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Public Defender

(LFB Summary of the Governor's Budget Reform Bill: Page 70)

LFB Summary Items for Which Issue Papers Have Been Prepared

<u>Item #</u>	<u>Title</u>
1	3.5% and 5.0% Budget Reduction (see Paper #1120)
2	Private Bar Shortfall (Paper #1215)

AGENCY: Public Defender

Paper #: 1120 1215

ISSUE: Private Bar Shortfall

ALTERNATIVES:

A3 - maintain current law - Lang called - this is what Nickie wants

A2: ~~lowers felony thresholds (see page 6 of paper for list) to pre-Act 16 ranges and provides the funding to defend these cases as felonies. \$89,400 GPR.~~

AND

B1 and 2: provides the private bar needed funds to address shortfall (\$10,721,200 GPR) and exempts the trial and appellate divisions from the hiring freeze so when vacancies occur they can hire.

SUMMARY: Act 16 raised the felony thresholds and cut funding to reflect estimated lower costs to defend these cases as misdemeanors. Gov's bill lower the thresholds to pre-Act 16 levels but does not provide the funding. Alt. A2 provides the funding.

SPD will be out of funds for private bar cases in September. They wanted to ask attorneys to wait a year to be paid. Asst. AG opinion says that's a violation of s. 20.903 (circumventing budgetary intent.)

SPD attorneys have been exceeding their caseload requirements and have been taking 4.4% more than required. The number of people qualifying for representation, however is 7.7% higher than projected. More cases will have to be assigned to the private bar. B1 provides them the GPR to cover the shortfall.

SPD asked to be exempted from the hiring freeze because it's less expensive to use staff rather than private bar. As of 2/19/02 DOA has not granted their request. B2 let's them hire vacancies.

BY: Tanya



Legislative Fiscal Bureau

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February 27, 2002

Joint Committee on Finance

Paper #1215

Private Bar Shortfall (Public Defender)

[LFB Summary of the Governor's Budget Reform Bill: Page 70, #2]

CURRENT LAW

Indigent criminal defendants facing a sentence that includes incarceration, certain children involved in proceedings under the Children's and Juvenile Justice codes (Chapters 48 and 938), those indigent persons facing involuntary commitment and certain appellants are constitutionally entitled to legal representation. When the State Public Defender (SPD) determines that an accused has a right to SPD representation, the case is either assigned to an SPD staff attorney or to a private attorney (the private bar). In 2000-01, 59% of new cases were assigned to SPD staff and 41% of new cases were assigned to the private bar. Private bar costs are primarily paid through the private bar and investigator reimbursement appropriation (private bar appropriation). This biennial appropriation is currently appropriated \$16,725,700 GPR in 2001-02 and \$16,557,800 GPR in 2002-03. Private bar costs are also partially covered through a PR appropriation supported by fees collected from SPD clients. This continuing appropriation is appropriated \$1,024,700 PR annually.

In 2001 Act 16, the biennial budget act, the felony thresholds for the following crimes were raised from \$1,000 to \$2,500: (a) criminal damage to property; (b) graffiti; (c) theft; (d) fraud on hotel or restaurant keeper or taxicab operator; (e) receiving stolen property; (f) fraudulent insurance and employee benefit claims; (g) financial transaction card crimes; (h) retail theft; (i) theft of library materials; and (j) issuing a worthless check. Act 16 also raised the felony threshold for unlawful receipt of loan payments from \$500 to \$2,500. Act 16 raised the Class E felony range for property damage to a vending machine from \$500 to \$1,000, to \$500 to \$2,500. Finally, Act 16 reduced the SPD's private bar and investigator reimbursement appropriation by \$40,600 GPR in 2001-02, and \$357,500 GPR in 2002-03, to reflect estimated lower costs to the SPD to defend these cases as misdemeanors.

GOVERNOR

As part of the truth-in-sentencing provisions, lower the felony thresholds for the following crimes from \$2,500 to \$1,000: (a) criminal damage to property; (b) graffiti; (c) theft; (d) fraud on hotel or restaurant keeper or taxicab operator; (e) receiving stolen property; (f) fraudulent insurance and employee benefit claims; (g) financial transaction card crimes; (h) retail theft; (i) theft of library materials; and (j) issuing a worthless check. Lower the felony threshold for unlawful receipt of loan payments from \$2,500 to \$500. Lower the Class E felony range for property damage to a vending machine from \$500 to \$2,500, to \$500 to \$1,000. (These felony thresholds and range were increased in Act 16 by the same amounts by which they would be decreased under the Governor's recommendation.) Provide that these changes would first apply to offenses committed on the first day of the seventh month after enactment of the bill.

