

B

Workforce Development

Child Support

Bill Agency

(LFB Budget Summary Document: Page 754)

LFB Summary Items for Which Issue Papers Have Been Prepared

<u>Item #</u>	<u>Title</u>
1, 2, 4 & 5	KIDS Computer System, Centralized Receipt and Disbursement Fee (Paper #1060)
-	Use of Percentage-Expressed Child Support Orders in Wisconsin (Paper #1061)

AGENCY: Department of Workforce Development

LFB PAPER #: 1060

ISSUE: KIDS Computer System, Centralized Receipt and Disbursement Fee

ALTERNATIVE: 1, 5 & 6

SUMMARY:

Alt. 1 uses reestimates to fund the KIDS increased costs, along with a \$10 increase in the yearly fee paid by non-custodial parents.

Alt. 5 doesn't allow DWD to use unclaimed support to replace any forgone revenue. LFB points out on page 9, paragraphs 21 & 22 that this is probably unconstitutional, and there's an Attorney General's opinion saying it's not a legal use of funds.

Alt. 1 gives DWD a little bit of a surplus in the KIDS fund. By moving Alt. 5, we basically take that surplus away, so it's a wash. They're left with no surplus, but we don't leave them in a hole. No reason to jack up the CR&D fees beyond the \$10 the gov. proposes in Alt. 1. LFB points out that anything above this & you'll start running into more noncompliance problems.

Alt. 6 makes some statutory changes to reflect the way DWD processes federal tax intercepts of child support. Makes the statutes coincide with current practice & intended use of these funds.

BY: Cindy

Cindy SC



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May 31, 2001 Joint Committee on Finance Paper #1060

KIDS Computer System, Centralized Receipt and Disbursement Fee (DWD -- Child Support)

[LFB 2001-03 Budget Summary: Page 754, #1 and #2; Page 757, #4 and Page 758, #5]

CURRENT LAW

Federal law requires every state to have a certified statewide, automated child support system in place. The Kids Information Data System (KIDS) was developed to replace the previous automated child support system, which did not meet federal requirements. Since January, 1993, the state has contracted with IBM Global to develop and operate the KIDS system in Wisconsin.

The federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) imposed a number of new requirements on states relating to child support enforcement. Some of these requirements have necessitated changes in the KIDS system, particularly the creation of the centralized receipt and disbursement (CR&D) system and the new hire reporting system. Under the CR&D system, all child support payments are processed on a computerized basis through the support collections trust fund. A division of Lockheed-Martin has operated the computerized system under contract with the state since its inception.

Funding Sources for KIDS

Federal and GPR Funding. Operation of the KIDS system is generally funded at a 66/34 federal/state match. The state match is paid for with GPR funding.

CR&D Fees. In January, 1999, the state began operation of an automated system for processing the receipt and disbursement of child support, maintenance, health care expenses, birth expenses and other support-related expenses. This system is funded partially from an annual \$25 CR&D fee charged by the Department of Workforce Development (DWD) to support obligors. Amounts collected from the CR&D fee are accounted for as program revenue. Expenses of the CR&D function not covered by the \$25 fee or interest earnings in the support collections trust fund (described below) are funded with GPR and federal matching funds.

Prior to January, 1999, county clerks of court or a support collection designee collected and disbursed support payments and collected the \$25 annual fee for this service.

Interest on the Support Collections Trust Fund. Monies received from income withholding and other collections of child or family support, maintenance or spousal support, health care expenses or birth expenses are deposited to the segregated state support collections trust fund. Interest earned on balances in the fund during the delay between the time a collection is received and the time the payment is issued to the recipient is drawn ("float") is used to fund the CR&D function. Revenues from the CR&D fee and interest on the support collections fund cannot be used to obtain federal matching funds.

GOVERNOR

KIDS/CR&D Budget

The following table outlines the budgeted revenues and expenditures for the KIDS/CR&D system in the 2001-03 biennium, as recommended by the Governor.

TABLE 1

2001-03 KIDS/CR&D Budget

	<u>2001-02</u>	<u>2002-03</u>
Budgeted Expenditures		
System Maintenance and Change Orders	\$20,621,800	\$21,699,600
InfoTech Charges	12,791,600	12,921,500
State Staff and BITS Costs	4,031,300	3,261,900
Supplies and Services	3,062,200	3,110,700
Uncollectable Receivables	170,000	170,000
Total KIDS Budget	\$40,676,900	\$41,163,700
Revenues Available for KIDS and CR&D		
CR&D Fee (PR)	\$9,190,900	\$9,755,900
Support Collections Trust Fund		
Earnings (SEG)	1,300,000	1,300,000
Unclaimed Support (SEG)	1,500,000	1,500,000
GPR	9,770,300	9,770,300
FED Match	18,965,900	18,965,900
Total Available Revenues	\$40,727,100	\$41,292,100
Surplus	\$50,200	\$128,400

As the table indicates, expenditures for the system would total \$40.7 million in 2001-02 and \$41.2 million in 2002-03. The largest expenditure is for system maintenance and change orders (\$20.6 million in 2001-02 and \$21.7 million in 2002-03), which primarily reflects fees

paid to IBM Global and other contractors. The InfoTech budget (\$12.8 million in 2001-02 and \$12.9 million in 2002-03) includes monies paid to the Department of Administration (DOA) for mainframe services and connection to the consolidated data network. The remaining budget is for staff and supplies and services.

Estimated revenues for the system (including the Governor's proposed increase in the CR&D fee and unclaimed support, described below) total \$40.7 million in 2001-02 and \$41.3 million in 2002-03. Therefore, a small surplus is estimated in each year. Attachment 1 provides additional detail regarding the recommended KIDS/CR&D budget.

Other Provisions Related to KIDS

The Governor's biennial budget recommendation includes the following provisions that would impact the KIDS budget.

Restoration of \$2,000,000 GPR to the KIDS Base Budget. The bill would restore \$2,000,000 GPR annually to the KIDS budget. In the 1999-01 biennium, these funds were removed from DWD's budget and placed in the Joint Finance Committee's program supplements appropriation because GPR budgeted for the child support program had not been fully expended in prior years and because of the possibility that revenues from the annual CR&D fee would be higher than anticipated. These funds were transferred back to DWD by the Committee on a one-time basis in 1999-00 and 2000-01 in actions under s. 13.10, and are included in Table 1.

Centralized Receipt and Disbursement Fee Provisions. The bill would provide \$2,290,900 in 2001-02 and \$2,855,900 in 2002-03 for anticipated increases in vendor charges associated with the centralized receipt and disbursement system. As mentioned, operation of the system is conducted primarily by Lockheed-Martin under contract with DWD. The base contract will expire on December 31, 2001, and the Department believes that vendor costs will be significantly higher under the new contract.

As Table 2 shows, the CR&D fee revenues would come from three sources: (a) a reestimate of revenues under current law; (b) a \$10 increase in the fee, effective January 1, 2002; and (c) a modification to a provision of 1999 Wisconsin Act 9 regarding income withholding for arrearages of the CR&D fee.

TABLE 2

**Sources of Additional CR&D Fee Revenue
As Proposed by the Administration**

	<u>2001-02</u>	<u>2002-03</u>
Reestimate of CR&D Fee Revenues, Current Law	\$600,000	\$600,000
Increase of \$10 in the CR&D Fee	1,575,000	2,100,000
Modification Regarding Income Withholding For CR&D Fee Arrearages	<u>115,900</u>	<u>155,900</u>
Total	<u>\$2,290,900</u>	<u>\$2,855,900</u>

Regarding the last of the three items, 1999 Wisconsin Act 9 specified that income assignments for delinquent CR&D fees remain in effect even if the individual's current obligation to pay the fee has terminated. However, this provision applied only to CR&D fees ordered on or after January 1, 2000. The bill would eliminate the Act 9 initial applicability date so that income withholding could be used for CR&D fee arrearages arising from orders that were in effect prior to January 1, 2000.

The bill contains several other provisions that are intended to improve collection of the CR&D fee. These items are described in Attachment 2.

Use of Unclaimed Support. The bill would authorize DWD to retain and use unclaimed child support payments for administration of the child support enforcement program. An estimated \$1,500,000 SEG would be appropriated to DWD in each year under this provision, which would be used for the KIDS/CR&D system. For a more complete description of this proposal, refer to Attachment 2.

DISCUSSION POINTS

1. The KIDS/CR&D budget was most recently reviewed and adjusted by the Committee at its December 19, 2000, meeting under s. 13.10. At that time, it was estimated that expenditures for the system would total \$39.8 million in 2000-01. As shown in Table 1, under the Governor's bill, expenditures in the 2001-03 biennium are estimated at \$40.7 million in 2001-02 and \$41.2 million in 2002-03. These amounts are higher than the 2000-01 funding level by \$0.9 million in the first year and \$1.4 million in the second year. These increases are approximately 2.2% in 2001-02 and 3.5% in 2002-03.

