	N	A
	RILEY	<input checked="" type="radio"/>	N	A

AYE _____ NO _____ ABS _____

Gov Agency: Department of Workforce Development – Economic Support and Child Care, Public Assistance Overpayments and Collections

Recommendations:

Paper No.: 1117 **Alternative:** 8a and 9

Comments: Alt. 8a deletes the 2 positions recommended by the Governor. The Division of Economic Support has 48 vacant positions. They can reallocate two of these positions.

Alt. 9 maintains current law with respect to the state collecting public assistance overpayments. This would allow the department to continue to recover these funds through the income tax intercept program.

If Alt. 9 fails, then adopt the following alternatives:

Alt. 2: Notification of Recipient. This modifies the Gov's proposal in the way in which an individual must be notified if collection of overpayment proceedings will begin.

Alt. 3a: Requires DWD to promulgate rules that outline when requests for reviews, hearings and appeals may be made. It specifies when in the process hearings or reviews must be made available to the individual.

Alt. 3c: Requires DWD to promulgate rules that specify the procedure to be used for reviews and hearing at all points in the collection process.

Alt. 4a: Specifies that all actions to enforce a lien must be suspended if payment arrangements have been made. This is the current practice, but it is not spelled out in the stats.

Alt. 4b: Requires DWD to promulgate rules that specify a minimum amount that must be due prior to initiating any administrative enforcement procedure.

Alt. 5: Does not allow DWD to recover overpayments of AFDC benefits from an individuals W2 check.

Alt. 6: Requires DWD to waive the right to recover overpayments made due to Department error. This only makes sense.

Motion: *I would suspect Gwen will have a motion here on the fair hearing process.*

Prepared by Cindy



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June 1, 1999

Joint Committee on Finance

Paper #1117

Public Assistance Overpayments and Collections (DWD -- Economic Support and Child Care)

[LFB 1999-01 Budget Summary: Page 706, #61]

CURRENT LAW

Under current law, the Department of Workforce Development (DWD) is required to recover all overpayments of the following: (a) benefits under the former aid to families with dependent children (AFDC) program; (b) subsidized employment benefits and custodial parent of infant grants under the Wisconsin Works (W-2) program; (c) child care benefits; and (d) transportation assistance. Counties and tribal governing organizations may retain 15% of recovered AFDC benefits if the recovery is due to the efforts of an employee of the county or tribal agency and is not the result of an error on the part of the county or tribe.

DWD is required to promulgate rules establishing policies and procedures to collect overpayments. Under the Department's administrative rules, the local W-2 agency is required to ask a former participant in a trial job, grant-paying community service job (CSJ) or transitional placement who received an overpayment to voluntarily repay the amount due. If the former participant refuses, the W-2 agency must refer the individual to the Department for collection or court action.

Current law requires DWD to collect overpayments of benefits paid to current CSJ and transitional placement participants by reducing the amount of the individual's monthly benefit payment. In general, the reduction may not exceed 10%. However, if a benefit overpayment is the result of an intentional program violation of W-2 employment positions, job access loans, child care or transportation assistance, DWD may deduct the following from the person's monthly W-2 benefits: (a) for overpayments of less than \$300, 10% of the amount of the monthly benefit payment; (b) for overpayments of at least \$300 but less than \$1,000, \$75; (c) for overpayments of at least \$1,000 but less than \$2,500, \$100; and (d) for overpayments of \$2,500 or more, \$200.

Current law also authorizes W-2 agencies to sue on behalf of the Department for recovery of any benefit payments made under the AFDC program, W-2 cash benefits, child care benefits, or transportation assistance if a recipient acquires property by gift, inheritance, sale of assets, court judgement or settlement of any damage claim, or by winning a lottery prize. In addition, the Department may conduct a tax intercept program to recover all overpayments of AFDC, child care subsidies, transportation, and cash benefits under the W-2 program. Under this provision, DWD may request the Department of Revenue to deduct any overpayment amount from a state tax refund check of a current or former recipient of such benefits.

GOVERNOR

Provide \$14,900 PR and \$14,800 FED in 1999-00 and \$19,800 PR and \$19,800 FED in 2000-01 and 2.0 positions (1.0 PR and 1.0 FED) in the Economic Support Collection Unit in the Division of Unemployment Insurance in order to increase collections of public assistance overpayments. The two positions would be converted from LTE staff to permanent positions. In addition, the Governor's proposal would modify the provisions relating to the collection of public assistance overpayments as described in the following sections.

Collecting Overpayments from Current Benefit Recipients. Under the bill, DWD would be required to collect overpayments of benefits paid under the former AFDC program from recipients of those benefits who are also recipients of W-2 subsidized employment benefits. The Department would be allowed to deduct the overpayment from the recipient's W-2 benefits.

Determination of an Overpayment and Notice to Recipient. The Governor's proposal would require the county, tribal governing body, W-2 agency or Department to determine whether an overpayment has been made under the former AFDC program, W-2 employment position benefits (including caretaker of an infant benefits), the child care program or transportation assistance, and the amount of the overpayment. Notification of the overpayment would have to be provided to the person to whom it was made, and that person would be given the opportunity for a review under the W-2 dispute resolution process or administrative hearing. DWD would be required to promulgate rules regarding the determination of an overpayment and notice to the recipient or former recipient.

Issuance and Execution of a Warrant. The bill would authorize DWD to issue a warrant that would place a lien against any property of a person who fails to pay any amount of overpayment, if no review or appeal of the overpayment is pending and the time for requesting a review or taking an appeal has expired. The warrant would be considered a final judgment constituting a perfected lien upon the person's right, title and interest in all real and personal property located in the county in which the warrant is entered. Further, the Department would be allowed to file an execution that directs the sheriff of the county to seize and sell sufficient real and personal property of the person to pay the amount stated in the warrant, except for certain property that is exempt from execution under current state law. If a warrant is not satisfied in full, the Department would be allowed to enforce the amount due as if a judgment was rendered

against the person, and take other actions to collect the debt. DWD would be required to issue a satisfaction of the warrant when the amount in the warrant has been paid in full and all costs due to the Department have been paid. Finally, DWD would be authorized to issue a release of any warrant, if it finds that the interests of the state would not be jeopardized, and to maintain a garnishee action or attachment to enforce a judgment with regard to a warrant.

Collection of An Overpayment Through Levy. The bill would also authorize DWD to collect any debt or overpayment by levy upon any property belonging to a person to whom an overpayment is made, and to collect from the person any expenses related to the levy. Such action could be taken if no appeal or other proceeding for review is pending and the time for taking an appeal or petitioning for review has expired. The Department would be required to first make a demand for payment of the debt and give at least a 10-day notice that legal action to collect the debt may be pursued.

An exemption from levy would be provided equal to the greater of: (a) a subsistence allowance of 75% of the debtor's disposable earnings then due and owing; or (b) an amount equal to 30 times the federal minimum wage for each full week of the debtor's pay period, or an equivalent amount in the case of earnings for a pay period other than a week. The first \$1,000 in any bank account of the debtor would also be exempt from levy.