DISCUSSION POINTS

State Public Defender's 2001-03 Budget

1. Senate Bill 55, as introduced by the Governor, would have reduced the SPD's largest GPR state operations appropriation, trial representation, by \$3,236,900 annually. This represents 5% of the agency's total GPR adjusted base for state operations.

2. The Legislature deleted the Governor's recommendation. Instead, Enrolled SB 55 included the following changes to SPD appropriations:

Appropriation	Source	Enrolled SB 55			
		Funding		Positions	
		2001-02	2002-03	2001-02	2002-03
(1)(a) Program Administration	GPR	-\$116,700	-\$116,700	0.00	0.00
(1)(b) Appellate Representation	GPR	-21,500	-21,500	0.00	0.00
(1)(c) Trial Representation	GPR	2,546,000	3,024,900	59.30	59.30
(1)(d) Private Bar and Investigator Reimbursement	GPR	-2,101,000	-5,101,600	0.00	0.00
(1)(e) Private Bar -- Administration Costs	GPR	-28,400	-28,400	0.00	0.00
(1)(f) Transcripts, Discovery and Interpreters	GPR	-70,500	-70,500	0.00	0.00
Required GPR Lapse	GPR	<u>-550,000</u>	<u>-550,000</u>	<u>0.00</u>	<u>0.00</u>
GPR Total		-\$342,100	-\$2,863,800	59.30	59.30

3. The reductions to the private bar and investigator reimbursement appropriation were based on an analysis that concluded that it is more expensive for the private bar to handle a case than it is for SPD staff. As a result of this analysis, in conjunction with the private bar reduction, the Legislature added 59.3 SPD staff positions at a cost of \$2,546,000 GPR in 2001-02, and \$3,024,900 GPR in 2002-03, to the trial representation appropriation.

4. In addition to the above provisions, Enrolled SB 55 also included two provisions requiring lapses from unspecified GPR state operations appropriations tied to: (a) vacant positions; and (b) membership dues payments in national and state organizations.

5. In Act 16, the Governor deleted \$2,894,800 GPR in 2001-02 and \$373,100 GPR in 2002-03 and 59.3 GPR positions annually from the trial representation appropriation. In addition, as implemented by the DOA Secretary, the dues and vacancy lapse provisions require the SPD to lapse an additional \$998,200 GPR annually. As a result of all these actions, the SPD, prior to the current bill, has an annual reduction in this biennium of \$4,235,100 GPR, or 6.5% of its GPR adjusted base for state operations.

6. Act 16 reduced the private bar appropriation by \$2.1 million in 2001-02 and \$5.1 million GPR in 2002-03, to reflect the private bar savings anticipated from creating the additional SPD staff positions and assigning more cases to staff. The Governor's partial vetoes under Act 16 left the trial representation appropriation with no new staff positions and an increase over adjusted base of \$2,651,800 GPR in 2002-03, \$2,434,400 of which was for salary and fringe benefits funding for the deleted positions that generally could not be utilized by the SPD without further legislative action. The Governor could not restore funding to the private bar appropriation in the veto process as a Supreme Court decision on vetoes allows the Governor, through veto, to reduce, but not increase, an appropriation. At the Finance Committee's November 5, 2001, s. 13.10 meeting, the Committee approved an SPD request to transfer \$2,832,700 GPR in 2002-03 from the trial representation appropriation to the private bar appropriation.

7. Based on analysis that has concluded that assigning cases to staff is more cost effective than assigning cases to the private bar, the SPD has requested that the dues and vacancy lapses be assigned to the private bar appropriation, which DOA has approved for 2001-02. Assuming DOA approves the assignment of the 2002-03 lapses to this appropriation as well, the private bar appropriation will have \$30,187,100 GPR available for expenditure in 2001-03.

SPD Caseload

8. Funding needed for the private bar appropriation can be projected based on total caseload estimates, estimates of the portion of the caseload assigned to private bar attorneys and the estimated costs of a private bar case. The caseload assigned to private bar attorneys could potentially be reduced if SPD staff attorneys handle more cases. The annual number of cases budgeted for an SPD trial attorney is set by statute. In 2000-01, the SPD trial division was responsible for 247.4 budgetary caseloads, and SPD trial division attorneys were assigned 249 caseloads of work.