2. In general terms, the KIDS/CR&D budget submitted by the Governor was structured to cover anticipated increases in the cost of the CR&D contract with Lockheed-Martin (\$2.5 million in 2001-02 and \$4.6 million in 2002-03) with the amount of GPR currently

appropriated for the system (including the \$2 million that was placed in the Committee's appropriation during the 1999-01 biennium). This was to be accomplished by: (a) increasing other funding sources for the system through the higher CR&D fee and allowing DWD to use unclaimed support; and (b) directing DWD to make unspecified spending reductions.

CR&D Vendor Contract

3. According to the administration, when Lockheed bid for the current CR&D contract, it incorporated rates that would not necessarily cover its costs in order to win the state's business for operation of the CR&D system. Subsequently, in July, 2000, Lockheed notified DWD that it was projecting a \$1.7 million loss on its Wisconsin CR&D operations in calendar year 2000 and indicated that, without an increase in the base per-transaction reimbursement rate, it would not exercise the contract extension option at the expiration date of January 1, 2002.

4. Because Wisconsin was believed to be paying a lower rate than other states, DWD concluded that re-bidding the contract likely would not have attracted competitors with lower rates. As an alternative to utilizing the services of an outside vendor, one option would be to operate the CR&D system internally. This option was rejected by the administration because reliable cost estimates for a state-operated system were not available, and the current contract will terminate within a relatively short period of time. However, as introduced, the bill would have required DWD to study the cost of operating the system in-house, with a report to the Secretary of the Department of Administration due by December 31, 2001. This provision was removed from the bill as a non-fiscal policy item, but DWD could conduct this study without legislation directing them to do so.

5. As discussed below, costs of the new CR&D vendor contract are now estimated to be lower than the amounts anticipated by the administration.

Expenditure Reductions Proposed by the Administration

6. Because DWD submitted a budget in which projected expenditures exceeded available revenues (due primarily to higher CR&D costs), the Governor recommended a series of expenditure reductions across several categories of the KIDS budget. These cuts, which total \$1.9 million in 2001-02 and \$3.7 million in 2002-03, are identified in Attachment 1 and summarized in Table 3.

TABLE 3

KIDS Expenditure Reductions Recommended by the Administration

	2001-02			2002-03		
	<u>GPR</u>	<u>FED</u>	<u>Total</u>	<u>GPR</u>	<u>FED</u>	<u>Total</u>
System Maintenance and Change Orders	\$377,100	\$731,900	\$1,109,000	\$732,700	\$1,422,300	\$2,155,000
State Staff and BITS Costs	33,000	64,000	97,000	298,500	579,500	878,000
InfoTech Charges	228,900	444,300	673,200	230,500	447,500	678,000
Total	\$639,000	\$1,240,200	\$1,879,200	\$1,261,700	\$2,449,300	\$3,711,000

7. The administration forwarded its recommendations as a broad framework by which the KIDS budget could be balanced, with substantial flexibility to be retained by DWD to make modifications as circumstances would warrant. Specific reductions were not delineated by the Governor, and DWD has not indicated how the cuts would be implemented.

Revised Revenue and Expenditure Estimates

8. At this time, it appears that two significant areas of the KIDS/CR&D budget should be reestimated. First, since the bill was introduced, DWD has largely completed negotiations with Lockheed-Martin for a new contract. Costs will increase under terms of the new agreement, but not as much as originally anticipated. The revised contract costs are estimated at \$8.4 million in each year of the biennium, which is a reduction of \$0.5 million in 2001-02 and \$2.6 million in 2002-03, compared to the Governor's estimates. Although these amounts are lower than the Governor's estimates, they exceed the current cost of the contract by \$2.1 million in each year.

9. Second, based on a review of collections data and information regarding the number of cases in the KIDS system, it is now estimated that collections of the CR&D fee would be \$8.7 million in 2001-02 and \$9.2 million in 2002-03 under the bill. These amounts are lower than the administration's estimates by about \$0.5 million in each year. The primary reason for the decrease is a lower base going into the biennium than had been anticipated, due to a leveling off of collections attributable to withholding of prior-year amounts owed.

10. Table 4 shows the KIDS/CR&D budget with these revised estimates.

TABLE 4

Revised 2001-03 KIDS/CR&D Budget

	<u>2001-02</u>	<u>2002-03</u>
Expenditures		
System Maintenance and Change Orders	\$20,112,700	\$19,132,800
InfoTech Charges	12,791,600	12,921,500
State Staff and BITS Costs	4,031,300	3,261,900
Supplies and Services	3,062,200	3,110,700
Uncollectable Receivables	<u>170,000</u>	<u>170,000</u>
Total Expenditures	\$40,167,800	\$38,596,900
Revenues Available for KIDS and CR&D		
CR&D Fee (PR)	\$8,706,900	\$9,243,900
Support Collections Trust Fund		
Earnings (SEG)	1,300,000	1,300,000
Unclaimed Support (SEG)	1,500,000	1,500,000
GPR	9,770,300	9,770,300
FED Match	<u>18,965,900</u>	<u>18,965,900</u>
Total Available Revenues	\$40,243,100	\$40,780,100
Surplus	\$75,300	\$2,183,200

11. As shown in Table 4, with the revised CR&D fee estimates on the revenue side and lower Lockheed-Martin costs on the expenditure side, the KIDS budget would have a surplus of \$75,300 in 2001-02 and \$2,183,200 in 2002-03. These figures assume that the \$10 increase in the fee recommended by the Governor would be adopted, as well as the provisions allowing DWD to use unclaimed support.

12. DWD believes that the cuts recommended by the Governor would be difficult to manage and that the funding recommended by the Governor should be retained. This would allow the Department to use the surplus revenues shown in Table 4 to fund some items that would otherwise be cut, particularly for system maintenance and change orders.

13. Given the KIDS budget surpluses, several options are available to the Committee. First, the Committee could leave the surpluses intact if it concluded, as DWD asserts, that the Department needs the monies. Alternatively, the Committee could remove the 34% GPR share of the identified surpluses (\$25,600 in 2001-02 and \$742,300 in 2002-03) and make these dollars available for other uses.

14. The Committee could also elect to not increase the CR&D fee or not allow DWD to use unclaimed support for the system. However, these options would necessitate appropriating additional GPR and federal matching funds. On the other hand, if the Committee wishes to increase the fee more than the Governor's recommendation, additional GPR could be

removed from the KIDS budget or the bill provision allowing DWD to use unclaimed support could be eliminated.

15. The remaining sections of this paper provide additional detail regarding potential increases in the CR&D fee and the provision that would permit DWD to use unclaimed support. Also, information regarding the system's mainframe costs is presented and a technical modification regarding the child support federal tax intercept program is discussed.

Additional CR&D Fee Increases

16. The following table shows the estimated revenues, compared to the revised estimates, that would be generated by additional CR&D fee increases. As with the Governor's proposal, the figures in Table 5 assume an effective date of January 1, 2002.

TABLE 5

Estimated Revenues from Potential CR&D Fee Increases

<u>Increase</u>	<u>New Fee Level</u>	<u>Additional PR (Change to Bill as Reestimated)</u>		
		<u>2001-02</u>	<u>2002-03</u>	<u>2001-03 Biennium</u>
\$15	\$40	\$852,000	\$1,136,000	\$1,988,000
20	45	1,661,400	2,215,200	3,876,600
25	50	2,470,800	3,294,400	5,765,200

17. In considering additional CR&D fee increases the Committee should note that it could not reduce GPR funding on a dollar-for-dollar basis, because the federal match associated with the GPR funds would also be foregone. For example, if the fee were increased to \$45, the additional program revenue would allow for a GPR reduction of \$564,900 in 2001-02 and \$753,200 in 2002-03 (34% of the additional fee revenue). Federal matching funds would be reduced by \$1,096,500 in the first year and \$1,462,000 in the second year. This would not be a concern if a fee increase were adopted in order to replace revenues from unclaimed support. Because unclaimed support cannot be used to claim federal matching funds, these monies could be replaced with CR&D fee revenues dollar-for-dollar.

18. There are several arguments against additional fee increases. First, the \$35 fee proposed by the Governor would be 40% more than the current \$25 fee. The fee was last raised in 1991. Had the fee been adjusted for estimated inflation since that time it would be approximately \$33 on January 1, 2002, or slightly less than the Governor's recommendation. Second, further increases to the fee would likely lead to additional noncompliance. Finally, fee revenues cannot be used as a match for federal funds. Therefore, GPR represents a more efficient state funding source, since it can be used to leverage 66% federal funding.