Anyone who fails or refuses to surrender property under a levy would be subject to proceedings to enforce the amount of the levy. Any person who is subject to a levy proceeding made by the Department would be allowed to appeal the levy proceeding. The appeal would be limited to questions of prior payment of the debt and mistaken identity of the debtor. The levy would not be stopped or delayed pending an appeal.

A third party would be required to provide certain information to the Department within 20 days after the service of a levy. A levy would be effective from the date on which the levy is first served on a third party until any liability is satisfied, the levy is released or until one year from the date of service, whichever occurs first. Any third party that refuses to surrender property under a levy would be liable to the Department for up to 25% of the debt. Furthermore, any third party that claims an interest in property that has been levied upon and claims that the property was wrongfully levied upon would be allowed to bring a civil action against the state in the circuit court for Dane County. For purposes of a judicial proceeding, the amount of debt determined by the Department conclusively would be presumed valid. The Department would determine its expenses to be paid in all cases of levy.

More detailed information regarding these provisions is presented in the Appendix.

DISCUSSION POINTS

1. The process for collecting overpayments of benefits recommended by the Governor would correspond to the process for collecting delinquent unemployment tax contributions or unemployment insurance (UI) benefits overpayments. The provisions included in the bill regarding

the issuance and execution of a warrant currently apply to employers who owe contributions, interest or fees under the UI program. The provisions that allow the Department to levy directly apply both to the employer and to any employee that received a benefit overpayment.

2. However, provisions related to liens and levies under the child support program offer another model related to the process for collecting amounts due the Department. The Legislature enacted these provisions under 1997 Act 191. The sections below first provide background regarding the Governor's recommendation, and then describe the provisions related to liens and levies under the child support program.

3. Following the discussion of the child support provisions, a number of issues related to the collection of overpayments are addressed: (a) notice to the person of the overpayment and of any liens or levies upon their property; (b) the opportunity for review and hearing (c) whether limitations should be placed on the authority to enforce liens and levies; (d) collecting overpayments of AFDC benefits from current benefit recipients; (e) whether benefits paid as a result of departmental error should be waived; and (f) tax intercept for job access loans. In addition, the positions and funding amounts included in the Governor's recommendation are discussed.

Background

4. According to DWD, as of March, 1999, outstanding overpayments of public assistance benefits included: (a) \$32.6 million from overpayments under the AFDC program; (b) \$155,100 in child care overpayments; (c) \$571,300 from W-2 benefits; and (d) \$747,000 in outstanding job access loans.

5. Although current law requires DWD to collect overpayments, unless the person liable for the overpayment is a current W-2 cash benefit recipient, tax intercept is the only process specified in the statutes for recovering such payments. Because tax intercept applies only to individuals who have a tax refund, the ability to collect overpayments is limited.

6. In 1998, the Department indicates there was \$47.2 million in outstanding overpayments under the AFDC program, W-2 subsidized employment benefits, child care, food stamps and medical assistance. Of that amount, DWD collected \$5.3 million, with \$3.6 million (67%) collected through the tax intercept program. In 1996, collections from tax intercept were approximately 46% of the total amount collected, and in 1997, collections through tax intercept represented approximately 57% of the total amount collected.

7. In order to increase the amount collected, the Governor's proposal would establish a process for collecting overpayments of benefits under the AFDC program, W-2 subsidized employment benefits, child care and transportation assistance from all current and former recipients of those benefits.

8. Under this process, DWD would be authorized to issue a warrant that acts as a lien upon the person's right, title and interest in all real and personal property located in the county in

which the warrant is entered. In general, a lien would prevent the debtor from buying and selling property until a debt is paid, or contingent on the debt being paid. In cases of bankruptcy, the state would become a secured creditor. Under the order of payment provisions established under bankruptcy law, a secured creditor would be paid before a general creditor. Placing a lien against someone's property in this manner could adversely affect that person's credit rating.

9. The bill would also allow the Department to execute the warrant or directly levy upon the person's property. The Department obtained the authority to levy under unemployment insurance in 1990. DWD believes that having the authority to levy is one of four factors (including additional staff, automation and modifications to procedures) that has contributed to an increase in cash recoveries under the UI program. Prior to the authorization to levy, from 1987 to 1989, annual collections under the UI program averaged \$2.1 million. From 1991 to 1993, cash recoveries increased from \$3.1 million to \$4.2 million annually. In 1998, cash recoveries totaled \$5.7 million. However, it is difficult to determine how much of this increase in collections can be attributed to the Department's additional authority to levy.

10. As described earlier, the Governor's proposal was based on a similar process under the UI program. As an alternative model, the Legislature recently authorized the Department to enforce liens and levy upon property of persons who are delinquent in child support payments. Several issues were considered by the Legislature with regard to these provisions, which are described in the following sections.

Provisions Related to Liens and Levies Under the Child Support Program

11. Provisions under the child support program allow the Department to file a lien and levy upon the property of a person who is delinquent in child support payments (the obligor). In general, these provisions provide authority to DWD to create liens; levy upon financial accounts, personal property and real property; and to sell such property. These provisions also detail when DWD must notify a person with respect to departmental actions and when a person may request a review or hearing regarding such actions.

12. The Department is required to provide notice to the obligor at five different points in the process, as follows: (a) after a lien is filed; (b) after the Department has notified a financial institution that a levy has been placed on an account of the obligor; (c) prior to enforcing a levy upon real property; (d) immediately after personal property is seized; and (e) prior to the Department issuing an execution to sell the property, which would then be sold within 90 days of the date of the execution.

13. Current law includes specific provisions related to the contents of each notice described above. In general, notices must contain information about the action that has been or will be taken by the Department; the amount of the debt; when and how the person may request a hearing; and when and how the person might arrange for a repayment of the debt.

14. The provisions under the child support program allow for reviews and hearings after

a notice of the lien has been made. First, after an obligor receives notice that a lien has been filed, he or she may directly appeal the lien within 20 days of the notice, or the person could request a financial records and court review with the child support agency within 10 days of the notice of the lien. If the person requests a financial records and court order review and is not satisfied with the Department's determination, the person then may appeal to the court or family court commissioner. If the person does not agree with the family court commissioner's decision, the person may appeal to the court having jurisdiction over the action.

15. In addition, the obligor may request hearings after receiving notice of intent to levy, after a levy has been placed and after property has been seized. Joint owners or third parties with an interest in the property may also request hearings at these times.

16. As compared to the UI provisions, the child support provisions require that DWD provide more notifications at various times throughout the collection process, and allow for more reviews and hearings. It could be argued that issuing liens and levying upon property of current and former public assistance recipients may create a hardship for a family that is likely to have less income and resources as compared to an employer or employee that owes a debt to the Department under the UI program. Because state law allows for more opportunity for notification and review for persons who owe child support, similar procedures could be considered for public assistance recipients who must repay overpayments. These issues are addressed in the following sections

Notification to Recipient

17. The Governor's proposal requires DWD to notify a person when it has determined that an overpayment was made. Under the process that would allow the Department to issue and execute a warrant, no other notification would be required prior to the seizure of the person's property. Under the process that would allow the Department to levy directly upon a person's property, DWD would have to make a final demand for payment and give at least a 10-day notice that legal action to collect the debt may be pursued.