Use of Unclaimed Support for Child Support Enforcement

19. Federal child support provisions treat unclaimed support as program revenue available to the state for its child support enforcement program, even though these funds are not appropriated to DWD under current law. Because the federal government will not provide reimbursement for child support expenses funded with program revenue, the current provisions result in DWD foregoing some federal matching funds.

20. The bill would allow DWD to retain unclaimed support and use these revenues for the KIDS/CR&D budget. Unclaimed support is currently treated like other abandoned property and deposited in the state common school fund. Interest earnings from the fund are used to provide categorical aids to public schools for libraries. In addition, balances in the fund may be loaned to school districts, counties and municipalities. Such loans may be used for any purpose for which municipal debt may be issued.

21. The Legislative Reference Bureau (LRB) has noted that there may be a state constitutional roadblock to using unclaimed support dollars to help fund the KIDS/CR&D system or general child support enforcement efforts. Article X, section 2 of Wisconsin's constitution requires all money that accrues to the state by forfeiture or escheat (the reversion of property to the state in the absence of legal heirs or claimants), a provision that encompasses unclaimed property, to be deposited into the common school fund. Although it may be possible to argue that unclaimed support would not have to be treated according to the provisions of Article X, section 2 because it may be reclaimed by the owner, analysis by the LRB indicates that it is at least as likely that a court would hold to the contrary.

22. The LRB further notes that, although there is no Wisconsin case addressing the specific issue presented here, an Attorney General's opinion from April, 1972, indicates that a statute requiring certain unclaimed money to be distributed to the Department of Employee Trust Funds would violate the above-referenced constitutional provisions. Given these issues, unclaimed support may not represent a reliable source of dollars with which to fund the CR&D function or other child support enforcement efforts. As noted in Table 1, the administration's budget includes \$1.5 million in anticipated revenues each fiscal year from unclaimed support.

23. Should the Committee choose not to adopt the Governor's recommendation to use unclaimed support to fund child support enforcement efforts, it would have to reduce the KIDS/CR&D budget by \$3 million over the 2001-03 biennium or appropriate the same amount from other revenue sources. Alternative revenue sources include monies raised from the CR&D fee or a combination of 34% GPR and 66% FED.

Mainframe Charges

24. Another significant component of the KIDS/CR&D budget are mainframe charges. The KIDS system utilizes a mainframe computer housed within DOA to process transactions. Mainframe costs are incurred for two primary purposes: (a) usage of space, and (b) time used in

processing transactions. Costs of utilizing the mainframe have grown significantly in recent years. In state fiscal year 1998-99, mainframe charges were relatively stable at about \$774,000 per month. Early in fiscal year 1999-00, these costs began to rise, averaging in excess of \$1 million per month over the year, and have continued to be high in fiscal year 2000-01.

25. In state fiscal year 1999-00, KIDS mainframe costs accounted for 27.1% of the KIDS budget; in the 2001-03 biennium they will account for over 30%--nearly one-third--of the budget.

26. Concern over the rising mainframe costs prompted the Finance Committee at last December's 13.10 meeting, to direct DWD to prepare a report, due by the end of March, 2001, outlining the factors contributing to the mainframe cost increases as well as steps the Department anticipated taking to reduce future costs. DWD issued its findings to the Committee in a memorandum dated March 31, 2001. The primary factors cited by DWD in this memorandum as driving the cost increases included: (a) a growing number of support-related records entered and maintained in KIDS; (b) enhancements to the KIDS software to add new functions, such as added account history and improvements to the interactive voice system that parents can use to obtain account information; and (c) addition of functions required by federal law.

27. In its memorandum, DWD also cited a number of measures it has taken as well as a number it intends to take to reduce mainframe time usage. Among the measures DWD anticipates implementing in the future to reduce mainframe use time include additional partitioning (breaking up and indexing large amounts of information stored); creating a method by which old documents automatically would be stored offline as they age; modifying computer code so that programs run more efficiently; and reducing the size of testing environments (using environments that constitute a subset of cases and data rather than a replication of the entire database).

28. Following the December meeting, DWD and DOA entered into discussions regarding mainframe rates charged by DOA. One outcome of the meetings was a decision by DOA to reduce processing-time rates by 8% and storage rates by 20%, retroactive to July 1, 2000. As noted in Table 3, the budget reductions recommended by the Governor assume that Infotech charges will be cut by approximately \$0.7 million annually.

Technical Corrections to Federal Tax Intercept

29. Both current law and the bill indicate that both state and federal tax intercept collections must be sent by the Department of Revenue to DWD to be deposited to the support collections trust fund. In practice, however, the Department of Revenue does not handle federal tax intercept collections. Instead, they are transmitted directly to the Department of Administration by the IRS for deposit to the general fund. As a result, the proposed change would not accomplish the intended goal of processing federal tax intercept collections through the support collections trust fund so that unclaimed dollars could be retained by DWD for child support enforcement efforts.

30. To solve this problem, those portions of statute that relate to federal tax intercept procedures in cases involving delinquent support, s. 49.855, could be amended to correct all references to the Department of Revenue processing federal tax intercept collections. The same section of statute could be amended to direct the Department of Administration to send federal tax intercept collections received for delinquent support to DWD for deposit to the support collections trust fund. Finally, the section of state statute that relates to the support collections trust fund, s. 25.68, could be amended to include federal tax intercept collections received from DOA in the list of monies that constitute the trust fund.

Summary of Alternatives

31. The following section identifies a number of alternatives the Committee could consider regarding the KIDS/CR&D budget. Because the \$2,000,000 GPR provided under the bill would leverage \$3,882,400 in federal matching funds, each of the alternatives assumes that some or all of the GPR would be provided to DWD.

- The first option would reestimate the Governor's proposal to account for the reduced CR&D vendor contract and the lower CR&D fee revenues, and retain the excess funding in DWD. The Department could use these funds to offset a portion of the expenditure reductions recommended by the Governor.

- The second alternative would also incorporate the reestimates, but would remove excess GPR (and federal matching funds) from DWD's budget.

- The next several options consider the level of the CR&D fee and whether DWD should be permitted to use unclaimed support as a funding source for the KIDS/CR&D budget. These options assume that any additional increases in the fee would be used to reduce GPR and FED budgeted for the system and, conversely, that additional GPR and federal matching funds would be appropriated if the Committee elects to not increase the fee or to not allow DWD to use revenues from unclaimed support.

- The final alternative is a technical modification regarding the federal tax intercept program.

Because there are multiple funding sources and expenditures involved in the KIDS/CR&D budget, any number of other alternatives could be constructed.

ALTERNATIVES TO BILL

1. Adopt the Governor's recommendation with reestimates to: (a) reduce PR funding for the centralized receipt and disbursement system by \$484,000 in 2001-02 and \$512,000 in 2002-03 to reflect a lower estimate of the amount of revenue generated by the CR&D fee under the provisions of the bill; and (b) decrease estimated expenditures for the CR&D vendor contract by \$509,100 in 2001-02 and \$2,566,800 in 2002-03. Under this option, the KIDS/CR&D budget

would have an estimated surplus of \$75,300 in 2001-02 and \$2,183,200 in 2002-03. These excess funds would be available to DWD to partially offset the expenditure reductions recommended by the Governor.

Alternative 1	PR
2001-03 FUNDING (Change to Bill)	- \$996,000

2. Reestimate the Governor's proposal as described in Alternative 1. Reduce funding by \$25,600 GPR and \$49,700 FED in 2001-02 and by \$742,300 GPR and \$1,440,900 FED in 2002-03.

Alternative 2	GPR	FED	PR	TOTAL
2001-03 FUNDING (Change to Bill)	- \$767,900	- \$1,490,600	- \$996,000	- \$3,254,500

3. Increase the annual CR&D fee by \$15, \$20 or \$25 over the current level of \$25. The fee increase would raise additional PR as indicated in the table below. Depending upon the level of fee increase, the additional revenues could be used to: (a) provide additional funds to DWD to offset the spending reductions recommended by the Governor; (b) reduce GPR and FED matching funds appropriated for the system; or (c) eliminate the provision of the bill that would allow DWD to use unclaimed support for the system. This alternative assumes that the additional funds would be used to reduce GPR and FED appropriated for the KIDS/CR&D system.

<u>Increase</u>	<u>New Fee Level</u>	<u>Additional PR (Change to Bill, as Reestimated)</u>		
		<u>2001-02</u>	<u>2002-03</u>	<u>2001-03 Biennium</u>
a. \$15	\$40	\$852,000	\$1,136,000	\$1,988,000
b. 20	45	1,661,400	2,215,200	3,876,600
c. 25	50	2,470,800	3,294,400	5,765,200

Alternative 3a	GPR	FED	PR	TOTAL
2001-03 FUNDING (Change to Bill)	- \$675,900	- \$1,312,100	\$1,988,000	\$0

Alternative 3b	GPR	FED	PR	TOTAL
2001-03 FUNDING (Change to Bill)	- \$1,318,000	- \$2,558,600	\$3,876,600	\$0

Alternative 3c	GPR	FED	PR	TOTAL
2001-03 FUNDING (Change to Bill)	- \$1,960,200	- \$3,805,000	\$5,765,200	\$0

4. Deny the Governor's recommended increase in the CR&D fee and provide \$506,900 GPR and \$984,100 FED in 2001-02 and \$675,900 GPR and \$1,312,100 FED in 2002-03 to replace the foregone fee revenue. Program revenue from the fee would be reduced by \$1,491,000 in 2001-02 and \$1,988,000 in 2002-03, compared to the revised estimates.

<u>Alternative 4</u>	<u>GPR</u>	<u>FED</u>	<u>PR</u>	<u>TOTAL</u>
2001-03 FUNDING (Change to Bill)	\$1,182,800	\$2,296,200	- \$3,479,000	\$0

5. Deny the Governor's recommendation to allow DWD to use unclaimed support and provide \$510,000 GPR and \$990,000 FED in each year to replace the foregone revenue.

<u>Alternative 5</u>	<u>GPR</u>	<u>FED</u>	<u>SEG</u>	<u>TOTAL</u>
2001-03 FUNDING (Change to Bill)	\$1,020,000	\$1,980,000	- \$3,000,000	\$0

6. Modify statutory provisions relating to federal tax intercept of child support and the support collections trust fund to delete incorrect references to the Department of Revenue.

Prepared by: Drew B. Larson
Attachments

MO# Alts. 2+6

BURKE	Y	N	A
DECKER	Y	N	A
MOORE	Y	N	A
SHIBILSKI	Y	N	A
PLACHE	Y	N	A
WIRCH	Y	N	A
DARLING	Y	N	A
WELCH	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
ALBERS	Y	N	A
DUFF	Y	N	A
WARD	Y	N	A
HUEBSCH	Y	N	A
HUBER	Y	N	A
COGGS	Y	N	A

AYE 16 NO 0 ABS

ATTACHMENT 1

2001-03 KIDS/CR&D Budget Recommended by the Governor

	<u>2001-02</u>	<u>2002-03</u>
EXPENDITURES		
System Maintenance and Change Orders		
Ongoing System Maintenance	\$6,588,000	\$6,588,000
Contractor Fixed Costs	2,636,400	2,636,400
Centralized Receipt & Disbursement	11,511,100	13,634,900
New Hire Reporting System	995,300	995,300
County Priority Requests	0	0
Cuts	<u>-1,109,000</u>	<u>-2,155,000</u>
Subtotal	\$20,621,800	\$21,699,600
State Staff and BITS Costs		
State Staff and BITS Costs	\$1,739,100	\$1,739,100
Supplemental Staff	1,005,000	1,005,000
Capital/Installation/Infrastructure	100,000	100,000
Local Area Network Service	123,600	123,600
DWD System Fee	1,160,600	1,172,200
Cuts	<u>-97,000</u>	<u>-878,000</u>
Subtotal	\$4,031,300	\$3,261,900
InfoTech Charges		
Mainframe	\$12,579,000	12,704,800
Cuts	-673,200	-678,000
Telecommunications	<u>885,800</u>	<u>894,700</u>
Subtotal	\$12,791,600	\$12,921,500
Supplies and Services		
Centralized Mailing	\$987,300	\$997,100
Supplies and Services	<u>2,074,900</u>	<u>2,113,600</u>
Subtotal	\$3,062,200	\$3,110,700
Write-off Uncollectable Receivables	<u>\$170,000</u>	<u>\$170,000</u>
Total Expenditures	\$40,676,900	\$41,163,700
REVENUES		
CR&D Fee (PR)	\$9,190,900	\$9,755,900
Support Collections Trust Fund Interest (SEG)	1,300,000	1,300,000
Unclaimed Support (SEG)	1,500,000	1,500,000
GPR	9,770,300	9,770,300
Federal Match	<u>18,965,900</u>	<u>18,965,900</u>
Total Revenues	\$40,727,100	\$41,292,100
KIDS/CR&D Surplus	\$50,200	\$128,400

ATTACHMENT 2

Governor's Recommendations Relating to Collections of the CR&D Fee and the Use of Unclaimed Support

This attachment provides greater detail regarding provisions of the bill that would enhance DWD's ability to collect the CR&D fee and allow the Department to use unclaimed support to fund child support enforcement activities.

CR&D Fee-Related Provisions

Withholding from Tax Credits and Refunds. Under current law, if a person is delinquent in making court-ordered child support, family support or maintenance, or owes an outstanding amount that has been ordered by the court for past support, medical expenses or birth expenses, DWD must certify the delinquent payment or outstanding amount to the Department of Revenue. A certification of unpaid support from DWD to DOR constitutes a lien against any state tax refunds or credits owed to the obligor equal to the amount certified. DOR must notify the obligor that it intends to reduce any state tax refund or credit by the amount owed. The notice must provide that within 20 days the obligor may request a hearing before the circuit court rendering the order. A hearing date must be set by the court within 10 days after receiving such a request.

Under the bill, these provisions would also apply to delinquent CR&D fee payments. Amounts withheld by DOR for delinquent CR&D fees would be sent to DWD for deposit in its PR appropriation for child support state operations--fees, and would be used for vendor charges and other expenses associated with the centralized receipt and disbursement system.

The bill would also require amounts withheld by DOR for unpaid support to be sent to DWD for deposit in the support collections trust fund. These moneys would then be distributed to the obligee or, in the case of support assigned to the state by public assistance recipients, used for county incentive payments and costs of the W-2 program. Under current law, the statutes specify that unpaid support withheld by DOR must be sent to DWD for distribution to the obligee. However, these funds are currently deposited in DWD's appropriation for delinquent support and maintenance payments to be distributed in accordance with state law and federal regulations, which do not always provide for distribution to the obligee.

Income Withholding. Under the bill, each order for or obligation to pay the annual CR&D fee would be subject to income withholding. This currently applies only to orders for the fee (as opposed to other obligations to pay). Arrearages of the fee would continue to be subject to income withholding until the arrearage is paid in full.

Withholding from Vendor Payments and Other Payments. Under current law, DOR may provide a certification it receives from DWD for unpaid support to the Department of

Administration, which must begin to withhold any vendor payments or certain other payments from the state and notify the obligor that the unpaid support is being withheld. As with withheld tax refunds and credits, the notice must provide that within 20 days the obligor may request a hearing before the circuit court rendering the order. A hearing date must be set by the court within 10 days after receiving such a request. Under the bill, these provisions would also apply to delinquent CR&D fees.

Unpaid support and CR&D fees withheld under this provision would be transferred from DOA to DWD and deposited into its PR appropriation for delinquent support, maintenance and fee payments, to be distributed in accordance with state law and federal regulations. Under current law, the statutes specify that unpaid support withheld by DOA must be sent to DWD for distribution to the obligee. However, these funds are currently deposited in the delinquent support and maintenance appropriation and distributed in accordance with state law and federal regulations, which do not always provide for distribution to the obligee.

Imposition of the Fee for Years in which a Support Arrearage is Due. Under the bill, the CR&D fee would be imposed for any year in which an arrearage of support is owed. Currently, the fee is imposed for each year in which support payments are ordered.

Unpaid County CR&D Fees. Under current law, DWD is permitted to retain unpaid CR&D fees that were due counties prior to state implementation of the CR&D system. DWD may not deduct the fee from any support or maintenance payment. The bill would disallow DWD from deducting the fee from any arrearage payments as well.

Use of Unclaimed Support

Under current law, DWD is responsible for collecting and disbursing all moneys received for child and family support and maintenance (support). Amounts of support that cannot be distributed by DWD (such as when the payee has not notified the Department of a new address) or support checks that have not been cashed within one year are considered abandoned property, and are subject to the general requirements of the state unclaimed property act. Under that law, by May 1 of each even-numbered year, DWD must file a report regarding unclaimed support with the State Treasurer that covers the previous two calendar years. For amounts of \$50 or more, DWD must notify the obligee at his or her last-known address at least 120 days prior to submitting the report that the Department is holding unclaimed support.