18. Alternatively, the Committee could modify the Governor's recommendation by requiring that the Department adopt administrative policies and procedures regarding notification to persons deemed liable for owing an overpayment that correspond with the policies and procedures described under the child support provisions. Under this option, the rules would have to allow for notice to be given to a person deemed liable for owing an overpayment made under W-2 wages and benefits, child care and transportation: (a) when the Department first determines that an overpayment has been made; (b) after the Department has issued a warrant that acts as a lien upon the person's right, title and interest in all real and personal property located in the county in which the warrant is entered; (c) after issuing an execution of a warrant or enforcing a levy upon a financial account or other personal property; (d) prior to levy upon real property; and (e) prior to issuing an execution to sell the property.

Reviews and Hearings

19. Two questions could be considered with regard to allowing an individual the opportunity to review a decision or action of the Department. First, when may a person request a review or hearing with respect to an action taken by the Department? Second, what review procedure should be used?

When May a Person Request a Review or Hearing?

20. The Governor's proposal would allow for a review upon notification that an overpayment has been made. Under the process that would allow the Department to issue and execute a warrant, no other opportunity for review or hearing would be required prior to the seizure of the person's property. Under the process that would allow the Department to levy directly upon a person's property, a person subject to a levy proceeding would be allowed to appeal the proceeding. The appeal would be limited to questions of prior payment of the debt and mistaken identity of the debtor. A third party would also be allowed to bring a civil action against the state for claims that the property was wrongfully levied upon.

21. To address the issue regarding when a hearing or review could be requested during the collection process, and to correspond to the child support provisions, the Committee may wish to specify that DWD would have to promulgate a rule providing for hearings or reviews at the following points in the process: (a) when the Department first notifies the individual that an overpayment has been made; (b) after a warrant has been issued; (c) prior to execution of the warrant which would allow property to be seized; (d) after the Department has notified a financial institution that a levy has been placed on an account of the obligor; (e) prior to enforcing a levy upon real property; (f) immediately after personal property is seized; and (g) prior to the Department issuing an execution to sell the property, which would then be sold within 90 days of the date of the execution. For each of these, the rules would have to specify the amount of time that the person would have to file a request for a hearing or review, and would have to allow for joint owners or third parties with an interest in the property to have the opportunity for a hearing.

Procedure

22. The Governor's proposal would allow for three types of reviews. First, upon notification of an overpayment, a person would be given the opportunity for a review under the dispute resolution process under the W-2 program, or for an administrative hearing in the Division of Hearings and Appeals under the Department of Administration. Second, an appeal of a levy proceeding could be made. Third, a third party could bring a court action against the Department.

23. With regard to the opportunity for review upon notification of an overpayment, the bill does not indicate for which cases a review would occur under the W-2 dispute resolution process as opposed to the administrative hearing process. It should also be noted that the W-2 dispute resolution process requires the W-2 agency to review a petition first, and if the person is not satisfied with the W-2 agency's decision, the person can request a departmental review which is held

by the Division of Hearings and Appeals in DOA. However, the Department is authorized but not required to review all W-2 agency determinations. It is unclear, therefore, if or when the W-2 agency's decision involving an overpayment would be reviewed by the Department through DOA.

24. Under current law related to the administrative hearing process, an individual may be represented by an attorney but is not required to have one. All parties are given the opportunity to file written objections after a proposed decision, but prior to a final decision. Further, all parties are given the opportunity to appeal the final decision.

25. According to the Department, the intention is that for collections of overpayments of benefits under the W-2 program, the individual would first have opportunity for review under the W-2 dispute resolution process, and if not satisfied, would then be allowed review under the administrative hearing process. For overpayments related to other benefits, the individual would have opportunity for review under the administrative hearing process only. Because the process specified in the bill is indistinct, the Committee may wish to clarify this process. Further, the Committee may wish to specify that all decisions by the W-2 agency related to an overpayment would have to be reviewed by the Department.

26. With regard to the opportunity to appeal a levy proceeding or for a third party to take action in court against the state, these are judicial processes that appear reasonable. However, if the Committee chooses to allow for review, hearings and appeals at other points in the collection process, it may wish to also require DWD to promulgate rules that specify the procedures for reviewing and appealing actions of the Department at each of those points.

Limitations on Authority to Enforce Liens and Levies

27. Under the Governor's proposal, an exemption from levy would be provided for the greater of: (a) a subsistence allowance of 75% of the debtor's disposable earnings then due and owing; or (b) an amount equal to 30 times the federal minimum wage for each full week of the debtor's pay period, or an equivalent amount in the case of earnings for a pay period other than a week. For purposes of (a), the definition of disposable earnings would allow deductions for amounts required to be withheld from pay by law, life and health insurance premiums, union dues, child support and other prior levies, wage assignments or garnishments. The first \$1,000 in any bank account of the debtor would also be exempt from levy.

28. In addition, current state law exempts certain property from execution. These include: a family's homestead up to a value of \$40,000; provisions for burial; business and farm property under \$7,500 in aggregate value; child support or maintenance payments; household goods under \$5,000 in value; amounts paid to county fairs and agricultural societies; federal disability insurance benefits; fire and casualty insurance on exempt property; certain fire and police pension funds; fire engines and equipment; life insurance under \$4,000 in value; motor vehicles up to \$1,200 in value; the income amounts identified above; certain life insurance claims; the first \$1,000 in a financial account; war pensions; and tuition units to be used in a future date for tuition at the University of Wisconsin. These exemptions would apply to execution of warrants and levies under

the Governor's proposal.

29. The child support provisions specify that all actions to enforce a lien must be suspended if payment arrangements have been made and the obligor complies with the payment schedule. This provision is not included in the Governor's recommendation related to W-2 wages and benefits, child care and transportation assistance. It is likely that the Department would suspend all actions to enforce a lien if payment arrangements have been made, however the Committee could modify the Governor's proposal to require this.

30. Further, under the child support program provisions, the Department is required to promulgate rules that specify a minimum amount that must be due prior to initiating any administrative enforcement procedure such as invoking a lien or levy. Under this provision, at least 100% of the amount of child support due in one month must be in arrears before action is taken.

31. A similar provision would ensure that undue cost is not expended in obtaining a small amount of an overpayment, and that a seizure would not impose a hardship on the obligor. The Committee may wish to require the Department to establish a similar rule regarding overpayments of AFDC, W-2 benefits, child care and transportation.

Collections of Overpayments from Current Benefit Recipients

32. In addition to the lien and levy provisions, the bill would allow DWD to collect overpayments of AFDC benefits by reducing a person's W-2 benefits. Current state law requires DWD to collect all overpayments of AFDC benefits, but does not specify the process for doing so. Under this general requirement of state law, the Department began to recover overpayments of AFDC benefits from current W-2 benefit recipients by reducing the recipient's W-2 benefit check. However, the Department has discontinued this practice and decided to seek further clarification in the statutes that would provide more explicit authority for this procedure.