The State Treasurer is required to provide public notice of all reported abandoned property. If unpaid support remains unclaimed on the December 1 following this public notice, DWD must deliver the funds to the State Treasurer for deposit in the school fund. Claims for unpaid support and other abandoned property may be filed with the State Treasurer.

Under the bill, abandoned child support checks and amounts of child support that are not distributable to the payee (unclaimed support) would be credited to a new sum sufficient appropriation in the segregated support collections trust fund. These funds would be used by

DWD for administering the child support program and reimbursing the State Treasurer for subsequent claims for the unclaimed support. DWD would still be required to report unclaimed support amounts to the State Treasurer.

Any person, except another state, claiming interest in unclaimed support that has been reported to the State Treasurer could file a claim with the State Treasurer after December 1 following the report, on a form prescribed by the State Treasurer and verified by the claimant. Another state could recover unclaimed support under circumstances that are allowed under current law any time after December 31 following the reporting of unclaimed support to the State Treasurer. The State Treasurer would pay any approved claims from its current PR and GPR appropriations.

DWD would be required to reimburse the State Treasurer, at least quarterly, for any claims paid since the last reimbursement with respect to unclaimed support and any administrative expenses incurred since the last reimbursement with respect to such property. The State Treasurer would be required to deposit these moneys in the general fund.

The new provisions would first apply to uncashed support checks credited to the support collections trust fund (checks that have not been cashed within one year after issuance) or amounts determined not to be distributable from the fund by DWD on January 1, 1999.

Federal child support provisions treat unclaimed support as program revenue available to the state for its child support enforcement program, even though these funds are not appropriated to DWD under current law. Because the federal government will not provide reimbursement for child support expenses funded with program revenue, the current provisions result in DWD foregoing some federal matching funds.

AGENCY: Department of Workforce Development

LFB PAPER #: 1061

ISSUE: Use of Percentage-Expressed Child Support Orders

ALTERNATIVE: Alts. 1, 4 and 6

SUMMARY:

These are the motions supported by Milwaukee County and the WI Child Support Enforcement Association.

Alternative 1 covers the shortfall the counties will experience in their incentive payments due to federal penalties levied because the KIDS system can't meet all the federal certification requirements due to PEOs. John Hayes from Milwaukee County says this number could be cut in half to \$485,000 if we need to do that as a bargaining chip in order to get Alt. 6.

Alt. 4, makes the statutory changes necessary so that all future child support orders are set as fixed orders, and also requires that current PEO's are converted to fixed orders.

Alt. 6 gives the counties the funding they will need to change the current PEO's to fixed orders. The WI Child Support Enforcement Association calculated it would cost on average \$65 to convert each case. There are 15,000 cases in Milwaukee County alone. This funding is imperative for the counties. If we don't fund this, it will be another unfunded state mandate.

We cannot choose Alt. 5, that would leave our PEO orders in place. The feds have clearly told us on several occasions that we have to change or risk losing all our TANF funding.

We also cannot choose Alt. 8. This will provide no funding to the counties for them to convert these orders.

BY: Cindy

Bard - 3:17
Moore / G2nd
Nathan



Legislative Fiscal Bureau

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May 31, 2001

Joint Committee on Finance

Paper #1061

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

CURRENT LAW

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

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

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

Federal and State Incentive Payments

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

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

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

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

GOVERNOR

No provision.

DISCUSSION POINTS

Number of Child Support Orders in Wisconsin

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

TABLE 1

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

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

Source: Department of Workforce Development

2. As shown in Table 1, there were 233,752 child support orders in Wisconsin as of April, 2001. Of these, 191,536 (81.9%) were IV-D cases, while 42,216 (18.1%) were non-IV-D cases. Most of the IV-D cases utilize fixed-sum orders (128,849, or 67.3% of the total IV-D caseload), while the remaining 62,687 (32.7% of the total IV-D caseload) had percentage-expressed or mixed orders. A roughly similar pattern was found with the non-IV-D cases.

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

Percentage-Expressed Orders: Arguments Pro and Con

Arguments Advanced in Favor of PEOs

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

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

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

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

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

Arguments Advanced in Opposition to PEOs

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

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

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

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

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

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

Possible Federal Incentive Payment Losses

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

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

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

TABLE 2

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

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

* The level of estimated payments without penalties resulting from the use of PEOs.

** Amount by which net federal incentive payments are below \$6,650,000.

Source: Department of Workforce Development

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

Other Possible Federal Penalties

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

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

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

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

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

Request of Waiver to Allow Continued Use of PEOs

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

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

Initiatives Within DWD

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

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

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

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

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

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

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

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

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

Raise the Cap on State Incentive Payments

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

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

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

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

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

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

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

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

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

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

ALTERNATIVES TO BILL

State Incentive Payments to Counties

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

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

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

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

3. Maintain current law.

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

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

WORKFORCE DEVELOPMENT--CHILD SUPPORT

Percentage-Expressed Support Orders

[LFB Paper #1061]

Motion:

Move to incorporate the provisions of LRB 0112/2, which relates to the use of percentage-expressed child support orders.

Note:

This motion would adopt the provisions of LRB 0112/2, which is a substitute amendment to 2001 Senate Bill 106, relating to the use of percentage-expressed child support orders. The motion would require all future child support orders to be expressed as a fixed sum (rather than a percentage of income or the greater or lesser of a fixed sum or a percentage of income) unless the parties have stipulated to expressing the amount as a percentage of the payer's income and the following conditions are satisfied: (a) the state is not a real party in interest in the action; (b) the payer is not subject to any other order, in any other action, for the payment of support or maintenance; and (c) all payment obligations included in the order, other than the annual receipt and disbursement fee, are expressed as a percentage of the payer's income.

For existing orders, the motion would provide that a court would not have to make a finding of substantial change in circumstances in order to change a percentage-expressed or mixed support order to a fixed sum order.

The motion would require support obligors to notify the payee, within 10 business days, if the obligor changes employers or if there is substantial change in the obligor's income, including receipt of bonus compensation. Under current law, notice must be given to the county child support agency, but not the payee. Also, current law does not specifically include a reference to bonus

compensation.

The motion would eliminate the requirement that the court order the payer to supply a financial disclosure form to the payee and to the county child support agency and require, instead, the court to order the payer to furnish copies of his or her most recently filed federal and state income tax returns annually to the payee. If the court finds that the tax returns have not been forwarded as required, the court could award costs and reasonable attorney fees to the payee.

The motion would allow support orders to provide for an annual adjustment in the amount to be paid, based on a change in the payer's income if the order is: (a) expressed as a fixed sum; and (b) based on the percentage standard established by DWD. The restriction under (b) does not apply under current law. Another significant change to current law is that either the payer or payee (rather than just the payee) could initiate the annual adjustment.

The motion would also modify current law by specifying that the court or family court commissioner could direct that all or part of the annual adjustment not take effect until such time as the court or commissioner directs if: (a) the payee was seeking an adjustment and the payer establishes that extraordinary circumstances beyond his or her control prevent fulfillment of the adjusted obligation; (b) the payer was seeking the adjustment and the payee establishes that the payer voluntarily and unreasonably reduced his or her income below his or her earning capacity; or (c) the payer was seeking the adjustment and the payee establishes that the adjustment would be unfair to the child. The motion would also create specific procedures and forms to be used when parties agree to stipulate to an adjustment under this provision and would permit courts and family court commissioners to award actual costs and reasonable attorney fees if a party fails to provide required information in a timely manner or unreasonably fails or refuses to sign a stipulation for an annual adjustment.

MO#			
BURKE	Y	N	A
DECKER	Y	N	A
MOORE	Y	N	A
SHIBILSKI	Y	N	A
PLACHE	Y	N	A
WIRCH	Y	N	A
DARLING	Y	N	A
WELCH	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
ALBERS	Y	N	A
DUFF	Y	N	A
WARD	Y	N	A
HUEBSCH	Y	N	A
HUBER	Y	N	A
COGGS	Y	N	A

AYE 8 NO 8 ABS _____

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

5. Maintain current law.

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

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

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

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

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

8. Maintain current law.

MO# AK

BURKE	Y	N	A
DECKER	Y	N	A
MOORE	Y	N	A
SHIBILSKI	Y	N	A
PLACHE	Y	N	A
WIRCH	Y	N	A
DARLING	Y	N	A
WELCH	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
ALBERS	Y	N	A
DUFF	Y	N	A
WARD	Y	N	A
HUEBSCH	Y	N	A
HUBER	Y	N	A
COGGS	Y	N	A

Prepared by: Drew B. Larson

WORKFORCE DEVELOPMENT

Child Support

Bill Agency

LFB Summary Items for Which No Issue Paper Has Been Prepared

<u>Item #</u>	<u>Title</u>
6	Financial Institution Record-Matching Program
7	Children First Program Administration

LFB Summary Item for Introduction as Separate Legislation

<u>Item #</u>	<u>Title</u>
3	Study of Operating the CR&D System with State Staff

Administration

Land Information

Bill Agency

(LFB Budget Summary Document: Page 62)

LFB Summary Items for Which Issue Papers Have Been Prepared

<u>Item #</u>	<u>Title</u>
1 & 2	Land Information and Comprehensive Planning Grants (Paper #138)
-	Wisconsin Land Council Staffing (Paper #139)

AGENCY: DOA - Land Information

PAPER: #138

ISSUE: Land Information & Comprehensive Planning Grants

RECOMMENDATION: Alternative 3 (minus sentence "(c)")

SUMMARY: Personally, I like alternative 1, stick with the Governor. However, I know many members of 1000 Friends who actually like the Land Information Board and don't want to see it eliminated as the Governor proposes. In addition, I think Welch and Shibilski also support the board and so they will probably want to move alternative 3.

Alt. 3 is fine, but it would be best to remove part "c". The reason is that "c" it would switch \$500,000 for comprehensive planning grants from GPR to PR. The problem with that is that the PR revenues may be soft. They're based on the \$1 the Governor would add to the recording fee. There is concern that the down turn in the economy will drive those revenues lower than the Governor estimated. This could erode the \$500,000 if it comes from that program revenue. If we keep it in GPR, we're assured of the money. However, if Rep. Gard and/or Sen. Decker really want this \$1 million GPR - then you'll just have to go with that.

BY: Barry



Legislative Fiscal Bureau

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May 31, 2001

Joint Committee on Finance

Paper #138

Land Information and Comprehensive Planning Grants

(DOA -- Land Information)

[LFB 2001-03 Budget Summary: Page 62, #1 and Page 64, #2]

CURRENT LAW

The Department of Administration (DOA) has established an Office of Land Information Services (OLIS) in the Division of Housing and Intergovernmental Relations to advise state and local governments on matters relating to land use, the development of information, land and geographic systems, and strategies for land records modernization and systems integration. The Office is responsible for providing staff and other support to both the Wisconsin Land Information Board and the Wisconsin Land Council and for overseeing the statewide activities of municipal boundary review and plat review. The Office has base level administrative funding of \$1,633,800 PR and \$154,100 GPR and is authorized 15.5 PR and 3.0 GPR positions.

The Land Information Board is attached administratively to DOA and directs and supervises the implementation of the Wisconsin land information program under s. 16.967 of the statutes. The Board has 15 members, including the Secretaries (or their designees) of DOA, DATCP, DNR, DOR and DOT. The Board is generally responsible for: (1) preparing guidelines to coordinate the modernization of land records; (2) administering a land information project grant program for counties; (3) reviewing for approval county-wide plans for land records modernization; (4) maintaining and distributing an inventory of land information available in the state; (5) serving as a clearinghouse for access to land information; (6) providing technical assistance to those state and local governmental units with land information responsibilities; and (7) conducting soil surveys and soil mapping activities. However, it is DOA (rather than the Board) that currently has the statutory authority to develop and maintain geographic information systems (GIS) for the use of governmental and nongovernmental entities.

The Board's administrative and grant program appropriations are funded from a portion of recording fees collected by county registers of deeds. Under current law, \$6 of the \$10 collected by a county register of deeds for recording the first page of a legal document is forwarded to the Board, unless the county has a land information office, in which case the county may retain an additional \$4 to support the office and transfer only \$2 to the Board. Currently, all counties have a land information office and retain the \$4, so \$2 of the total \$10 filing fee is the amount that is currently forwarded by county registers of deeds to the Board. The monies received by the Board are first credited to support its budgeted general program operations costs. Following this allocation, the remaining revenues are credited next to support a soil survey and soil mapping initiative (\$415,000 PR annually) authorized under 1999 Wisconsin Act 9 and then to an aids to counties appropriation that supports grants to counties for land information projects (\$1,384,000 PR annually).

A separate, 16-member Wisconsin Land Council is also attached administratively to DOA and is charged with: (1) facilitating local land use planning efforts; (2) identifying state land use goals; (3) identifying areas of conflict between state statutes and local ordinances on land use issues; (4) recommending legislation; and (5) approving or disapproving proposed comprehensive planning grants to local units of government. The Secretaries (or their designees) of DOA DATCP, Commerce, DNR, DOR and DOT all sit on the Council. The Council is currently funded by direct assessments of the six state agencies represented on the Council.

The Land Information Board, the Land Council, their supporting appropriations, all of their powers and duties, the county register of deeds recording fee transfer to the state (for the Board) and the state agency assessment mechanism (for the Council) are all scheduled to sunset, effective September 1, 2003. After that date, only those land information support activities expressly assigned as ongoing DOA responsibilities would remain in force (such as operation of the GIS function).

The state also awards comprehensive planning grants to local units of government to encourage "smart growth" planning. The grants may be used to finance the costs of local planning activities, the purchase of computerized planning data, or planning software or hardware required to utilize that data or software. Base level funding of \$1,500,000 GPR annually is available to support the costs of comprehensive planning grants. [A separate appropriation funded at \$1,000,000 SEG annually from the transportation fund is also available for transportation related planning grants.] Included in the OLIS administrative base budget is \$50,000 GPR annually to support 1.0 FTE administrative position associated with the comprehensive planning grant program.

GOVERNOR

Make the following changes relating to land information and planning:

Immediate Repeal of the Land Information Board. Abolish the Land Information Board and transfer its functions, assets and liabilities, tangible personal property, contracts, rules and orders and any pending matters to DOA.

Certain Land Information Board Responsibilities Assumed by DOA. Shift the Board's responsibilities to direct and supervise the land information program and serve as the state clearinghouse for access to land information to DOA. Require the Department to: (1) provide technical assistance to state and local agencies with land information responsibilities; (2) maintain and distribute an inventory of land information, land records and land information systems available for the state; (3) prepare guidelines to coordinate land records modernization; (4) review county project applications for the development of land information systems, the preparation of parcel property maps and systems integration activities; and (5) provide the Wisconsin Land Council with an annual statement of the Department's proposed expenditures relating to land information programs and aids to counties. Authorize DOA to provide technical assistance to counties and provide educational seminars, courses and conferences relating to land information. The current law ability of the Board to assess fees sufficient to fund these activities would not be retained when these responsibilities are transferred to the Department.

Require DATCP, Commerce, DHFS, Historical Society, DNR, PSC, Revenue, DOT, Tourism and the UW System Board of Regents to submit to the Department on a biennial basis (on March 31 of even-numbered years) a biennial plan for the integration of land information to enable such information to be readily transferable, retrievable, and geographically referenced for use by any state agency, local unit of government, or public utility. DOA would be removed from the current law list of agencies subject to this reporting requirement.

Authorize the Department to assume the Board's responsibilities to make grants to counties for projects designed to promote the development of land information systems, the preparation of parcel property maps and systems integration activities. Such grants could not exceed \$100,000 and no more than one grant could be made per county board. The grants would be funded from county land record recording fees that are remitted to the state.

Wisconsin Land Council Retained. Delete the scheduled September 1, 2003, sunset of the Wisconsin Land Council. Delete the current law function of the Council to study the development of a computer-based land information system and provide it with the following new functions: (1) establish a land information working group (comprised of the State Cartographer, a representative of the UW-System with expertise in land information issues and any other land information experts designated by the Chair of the Council); (2) review land information grant applications that are made by county boards and make recommendations on their approval; and (3) review proposed expenditures to be made to finance planning activities related to the transportation elements of comprehensive plans and make recommendations on their approval to the Department.

Specify that the new land information working group would be required to study and recommend land information standards to the Council and to DOA, advise the Council and DOA

on a Wisconsin land information system and on coordination of state and local land information, and review county land records modernization plans and make recommendations on approval to the Council and to DOA. The Council would continue its current law functions to: (1) identify and recommend to the Governor land use goals and priorities; (2) identify and study areas of conflict in the state's land use statutes; (3) identify procedures for facilitating land use planning efforts; and (4) gather and analyze information about land use activities in Wisconsin of the federal government and Native American governments.

Add three new members to the current 16-member Council. The new members would be a representative from a public utility, a representative from a professional land information agency and an individual nominated by a statewide association whose purposes include support of a network of statewide land information systems.