33. The Department estimates that approximately \$84,000 per month could be collected under this process. Absent this policy, DWD collections would be reduced by approximately \$1.0 million annually. Because AFDC benefits were funded under a state and federal matching arrangement, the federal share of any recovery of these overpayments (approximately 60%) must be paid to the federal government. The state share of the foregone collections of AFDC overpayments is estimated at approximately \$400,000 annually. These program revenues currently fund local contracts, staff, and operations including costs of updates to the CARES system needed for fraud and overpayment recovery. Therefore, if the Committee does not approve the Governor's recommendation to allow DWD to recover AFDC benefit overpayments from a person's W-2 benefit check, additional GPR funding may be needed to offset this reduction in program revenue. Under the bill, it is estimated that the appropriation accounts related to collections of overpayments would have a balance at the end of the biennium of \$600,000. Therefore, if annual revenues of \$400,000 are foregone, an additional \$200,000 GPR would be needed to offset this reduction and avoid a deficit in these appropriations. In addition, if this provision is not approved, a structural imbalance in these accounts would remain, which may need to be addressed in the subsequent

biennium.

Waiving the Recovery of Benefits

34. As described earlier, the provisions in the bill correspond to provisions related to unemployment insurance. However, current law under the UI program requires the Department to waive recovery of benefits that were erroneously paid if the overpayment was the result of departmental error.

35. DWD has indicated that, of the \$33.3 million in outstanding overpayments for the W-2 program, child care and AFDC program, \$2.3 million is the result of nonclient error. If the Committee chose to require DWD to waive recovery of these overpayments, the state would forego potential future revenue. It is unclear how much of this \$2.3 million would eventually be recovered. However, if all could be recovered, and the recovery was waived, the state would forego its share of \$920,000 (approximately 40%). It is possible that the federal government would require the state to pay back the federal portion of those dollars. If so, the state would have to pay the federal government approximately \$1.4 million. Because the federal government would not allow the use TANF funding or other federal funds to pay these costs, the state could incur GPR costs of \$1.4 million.

Tax Intercept for Job Access Loans

36. Under the tax intercept program, the Department is authorized to recover certain overpayments by certifying to the Department of Revenue the amount of the overpayment. The Department of Revenue may then recover the overpayment from a person's state tax refund.

37. Currently, the Department may not recover overpayments or delinquent payments under the job access loan program through tax intercept. No other provision of state law specifies the process for recovering such loans. The administration has indicated that it inadvertently omitted this authority from the bill, and that adding a provision that allows for tax intercept of overpayments or delinquent payments under the job access loan program would meet the intent of the Governor's proposal. Under this provision, only families that have enough income to pay taxes and have a tax refund would have such payments recovered.

Option to Delete The Governor's Proposal

38. The Governor's proposal would establish a process that would allow the Department to recover overpayments resulting from fraud, other intentional program violations and inadvertent errors. Only the amount of the overpayment and fees involved in collecting the overpayment would be recovered. As described earlier, DWD has indicated that having the authority to levy is one of four factors (including additional staff, automation and modifications to procedures) that may have contributed to an increase in cash recoveries under the UI program.

39. However, many families that owe the state may be low-income families for whom the imposition of liens and levying upon property could create hardship. For example, if the

Department seized the family's car, the parent may not have a means of transportation to get to work. This outcome would be contrary to the philosophy of the W-2 program. Therefore, the Committee may wish to maintain current law. Under this option, the primary collection method available to the Department would continue to be tax intercept. As noted, only families that have enough income to pay taxes and have a tax refund would have such payments recovered.

40. As described earlier, under the bill, the appropriation accounts related to collections of overpayments would have an estimated ending balance of \$600,000 in 2000-01. This estimate assumes that an additional \$300,000 annually would be collected if the provisions of the bill become effective. If current law is maintained, it is assumed the Department may not collect the \$300,000 amount. Furthermore, if current law is maintained, the Department would not have authority to recover overpayments of collections of AFDC benefits from current W-2 recipients. As described earlier, the state share of foregone collections from this provision is estimated at \$400,000 annually. With both of these modifications (and accounting for the decreased expenditure authority that would result from deleting the positions recommended by the Governor), if current law is maintained, an additional \$765,300 GPR would be needed to fund local contracts, staff, and operations, including costs of updates to the CARES system needed for fraud and overpayment recoveries. In addition, a structural imbalance in these accounts would remain, which may need to be addressed in the subsequent biennium.

Position Authority and Funding

41. In order to fully implement the Governor's recommendation, the bill would convert 2.0 LTE staff to permanent positions. The amount of funding included in the bill reflects only the incremental change to the salary and fringe benefit costs related to these positions.

42. The Economic Support Collection Unit in the Division of Unemployment Insurance currently has 3.0 permanent FTE staff, of which 1.0 FTE is vacant. In addition, as of April 28, 1999, this unit also had 4.0 LTE staff positions. Collection specialists and financial specialists answer questions regarding overpayments, report to the Department of Revenue for tax intercept purposes, reconcile deposits and fees, negotiate payment agreements, update recipient information, maintain databases needed to process collections, prepare deposits, prepare and issue refunds, maintain county and statewide statistical collections data and work with the Department of Justice for bankruptcy referrals. In addition to overpayments of AFDC benefits, W-2 subsidized employment benefits, child care and transportation, this unit also collects overpayments under the food stamp, medical assistance and job access loan programs.

43. Absent the Governor's recommendations that would allow DWD to place liens and levy upon property, DWD indicates that converting 2.0 LTE staff to permanent FTE positions would assist in maintaining collections at the current level and allow for an increase the amount collected because more time could be spent working to collect overpayments and less time would be spent training new LTE staff. Since July, 1997, the Public Assistance Collection Unit has hired a total of 14 LTEs. Ongoing training makes it difficult to implement collection processes. According to DWD, eight months of training for one staff person is required for the staff person to become

fully able to process overpayments and follow appropriate collection methods.

44. The Department has estimated that the combination of additional staff and additional collection ability through liens and levies would result in increased collections of approximately \$300,000 annually. However, these amounts would be offset by new federal regulations regarding payments to the federal government from the collection of AFDC overpayments. Therefore, the bill contains no increased program revenue.

45. Based on a review of vacant positions within DWD's Division of Economic Support as of March 27, 1999, there are a total of 48 positions that have been vacant for seven months or longer and of these, 10 have been vacant for 13 months or more.

46. At the Joint Committee on Finance's meeting on April 22, 1999, 15 positions related to child support that were requested by the Governor in the budget bill were deleted. Instead, the Committee authorized the Department to reallocate vacant positions. Therefore, of the 48 positions identified above, 33 would remain vacant after reallocating positions for the child support program.

47. Because a number of vacant positions would remain outstanding, the Committee may wish to delete the positions recommended by the Governor and authorize the Department to reallocate some of its vacant positions in the Division of Economic Support for these duties. This option would result in savings of \$14,900 PR and \$14,800 FED in 1999-00 and \$19,800 PR and \$19,800 FED in 2000-01.