County Land Record Recording Fee Increase. Delete the current law provision that on September 1, 2003, the fee for recording or filing the first page of a document with the county register of deeds is reduced from \$10 to \$8 and provide for a permanent increase of \$1 to \$11 for the first page. Under the proposed change, counties would retain the additional \$1 collected and \$2 would continue to be remitted to the state. Based on 1999-00 land records fee collections, it is anticipated that this change would yield an additional \$1,310,900 annually in revenues to counties.

Land Information Appropriations and Position Modifications. Provide net additional expenditure authority of \$239,500 PR annually, funded from county land record fees, and revise the appropriations structure for land information functions under DOA, as follows:

- Retitle the current land information PR annual general program operations appropriation as a mixed purpose land information and proposed incorporations and annexations PR continuing appropriation and provide \$2,113,000 PR annually and 6.0 PR positions. The new appropriation would support all of the following activities: (1) the general program operations of the Office of Land Information Services (\$438,000 PR annually and 4.0 PR positions); (2) GIS staff (\$136,500 PR and 2.0 PR positions shifted from DOA's telecommunications and data processing function); (3) soil survey and mapping activities (\$415,000 PR annually); (4) a computer-based land information system (\$623,500 PR annually); and (5) base budget and strategic planning grants to counties (\$500,000 PR annually).

- Provide \$500,000 PR annually in a new PR annual appropriation to support comprehensive planning grants to local units of government.

- Delete the current soil surveys and mapping appropriation (-\$415,000 PR annually) and the current appropriation that funds grants to counties (-\$1,384,000 PR annually).

Wisconsin Land Council Funding. Delete the current Wisconsin Land Council appropriation and shift \$287,300 PR in 2001-02 and \$219,000 PR in 2002-03 and 1.0 PR position from it to a new soil surveys and mapping and Wisconsin Land Council appropriation;

however, no actual soil survey and mapping activities would actually be funded from this appropriation. This appropriation would be funded entirely from assessments applied against DATCP, Commerce, DNR, DOT, DOA and DOR.

DISCUSSION POINTS

1. The last several biennial budgets have contained initiatives to make significant changes to the land information functions in DOA:

- In the 1997-99 biennial budget, the Governor recommended repealing the Land Information Board and shifting its duties and responsibilities to DOA. However, the Board was ultimately retained as a separate entity and a Wisconsin Land Council was also created to provide technical and policy direction to the land information function. A sunset of September 1, 2003, was established for both bodies. In a separate review of the Land Information Board by the Office of the Lieutenant Governor, a sunset date of September 1, 2001, was proposed for that body, but this earlier date was not agreed to by the Legislature.

- In the 1999-01 biennial budget, the Governor recommended authorizing DOA rather than the Land Information Board to develop and maintain a computer-based land information system and to conduct soil testing and mapping activities. The Legislature chose to eliminate DOA's express authority to develop and maintain a computer-based land information system, deleted funding for the system and authorized the Board to undertake soil surveying and mapping activities. The Legislature also extended the sunset date for the Board (but not the Wisconsin Land Council) until September 1, 2005. The Governor subsequently vetoed this extension, thereby leaving the current September 1, 2003, sunset date in place.

2. During public hearings that were held on these earlier proposals, a number of local officials stated their views that the elimination of the Board and the transfer of its functions to the Department would cause land information issues to lose an independent and balanced multimember body designed to address such matters. There was also some concern expressed that land information issues of importance to local governments would generally not be as well addressed by DOA due to the "state" focus of that agency and the loss of local representation that the Board provides.

3. The 1999-01 initiative to transfer the authority to develop a computer-based land information system in DOA generated concerns that the Governor's proposal was being advanced before the Land Council's technical group had made its statutorily required recommendations on the development and implementation of such a system. Furthermore, this Committee also received testimony at that time questioning whether county land records filing fees should be diverted to fund a computer-based land information system where the use of such funds had not yet been approved by the Land Information Board.

4. The Governor's current proposal is being advanced as an effort to streamline the current land information and land record modernization function within DOA. The Department

would assume a greater role in the direct administration of land information programs as a result of the elimination of the Land Information Board. DOA would have overall responsibility for the development of a computer-based land information system and would have access to technical and policy expertise from a modified Wisconsin Land Council, which would be made even more representative by the addition of land information professionals and public utilities interests.

5. The Governor's current proposal appears to have taken into consideration a number of the types of concerns that were raised with respect to these earlier initiatives. For example, the Governor's current proposal retains and expands the duties of the current Wisconsin Land Council. Retention of the modified Land Council would appear to ensure that an ongoing representation of a variety of land information-related viewpoints would be available to the Department. Further, granting counties the authority to collect and retain an additional \$1 for the first page of each document filed would appear to allay some of the concerns about diverting recording fee revenues received by the state to a proposed new computer-based land information system. The amounts received by the state under current law are used first to support Board operations and the balance is made available to counties in the form of grants. Under the Governor's proposal, even though funding that would normally be made available for county grants is being diverted to a proposed land information system (among other purposes), counties would likely be made whole by the retention of the additional \$1 fee provided under the bill.

6. If the Committee chooses to support the Governor's current land information initiative, it may nonetheless wish to make modifications to the revised appropriations structure being proposed for land information activities. Under the Governor's recommendations, new appropriations are being created that merge state operations expenditures with local assistance expenditures. State operations appropriations fund direct expenditures by state agencies for such expenses as employee salaries, fringe benefits, supplies, contractual services, debt service and permanent property to carry out state programs. Local assistance appropriations fund payments to local units of government and school districts in the state and include payments associated with state programs administered by local units of government.

7. These appropriation categorizations are important to the Legislature, executive branch policymakers and audit staffs in monitoring the allocation of state financial resources among these broad public purposes. The merger of appropriation types, as is being recommended by the Governor for the land information programs, would blur the distinctions between appropriations based on expenditure type and would impair the ability of the Legislature and others to accurately monitor the allocation of financial resources by major expenditure purpose.

8. This situation would occur with the new s. 20.505(1)(ie) appropriation for land information general program operations. The appropriation, funded at \$2,113,000 PR annually under the bill includes \$1,613,000 PR related to state operations expenditures and also includes \$500,000 PR annually for county grants. If the Committee concludes that it is more desirable to retain the Legislature's ability to monitor the allocation of financial resources by traditional broad expenditure category than it is to merge disparate appropriation types, it could modify the Governor's recommendation by creating two separate appropriations that parallel the current law

appropriation structure for land information activities.

9. Under this scenario, a PR annual general program operations appropriation would be established for land information and proposed incorporations and annexations general program operations functions [funded at \$1,613,000 PR annually] and a PR continuing aids to counties appropriation would be established to support county land information grants [funded at \$500,000 PR annually]. This modification would separate state operations and local aids appropriations and would enhance the Legislature's ability to oversee land information general program operations by creating an annual appropriation for those functions.

10. While the Governor's current land information proposal appears to address a number of concerns that were raised when earlier land information initiatives were advanced, the following observations may be made:

- In discussions with various groups with an interest in land information modernization in the state, there does not yet appear to be a consensus with respect to how the land information and land records modernization function at the state level should be organized.

- A current law requirement [s. 16.023(2) of the statutes] directs the Wisconsin Land Council to complete a report containing an evaluation of its functions and activities. This report must also address whether the Council should continue to exist beyond September 1, 2003, and whether any structural modifications should be made to the Council's functions or to the state's land use programs generally. This report must be submitted to the Governor and to the Legislature by September 1, 2002.

- A May, 1999, report of the Wisconsin Land Council's technical working group recommended that when a computer-based land information system is implemented in the state, it should be under the general control of the Land Information Board.

- A recent Board study of the status of land record modernization activity in Wisconsin found that although the development of a computer-based land information system remains a high priority, problems remained with respect to data standards, the degree of county records automation and the relative inactivity of state agencies in preparing land information data under their control for inclusion in the system. These concerns raise questions about how quickly such a system can be implemented.

11. As a result of these considerations, the Committee may conclude that it would be preferable to defer repealing the Land Information Board and modifying the Wisconsin Land Council at this time and wait until the Governor and the Legislature have had the opportunity to consider the Wisconsin Land Council's September 1, 2002, statutorily required report and recommendations for changes in the state's land use programs generally.

12. The Committee may also conclude that it may be premature at this time to proceed with the development of the computer-based land information system in advance of the Council's

September 1, 2002, report and in light of some of the data and related problems cited above. In addition, the \$623,500 PR annually recommended in the budget for funding master lease costs associated with the proposed system does not appear to be tied to any detailed budget of the system's required materials and services.