48. As a compromise alternative, one of the positions recommended by the Governor could be removed from the bill. Under this option, funding could be reduced by \$7,500 PR and \$7,400 FED in 1999-00 and \$9,900 PR and \$9,900 FED in 2000-01.

ALTERNATIVES

1. Approve the Governor's Recommendation

Provide \$14,900 PR and \$14,800 FED in 1999-00 and \$19,800 PR and \$19,800 FED in 2000-01 and 2.0 positions (1.0 PR and 1.0 FED) in the Public Assistance Collection Unit in the Division of Unemployment Insurance in order to increase collections of public assistance overpayments. The two positions would be converted from LTE staff to permanent positions. In addition, approve the Governor's proposal regarding the provisions relating to the collection of debt from public assistance recipients.

2. Notification to Recipient

Modify the Governor's proposal regarding the collection process by requiring the Department to promulgate rules regarding the notification procedures that would correspond with current law related to the child support program. Under this provision, the rules promulgated by the

Department would have to require notification at the following points in the collection process: (a) when the Department first determines that an overpayment has been made; (b) after the Department has issued a warrant that acts as a lien upon the person's right, title and interest in all real and personal property located in the county in which the warrant is entered; (c) after issuing an execution of a warrant or enforcing a levy upon a financial account or other personal property; (d) prior to levy upon real property; and (e) prior to issuing an execution to sell the property.

3. Reviews and Hearings

When May a Review or Hearing be Requested

a. Modify the Governor's recommendation by requiring the Department to promulgate administrative rules that specify when requests for reviews, hearings and appeals may be made. Specify that DWD would have to include in the rule provisions for hearings or reviews at the following points in the process: (a) when the Department first notifies the individual that an overpayment has been made; (b) after a warrant has been issued; (c) prior to execution of the warrant which would allow property to be seized; (d) after the Department has notified a financial institution that a levy has been placed on an account of the obligor; (e) prior to enforcing a levy upon real property; (f) immediately after personal property is seized; and (g) prior to the Department issuing an execution to sell the property, which would then be sold within 90 days of the date of the execution. For each of these, the rules would have to specify the amount of time that the person would have to file a request for a hearing or review, and would have to allow for joint owners or third parties with an interest in the property to have the opportunity for a hearing.

Procedure

Modify the Governor's recommendation by approving one or both of the following:

b. Clarify that for collections on all overpayments of benefits from W-2 subsidized employment and custodial parent of infant grants the individual would first have opportunity for review under the W-2 dispute resolution process, and if not satisfied would then be allowed review under the administrative hearing process. All persons liable for overpayments related to other benefits would have opportunity for review under the administrative hearing process only. Further, require that, under the W-2 dispute resolution process, all decisions by the W-2 agency related to an overpayment would have to be reviewed by the Department.

c. Require DWD to promulgate rules that specify the procedure to be used for reviews and hearings at all points in the collection process at which a request for a review or hearing is allowed to be made. For each of these, the rules would have to specify the amount of time that the person would have to file a request for a hearing or review.

4. Limitations on Authority to Issue Liens and Levy Upon Property

Modify the Governor's recommendation by approving one or more of the following:

a. Specify that all actions to enforce a lien must be suspended if payment arrangements have been made and the obligor complies with the payment schedule.

b. Require the Department to promulgate rules that specify a minimum amount that must be due prior to initiating any administrative enforcement procedure.

5. Collections of Overpayments from Current Benefit Recipients

Modify the Governor's recommendation by providing \$200,000 GPR in 2000-01 and specifying that DWD may not recover overpayments of AFDC benefits from current W-2 recipients by reducing the amount of the recipient's W-2 benefit check.

Alternative 5	GPR
1999-01 FUNDING (Change to Bill)	\$200,000

6. Waiving the Recovery of Benefits

Modify the Governor's recommendation by requiring the Department to waive recovery of benefits that were erroneously paid if the overpayment was the result of departmental error.

7. Tax Intercept for Job Access Loans

Modify the Governor's recommendation by authorizing the Department to recover overpayments or delinquent payments of job access loans through tax intercept.

8. Position Authority and Funding

Modify the Governor's recommendation by approving one of the following:

a. Delete the 2.0 positions recommended by the Governor and authorize the Department to reallocate vacant positions for these duties. Reduce funding by \$14,900 PR and \$14,800 FED in 1999-00 and \$19,800 PR and \$19,800 FED in 2000-01.

Alternative 8a	FED	PR	TOTAL
1999-01 FUNDING (Change to Bill)	- \$34,600	- \$34,700	- \$69,300
2000-01 POSITIONS (Change to Bill)	- 1.00	- 1.00	- 2.00

b. Delete one of the positions recommended by the Governor and reduce funding by \$7,500 PR and \$7,400 FED in 1999-00 and \$9,900 PR and \$9,900 FED in 2000-01. Authorize the Department to reallocate one of its vacant positions from within the Division of Economic Support for these duties.

<u>Alternative 8b</u>	<u>FED</u>	<u>PR</u>	<u>TOTAL</u>
1999-01 FUNDING (Change to Bill)	-\$17,300	-\$17,400	-\$34,700
2000-01 POSITIONS (Change to Bill)	-0.50	-0.50	-1.00

9. Maintain Current Law

Delete the statutory provisions, positions and funding recommended by the Governor. Provide \$765,300 GPR in 2000-01 to reflect: (a) a reduction in the amount of overpayments that may be collected; and (b) that the Department would not have the authority to recover an overpayment under the AFDC program from an individual's W-2 benefit check.

<u>Alternative 9</u>	<u>GPR</u>	<u>FED</u>	<u>PR</u>	<u>TOTAL</u>
1999-01 FUNDING (Change to Bill)	\$765,300	-\$34,600	-\$34,700	\$696,000
2000-01 POSITIONS (Change to Bill)	0.00	-1.00	-1.00	-2.00

Prepared by: Joanne T. Simpson

MO# Adg 2, 3abc, 4ab
5, 6, 7a

BURKE	<input checked="" type="radio"/> Y	<input type="radio"/> N	<input type="radio"/> A
DECKER	<input checked="" type="radio"/> Y	<input type="radio"/> N	<input type="radio"/> A
JAUCH	<input checked="" type="radio"/> Y	<input type="radio"/> N	<input type="radio"/> A
MOORE	<input checked="" type="radio"/> Y	<input type="radio"/> N	<input type="radio"/> A
SHIBILSKI	<input checked="" type="radio"/> Y	<input type="radio"/> N	<input type="radio"/> A
PLACHE	<input checked="" type="radio"/> Y	<input type="radio"/> N	<input type="radio"/> A
COWLES	<input checked="" type="radio"/> Y	<input checked="" type="radio"/> N	<input type="radio"/> A
PANZER	<input checked="" type="radio"/> Y	<input checked="" type="radio"/> N	<input type="radio"/> A
GARD	<input checked="" type="radio"/> Y	<input checked="" type="radio"/> N	<input type="radio"/> A
PORTER	<input checked="" type="radio"/> Y	<input checked="" type="radio"/> N	<input type="radio"/> A
KAUFERT	<input checked="" type="radio"/> Y	<input checked="" type="radio"/> N	<input type="radio"/> A
ALBERS	<input checked="" type="radio"/> Y	<input checked="" type="radio"/> N	<input type="radio"/> A
DUFF	<input checked="" type="radio"/> Y	<input checked="" type="radio"/> N	<input type="radio"/> A
WARD	<input checked="" type="radio"/> Y	<input checked="" type="radio"/> N	<input type="radio"/> A
HUBER	<input checked="" type="radio"/> Y	<input type="radio"/> N	<input type="radio"/> A
RILEY	<input checked="" type="radio"/> Y	<input type="radio"/> N	<input type="radio"/> A

AYE 8 NO 8 ABS 0

APPENDIX

Detailed Description of the Governor's Proposal

The bill would provide \$14,900 PR and \$14,800 FED in 1999-00 and \$19,800 PR and \$19,800 FED in 2000-01 and 2.0 positions (1.0 PR and 1.0 FED) in the Public Assistance Collection Unit in the Division of Unemployment Insurance in order to increase collections of public assistance overpayments. The two positions would be converted from LTE staff to permanent positions. In addition, the Governor's proposal would modify the provisions relating to the collection of debt from public assistance recipients as described in the following sections.

Collecting Overpayments from Current Benefit Recipients. Under the bill, DWD would be required to collect overpayments of benefits paid under the former AFDC program from recipients of those benefits who are also recipients of W-2 subsidized employment benefits. The Department would be allowed to deduct the overpayment from the recipient's W-2 benefits.

Determination of an Overpayment and Notice to Recipient. The Governor's proposal would require the county, tribal governing body, W-2 agency or Department to determine whether an overpayment has been made under the former AFDC program, W-2 employment position benefits including caretaker of an infant benefits, the child care program or transportation assistance, and the amount of the overpayment. The county, tribal agency, W-2 agency or Department would be required to provide notice of the overpayment to the person to whom it was made, and give that person the opportunity for a review or administrative hearing. The review process would be the same as that under current law related to review of agency decisions under the W-2 program. DWD would continue to be required to promulgate rules regarding the determination of an overpayment and notice to the recipient or former recipient.

Issuance and Execution of a Warrant. The bill would authorize DWD to issue a warrant that would place a lien against any property of a person who fails to pay any amount of overpayment, if no review or appeal of the overpayment is pending and the time for requesting a review or taking an appeal has expired. Under current law regarding the review of agency decisions under the W-2 program, a person has 45 days in which to petition a W-2 agency for review of an action, and 21 days after the date on which a certified copy of the W-2 agency decision is mailed to petition the Department for a review of the W-2 agency decision.

The warrant would be considered a final judgment constituting a perfected lien upon the person's right, title and interest in all real and personal property located in the county in which the warrant is entered. DWD would be required to pay any fees regarding the filing of the warrant, and to collect the fees from the person named in the warrant. The fee for each filing is currently specified in the statutes as \$5.

Further, the Department would be allowed to file an execution that directs the sheriff of the county to seize and sell sufficient real and personal property of the person to pay the amount

stated in the warrant, except for certain property that is exempt from execution under current state law. If a warrant is not satisfied in full, the Department would be allowed to enforce the amount due as if a judgment was rendered against the person, and take other actions to collect the debt. DWD would be required to issue a satisfaction of the warrant when the amount in the warrant has been paid in full and all costs due to the Department have been paid. The satisfaction would have to be filed with the clerk of circuit court and the Department would be required to send a copy of the satisfaction to the person named in the warrant.

Finally, DWD would be authorized to issue a release of any warrant, if it finds that the interests of the state would not be jeopardized, and to maintain a garnishee action or attachment to enforce a judgment with regard to a warrant. The Department would be required to withdraw an erroneous warrant.

Collection of An Overpayment Through Levy. The bill would also authorize the Department to collect any debt or overpayment by levy upon any property belonging to a person to whom an overpayment is made, and to collect from the person any expenses related to the levy. Such action may be taken if no appeal or other proceeding for review is pending and the time for taking an appeal or petitioning for review has expired. The Department would be required to first make a demand for payment of the debt and give at least a 10-day notice that legal action to collect the debt may be pursued. This notice and the levy would have to be delivered personally or by any type of mail service that requires a signature of acceptance. Refusal or failure to accept or receive the notice or the levy would not invalidate the levy.

An exemption from levy would be provided equal to the greater of: (a) a subsistence allowance of 75% of the debtor's disposable earnings then due and owing; or (b) an amount equal to 30 times the federal minimum wage for each full week of the debtor's pay period, or an equivalent amount in the case of earnings for a pay period other than a week. For purposes of (a), the definition of disposable earnings would allow deductions for amounts required to be withheld from pay by law, life and health insurance premiums, union dues, child support and other prior levies, wage assignments or garnishments. The first \$1,000 in any bank account of the debtor would also be exempt from levy.

Anyone who fails or refuses to surrender property under a levy would be subject to proceedings to enforce the amount of the levy. Any person who is subject to a levy proceeding made by the Department would be allowed to appeal the levy proceeding. The appeal would be limited to questions of prior payment of the debt and mistaken identity of the debtor. The levy would not be stopped or delayed pending an appeal.

A third party would be required to provide certain information to the Department within 20 days after the service of a levy. A levy would be effective from the date on which the levy is first served on a third party until any liability is satisfied, the levy is released or until one year from the date of service, whichever occurs first. Any third party that refuses to surrender property under a levy would be liable to the Department for up to 25% of the debt. Any third

party would be entitled to a levy fee of \$5 for each levy in any case where property is secured through the levy.

Furthermore, any third party that claims an interest in property that has been levied upon and claims that the property was wrongfully levied upon would be allowed to bring a civil action against the state in the circuit court for Dane County. The court could enjoin enforcement of the levy if it finds that the levy would irreparably injure rights to property. In addition, if the court determines that the property has been wrongfully levied upon, it could grant a judgement for the amount of money obtained by levy. No other action could be made to question the validity of or restrain a levy by the Department.

For purposes of a judicial proceeding, the amount of debt determined by the Department conclusively would be presumed valid. The Department would determine its expenses to be paid in all cases of levy.

The bill would authorize the Department to: (a) contract with or employ collection agencies or other persons to enforce a repayment obligation; (b) release a levy to facilitate the collection of the liability; and (c) grant relief from a wrongful levy or return property or moneys from a wrongful levy. The bill would also specify penalties for concealing any property upon which a levy is authorized (a \$5,000 fine, imprisonment for up to three years or both) or discriminating against employees whose wages were subject to a levy (a \$1,000 fine, imprisonment for up to one year or both). The imprisonment penalty for these offenses would be increased to four and one-half years and two years, respectively, effective December 31, 1999, to conform with 1997 Act 283, which increases all felony penalties on that date.

Gov Agency: Department of Workforce Development – Economic Support and Child Support, Administration of the Food Stamp Program by W2 Agencies

Recommendations:

Paper No.: 1118 **Alternative:** A2 and B1

Comments: Alternative A2 maintains current law with regard to the administration of Food Stamps. This will keep this duty with the counties. Labor wants this, the counties want this and Legal Action wants this.