13. Consequently, as an alternative, the Committee could modify the Governor's recommendation by deleting the repeal of the Land Information Board and modifications to the Wisconsin Land Council and providing a separate land information general program operations annual appropriation funded at \$989,500 PR annually from county land records revenues for: (a) the general program operations of the Office of Land Information Services (\$438,000 PR annually and 4.0 PR positions); (b) GIS staff (\$136,500 PR and 2.0 PR positions); (c) soil survey and mapping activities (\$415,000 PR annually); and (d) any incidental proposed incorporations and annexations expenses.

14. The \$623,500 PR annually budgeted for the computer-based land information system could be reallocated to use \$500,000 PR to supplement the \$500,000 PR already provided under the bill for comprehensive planning grants. This additional PR funding for comprehensive planning grants could then offset \$500,000 GPR annually of the \$1,500,000 GPR annually of base level funding for these planning grants. Under this alternative, the total amount of comprehensive planning grants provided from both GPR and PR sources under the bill would remain the same [\$2,000,000 annually]; however, the source of funding would shift from \$1,500,000 GPR/\$500,000 PR under the bill to \$1,000,000 GPR/\$1,000,000 PR under this alternative.

15. In addition, from the remaining funds that were budgeted under the bill for the computer-based land information system, \$24,700 PR annually would be used to convert 0.5 FTE of the 1.0 GPR position associated with comprehensive planning grant administrative support from GPR to PR funding. The net remaining amounts from the amounts budgeted for the computer-based land information system (\$98,800 PR annually) would be added to the \$500,000 PR already provided under the bill for grants to counties. The grants to counties appropriation [funded at \$598,800 PR annually under the alternative] would be created as a separate PR continuing appropriation.

16. The current Wisconsin Land Council appropriation and associated funding of \$287,300 PR in 2001-02 and \$219,000 PR in 2002-03 and 1.0 PR position would also be retained under this alternative. The Governor's modifications to the county records fees would also be retained.

ALTERNATIVES TO BILL

1. Approve the Governor's recommendation.
2. Modify the Governor's recommendation by: (a) establishing a PR annual general program operations appropriation for land information and proposed incorporations and annexations general program operations functions [funded at \$1,613,000 PR annually]; and (b) establishing a PR

continuing aids to counties appropriation would be established to support county land information grants [funded at \$500,000 PR annually].

3. Modify the Governor's recommendation by: (a) deleting the repeal of the Land Information Board and modifications to the Wisconsin Land Council; (b) providing a separate land information general program operations annual appropriation funded at \$989,500 PR annually from county land records revenues; (c) reallocating \$500,000 PR annually and deleting \$500,000 GPR annually for comprehensive planning grants; (d) reallocating \$24,700 PR annually to convert from GPR funding to PR funding 0.5 FTE position associated with comprehensive planning grants administrative support; (e) reallocating \$98,800 PR annually to provide total funding of \$598,800 PR annually for grants to counties under a separate PR continuing appropriation; and (f) retaining the current Wisconsin Land Council appropriation.

Alternative 3	GPR	PR	TOTAL
2001-03 FUNDING (Change to Bill)	- \$1,049,400	\$0	- \$1,049,400
2002-03 POSITIONS (Change to Bill)	- 0.50	0.50	0.00

4. Maintain current law.

Alternative 4	PR
2001-03 FUNDING (Change to Bill)	- \$479,000

Prepared by: Tony Mason

ADMINISTRATION – LAND INFORMATION

Land Information and Comprehensive Planning Grants

[LFB Paper # 138 Substitute Alternative]

Motion:

Move to modify the Governor's recommendations as follows:

1. Delete the repeal of the Land Information Board and the modifications to the Wisconsin Land Council and retain the current powers, duties and composition of these two entities;
2. Extend the current law September 1, 2003, sunset date for the Land Information Board and the Wisconsin Land Council until September 1, 2007;
3. Require the Land Information Board to establish rules governing the creation and maintenance of the Wisconsin Land Information System and require the Department of Administration to contract for the operation of this system;
4. Retain the Governor's recommendations with respect to the treatment of fees collected by county registers of deeds for recording or filing the first page of a document [the Governor would delete the scheduled September 1, 2003, \$2 decrease in that portion of the fee that is collected and remitted to the state and would also provide for a permanent \$1 increase in the total amount of the fee, which would be retained by the county] but newly stipulate that counties be required to use this additional \$1 amount retained by them to develop and maintain computerized indexing of their land information records related to housing, including the housing and land use element of a comprehensive plan, in a manner that would allow for greater public access via the Internet;
5. Modify the Governor's recommendation for the annual funding allocations provided from the \$2 fee collected by counties and remitted to the state, as indicated in the following table:

**Revised Annual Allocation of Land Information Funding
(PR Funding)**

<u>Funding Purpose</u>	<u>Governor's Recommendation</u>	<u>Allocation Under This Motion</u>
Comprehensive Planning Grants ^a	\$500,000	\$300,000
Annual Grants to Counties ^b	230,000	154,600
Strategic Initiative Grants to Counties ^b	270,000	181,500
GIS Staff Support ^c	136,500	136,500
Soil Surveys and Mapping ^d	415,000	415,000
Land Information Board Administrative Costs ^c	438,000	238,000
Wisconsin Land Information System ^c	623,500	623,500
Housing Assessments Grants to Counties ^b	<u>0</u>	<u>563,900</u>
Total	\$2,613,000	\$2,613,000

^aIncluded under a separate PR annual Comprehensive Planning Grants appropriation.
^bIncluded under a separate PR continuing Land Information Aids to Counties appropriation.
^cIncluded under a separate PR annual Land Information Board general program operations appropriation.
^dIncluded under a separate PR annual Soil Surveys and Mapping appropriation.

6. As part of these reallocations: (a) specify that housing assessment grants to counties would be for the purpose of supporting technological developments and improvements for providing Internet-accessible housing assessment and sales data; and (b) delete 2.0 PR positions in DOA's Office of Land Information Services that provide Land Information Board staff support.

[Change to Bill: -2.0 PR positions]

MO#			
BURKE	Y	N	A
DECKER	Y	N	A
MOORE	Y	N	A
2 SHIBILSKI	Y	N	A
PLACHE	Y	N	A
WIRCH	Y	N	A
DARLING	Y	N	A
WELCH	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
ALBERS	Y	N	A
DUFF	Y	N	A
WARD	Y	N	A
HUEBSCH	Y	N	A
HUBER	Y	N	A
COGGS	Y	N	A

AYE 10 NO 6 ABS _____

ADMINISTRATION – LAND INFORMATION

Submission to Land Information Board of Smart Growth Data Sets for Comprehensive Planning

[LFB Paper #138]

Motion:

Move to modify the current law requirement that biennially by March 31 of each even-numbered year, the Departments of Administration; Agriculture Trade and Consumer Protection; Commerce; Health and Family Services; Natural Resources; Tourism; Revenue; and Transportation, the Board of Regents of the University of Wisconsin System, the Public Service Commission and the Board of Curators of the Historical Society submit a plan to the Land Information Board to integrate land information in such a manner as to be readily translatable, retrievable and geographically referenced for use by any state, local governmental unit or public utility, by newly specifying that:

1. The listed agencies submit information that is needed by local units of government to complete comprehensive plans containing the planning elements prescribed under s. 66.1001 of the statutes;
2. The Land Information Board integrate this information in conjunction with land information data needs;
3. The information be readily translatable, retrievable and geographically referenced for use by members of the public;
4. The information be submitted annually rather than biennially to the Land Information Board; and
5. The Land Information Board make this information accessible by May 31, 2002.

Note:

Under current law, comprehensive plans developed by local units of government must

include all of the following elements: (1) issues and opportunities; (2) housing; (3) transportation; (4) utilities and community facilities; (5) agricultural, natural and cultural resources; (6) economic development; (7) intergovernmental cooperation; (8) land use; and (9) implementation. Beginning on January 1, 2010, any program or action of a local government unit that affects land use must be consistent with the local governmental unit's comprehensive plan.

This motion would require 11 state agencies to submit annual plans to the Land Information Board to integrate data maintained by them in such a fashion that the information relating to the completion of comprehensive plans would be readily translatable, retrievable and geographically referenced for use by any state, local governmental unit, public utility or member of the public.

MO#			
1	BURKE	Y	N A
2	DECKER	Y	N A
	MOORE	Y	N A
	SHIBILSKI	Y	N A
	PLACHE	Y	N A
	WIRCH	Y	N A
	DARLING	Y	N A
	WELCH	Y	N A
	GARD	Y	N A
	KAUFERT	Y	N A
	ALBERS	Y	N A
	DUFF	Y	N A
	WARD	Y	N A
	HUEBSCH	Y	N A
	HUBER	Y	N A
	COGGS	Y	N A

AYE 14 NO 2 ABS _____