Alt. B1 is a check on the Department if they insist on seeking federal waivers to privatize the administration of the Food Stamp program. This would require them to submit a plan to JFC prior to implementing any waivers allowed by the feds in this regard. They definitely need Committee oversight on this one.

Prepared by Cindy



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June 1, 1999

Joint Committee on Finance

Paper #1118

Administration of the Food Stamp Program By W-2 Agencies (DWD -- Economic Support and Child Care)

[LFB 1999-01 Budget Summary: Page 709, #64]

CURRENT LAW

Under current law, the Department of Workforce Development (DWD) may contract with a W-2 agency to administer the food stamp employment and training (FSET) program. Current law requires the W-2 agency to certify eligibility for and distribute food coupons to, eligible participants in the W-2 program, to the extent permitted by federal law or waiver. County departments are required to make eligibility determinations for and issue food coupons to, all other recipients (including FSET participants and other able-bodied persons under the age of 61).

GOVERNOR

Specify that, to the extent permitted by federal law, W-2 agencies would be required to certify eligibility for and, if determined eligible, issue food coupons to: (a) participants in the W-2 program; (b) persons who may be required to participate in the FSET program, if DWD has contracted with the W-2 agency to administer FSET; and (c) other persons who are under the age of 61 and who are not disabled, as defined by DWD. Administration of food stamps for other recipients would continue to be a requirement of county departments of human or social services.

DISCUSSION POINTS

1. Currently, federal law does not allow non-governmental agencies to determine eligibility for the food stamp program or issue food stamp benefits to recipients. Therefore, in counties that have private or non-profit W-2 agencies, the W-2 agency may not perform these activities.

2. The Governor's provision would expand state law to require W-2 agencies to determine eligibility for and issue food coupons to, certain recipients of those benefits who are not also W-2 participants. Adding this provision would increase the number of food stamp cases processed by W-2 agencies by about 14,200. For the W-2 agencies that are the county or tribal governing body, this provision would have little effect. However, this provision would expand the requirements for non-county private or non-profit W-2 agencies to certify eligibility for and issue food coupons to certain recipients. There are currently five non-county W-2 agencies operating in six regions in Milwaukee County. In addition, eight other non-county W-2 agencies operate in Forest, Juneau, Kewaunee, Oneida, Shawano, Vilas, Walworth and Waukesha Counties.

3. DWD is currently seeking a waiver from federal requirements to allow non-county W-2 agencies to administer food stamp benefits. On August 4, 1998, the Department submitted a waiver request to allow private for-profit, private non-profit, or government agencies to conduct certification reviews and determine benefit levels for applicants and recipients of the food stamp program. The Department is seeking a two-year demonstration project that would begin January 1, 2000. The demonstration may be limited to Milwaukee County.

4. The administration indicates that allowing the W-2 agency to administer food stamps for all able-bodied recipients would strengthen the Department's ability to serve food stamp clients. First, allowing all W-2 agencies to determine eligibility for W-2 recipients prevents individuals from having to see more than one caseworker to access benefits. Second, other recipients are often employed full-time, but at a low wage, or are employed only part-time. Having food stamp benefits determined and reviewed by W-2 agencies allows the recipient to access the Job Center at the same time as the recipient applies for food stamps or renews eligibility. Providing increased access to employment-related services may assist individuals seeking higher paying or full-time jobs at a wage such that the recipient would no longer have to rely on food stamps.

5. In addition, in the waiver request described above, DWD indicated that the areas served by private W-2 agencies had the highest incidence of food stamp errors in the state. Therefore, the Department was seeking flexibility to allow the private agencies to determine eligibility and benefits for food stamp applicants and recipients as a means of reducing the food stamp error rate. Wisconsin's food stamp error rate for the first six months of federal fiscal year (FFY) 1998 was 13.4%. In FFY 1997, the error rate was 13.7%, which was above the national average of 9.89%.

6. As noted, under current law, the Department is allowed to contract with W-2 agencies to administer the FSET program, and has contracted with each W-2 agency to do so. It could be argued that it would be more efficient to have the same agency that administers the FSET program also make eligibility determinations and issue food coupons for FSET participants, as recommended by the Governor.

7. In addition to FSET participants, the bill would require a W-2 agency to determine eligibility for and issue food coupons to other persons under the age of 61 who are not disabled, as defined by the Department. Again, it could be argued that it would be more efficient to have one

agency administer food stamp benefits for all recipients who may benefit from employment-related services.

8. On the other hand, under the current system, it does not appear that there are significant administrative burdens in areas where the county is not the W-2 agency. A participant could be determined eligible for food stamps by a county worker located in the W-2 agency or by a county worker in a separate location from the W-2 agency. The applicant or recipient's information is entered into the CARES computer system and can be accessed if needed by the W-2 agency administering FSET.

9. Furthermore, allowing the county to continue to provide these services would permit greater access to the food stamp program to potential recipients because the recipient could either go to the county location or to a county worker located in the W-2 agency. County workers also determine eligibility for medical assistance (MA) for some of these same recipients. Recipients that meet the criteria of having to comply with the FSET program or who are under 61 and not disabled, would still have to see a county worker for MA. As of March, 1999, there were 26,600 recipients of both food stamps and MA that were not receiving W-2. It is not clear how many of these recipients were under 61 and not disabled or subject to the FSET requirements.

10. It is also not clear that requiring W-2 agencies to serve FSET participants and other food stamp applicants and recipients who are not W-2 clients would reduce the food stamp error rate. According to the food stamp quality assurance reviews for the period October, 1997, to March, 1998, none of the counties that do not administer the W-2 program were included in the 10 counties that had the highest food stamp error rate; two had error rates above the statewide average; two had error rates of less than 10%; four had no errors; and one was not included in the sample. In addition, in August, 1998, the Joint Committee on Finance approved the Department's request to use \$300,000 for activities designed to reduce the food stamp error rate, such as programming for and generating monthly reports specifically for Milwaukee County, other CARES programming changes, attendance at workshops, special reports and other assistance to local workers to aid in identifying errors quickly. Therefore, the Department is already taking steps to reduce Wisconsin's food stamp error rate.

11. Several legislators have expressed concern about privatizing entitlement programs such as the food stamp program. However, current law requires all W-2 agencies, including private or non-profit agencies, to determine eligibility for and issue food coupons to W-2 participants to the extent permitted by federal law or waiver. This provision was enacted under 1995 Act 289, the law that created the W-2 program.

12. The bill would expand the ability of private agencies to determine eligibility for and issue food coupons to recipients of those benefits who are not also W-2 participants. If the Committee wished to limit the ability of non-county or non-governmental agencies to administer the food stamp program, current law could be maintained.

13. Finally, if the Committee wished to have more oversight into the implementation of

any waiver from federal requirements that would allow private agencies to administer the food stamp program, it could require DWD to submit a plan prior to implementing such a waiver.

ALTERNATIVES

A. Administration of Food Stamp Benefits by W-2 Agencies

1. Approve the Governor's recommendation to require W-2 agencies, to the extent permitted by federal law, to certify eligibility for and, if determined eligible, issue food coupons to: (a) participants in the W-2 program; (b) persons who may be required to participate in the FSET program, if DWD has contracted with the W-2 agency to administer FSET; and (c) other persons who are under the age of 61 and who are not disabled, as defined by the Department. Administration of food stamps for other recipients would continue to be a requirement of county departments of human or social services.

2. Maintain current law. Under this alternative, W-2 agencies would be required to determine eligibility for and issue food coupons to W-2 participants, to the extent permitted by federal law or waiver, and would not be required or allowed to do the same for other food stamp recipients.

B. Joint Finance Review

1. Modify the Governor's recommendation by requiring DWD to submit a plan to the Joint Committee on Finance prior to implementing any waiver from federal requirements that would allow non-governmental entities to make eligibility determinations and issue food coupons under the food stamp program.

Prepared by: Joanne T. Simpson

MO# A-2, B-1

BURKE	<input checked="" type="radio"/>	N	A
DECKER	<input checked="" type="radio"/>	N	A
JAUCH	<input checked="" type="radio"/>	N	A
MOORE	<input checked="" type="radio"/>	N	A
SHIBILSKI	<input checked="" type="radio"/>	N	A
PLACHE	<input checked="" type="radio"/>	N	A
COWLES	<input checked="" type="radio"/>	N	A
PANZER	<input checked="" type="radio"/>	N	A
GARD	<input checked="" type="radio"/>	N	A
PORTER	<input checked="" type="radio"/>	N	A
KAUFERT	<input checked="" type="radio"/>	N	A
ALBERS	<input checked="" type="radio"/>	N	A
DUFF	<input checked="" type="radio"/>	N	A
WARD	<input checked="" type="radio"/>	N	A
HUBER	<input checked="" type="radio"/>	N	A
RILEY	<input checked="" type="radio"/>	N	A

AYE 16 NO 0 ABS _____

Gov Agency: DWD (Economic Support & Child Care) Food Stamp Electronic Benefit Transfer

Recommendations:

Paper No. 1119 **Alternative:** 2, 4 ✓

Comments:

Alternative 2

Deletes positions recommended by the Governor to implement and monitor the contract for food stamp electronic benefit transfer system since there are plenty of vacant positions that could be reallocated.

Alternative 4

Deletes the 2.0 positions that currently work with food stamp coupons since these positions could be reassigned after the EBT system is implemented statewide in July, 2000.

Prepared by: Deb



Legislative Fiscal Bureau

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June 1, 1999

Joint Committee on Finance

Paper #1119

Food Stamp Electronic Benefit Transfer (DWD -- Economic Support and Child Care)

[LFB 1999-01 Budget Summary: Page 709, #65]

CURRENT LAW

Under current law, the Department of Workforce Development (DWD) is required to begin to implement a program to deliver food stamp benefits to recipients by an electronic benefit transfer (EBT) system by July 1, 1999. The system must be implemented statewide by April 1, 2000.

Prior to implementing the EBT system, DWD is required to notify the Joint Committee on Finance of the proposed system. The Department may proceed with implementing the system if, within 14 working days of the notification, the Committee does not schedule a meeting for the purpose of reviewing the proposed system. If a meeting is scheduled, the system could not take effect unless approved by the Committee.

The Department is authorized to enter into a contract with any financial institution to administer the EBT system. The contractor is required to provide training on the use of the system to benefit recipients, advocates for recipients, financial institution personnel, appropriate county, state and tribal governing body employees, and persons who sell good or services to recipients for which payment may be made by use of the EBT system such as retailers, landlords and public utilities. The contractor is also required to provide ongoing assistance on a 24-hour basis on the use of the EBT system.

GOVERNOR

Provide 2.0 (1.0 GPR and 1.0 FED) permanent positions annually in the Division of Economic Support to implement and monitor the contract for the food stamp electronic benefit transfer system. These positions -- one contract specialist advanced and one program and

contract for the food stamp electronic benefit transfer system. No additional funding would be provided for these positions.

2. Delete the positions recommended by the Governor and authorize the Department to reallocate vacant positions from within the Division of Economic Support for these functions.

<u>Alternative 2</u>	<u>GPR</u>	<u>FED</u>	<u>TOTAL</u>
1999-01 FUNDING (Change to Bill)	- \$45,900	- \$45,900	- \$91,800
2000-01 POSITIONS (Change to Bill)	- 1.00	- 1.00	- 2.00

3. Delete one position recommended by the Governor and authorize the Department to reallocate a vacant position from within the Division of Economic Support to perform these functions.

<u>Alternative 3</u>	<u>GPR</u>	<u>FED</u>	<u>TOTAL</u>
1999-01 FUNDING (Change to Bill)	- \$22,900	- \$23,000	- \$45,900
2000-01 POSITIONS (Change to Bill)	- 0.50	- 0.50	- 1.00

4. Modify the Governor's recommendation by deleting the two positions that currently work on distribution of food coupons (one program assistant supervisor and one shipping and mail clerk), beginning August, 2000. Reduce funding by \$64,100 (\$32,000 GPR and \$32,100 FED) in 2000-01.

<u>Alternative 4</u>	<u>GPR</u>	<u>FED</u>	<u>TOTAL</u>
1999-01 FUNDING (Change to Bill)	- \$32,000	- \$32,100	- \$64,100
2000-01 POSITIONS (Change to Bill)	- 0.50	- 0.50	- 1.00

MO# AHS 2+4

BURKE	Y	N	A
DECKER	Y	N	A
JAUCH	Y	N	A
MOORE	Y	N	A
SHIBILSKI	Y	N	A
PLACHE	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A
GARD	Y	N	A
PORTER	Y	N	A
KAUFERT	Y	N	A
ALBERS	Y	N	A
DUFF	Y	N	A
WARD	Y	N	A
HUBER	Y	N	A
RILEY	Y	N	A

Prepared by: Joanne T. Simpson

AYE 16 NO 0 ABS

WORKFORCE DEVELOPMENT

Economic Support and Child Care

LFB Summary Items for Which No Issue Paper Has Been Prepared

<u>Item #</u>	<u>Title</u>
9	Job Retention Services
10	Educational Needs Assessment
14	Milwaukee Private Industry Council
15	W-2 Administrative Services in Milwaukee County
20	Child Care Funding: Administrative Costs
25	Food Stamps for Qualified Aliens
26	Employment Skills Advancement Grants
29	Hospital-Based Paternity Incentives
31	State Administration
34	Transportation
35	County Fraud and Front-End Verification
36	Passports for Youth
37	Wisconsin Economic Development Initiative
38	Milwaukee County Liaison
39	Learnfare Case Management Services
40	Credit Assistance
41	The New Hope Project
55	W-2 Related Allocation and Appropriation Modifications
57	Identifying Maintenance of Effort Funds
58	Excess Federal Funding
59	Application for Burial Expenses
60	Homestead Credit: No Credit to W-2 Participants who Receive Grants as the Custodial Parent of an Infant
63	Family Care Income Maintenance
66	Repeal of Obsolete Statutory Provisions and Cross References