9. While SPD trial division attorneys appear to be meeting their annual statutory budgetary caseload requirements, the statutes do not preclude them from exceeding these annual caseload requirements. It should, however, be noted that the current budgetary standards for felony and misdemeanor caseloads, first established in 1985 Act 29, represent 123% of the recommended felony and misdemeanor caseload standards developed by the National Advisory Commission on Criminal Justice Standards and Goals, Task Force on Courts in 1973. Further, according to the State Public Defender, SPD attorneys are ethically precluded from undertaking a significantly higher caseload under the Supreme Court rules of professional conduct for attorneys. The SPD has, however, asked its staff attorneys and supervisors to voluntarily handle additional cases to the extent

that they can ethically and competently do so.

10. Through January, 2002, SPD trial division attorneys and supervisors have, in total, assumed a caseload 4.4% higher than the budget caseload. If trial and appellate SPD attorneys and supervisors maintain these higher caseloads through the remainder of the biennium, it is estimated that \$1,676,000 GPR in savings would be generated over the biennium. It should be noted, however, that the SPD trial division feels that it may be difficult to maintain this workload over the biennium.

11. The number of persons qualifying for SPD representation in 2001-02, however, through January 2002, is 7.7% higher than projections made in Act 16. Assuming these higher caseload trends continue through 2001-02, it is projected that even with the increased caseloads assumed by SPD staff, more cases will be assigned to the private bar in 2001-02, than were assigned in 2000-01.

Projected Private Bar Shortfall

12. By letter of January 31, 2002, the State Public Defender notified the Co-Chairs of the Joint Committee on Finance that the SPD was projecting a private bar shortfall of \$10.8 million for 2002-03. The State Public Defender advised the Co-chairs that the SPD would be seeking supplemental funding under s. 13.10 of the statutes at the earliest opportunity. By letter of February 15, 2002, the State Public Defender notified the Co-chairs and Secretary of Administration that the SPD was now projecting a private bar shortfall of \$11.5 million for 2002-03.

13. Given the budget reductions and lapse requirements in Act 16, as well as a projected increase in caseload being assigned to the private bar in 2001-02, it is currently estimated that the shortfall for the private bar appropriation in 2002-03 will be \$10,721,200, based on actual 2001-02, private bar reimbursements through January 2002, and the following assumptions: (a) that the SPD caseload rate for the remainder of 2001-02 will mirror the caseload rate through January, 2002 and the caseload for 2002-03 will mirror the 1999-00 caseload; (b) that SPD trial and appellate staff attorneys will continue to assume new cases at the same rate as they have through January 2002; (c) that payments on assigned private bar cases will come due, on average, six months after they are assigned; (d) that the cost of private bar cases in 2001-03 will mirror the cost of private bar cases in 2000-01; (e) that there will be a 1% growth in collections from SPD clients over 1999-01 collections; and (f) that the required lapses will be made from the private bar appropriation.

14. Because the private bar appropriation is projected to be out of funds by September, 2002, and cases are assigned to private bar attorneys, on average, six months before payments are to be made, the SPD considered asking private bar attorneys to take cases and wait a year or more, until 2003-04, to receive payment. The State Public Defender requested a legal opinion from the Department of Justice as to the legal permissibility of this approach, in light of s. 20.903 of the statutes, which precludes state agencies from contracting or creating any debt or liability against the state in excess of an appropriation of money by the state to pay such debt or liability. This statutory section also provides that any arrangement made by a state agency with a vendor or contractor to

deliver merchandise or provide services and inordinately delay the billing for such merchandise or services for the purpose of circumventing budgetary intent is a violation of the statutes. An Assistant Attorney General concluded that, "asking private attorneys to provide services during this biennium and to delay billing a year or more, until the beginning of the next biennium, would be an arrangement to inordinately delay the billing for the purpose of circumventing budgetary intent," and would, therefore, violate s. 20.903.

15. Under current law, if the SPD determines that an individual meets the state indigency standard, the individual's case must be referred to, or within the SPD for assignment of, counsel. If the statutory framework governing the SPD is not changed and the private bar appropriation is not supplemented, the SPD could potentially be forced to either: (a) continue to assign private bar cases in this biennium after the private bar appropriation is depleted, which appears contrary to s. 20.903; or (b) turning away individuals who meet the state indigency standard for SPD representation.

State Hiring Freeze

16. On November 1, 2001, state agency heads were notified of a state hiring freeze. Under hiring freeze guidelines, vacant positions funded by GPR, or SEG funding in the Department of Transportation and the Department of Natural Resources, were to be frozen effective November 12, 2001, subject to a DOA exemption process. The University of Wisconsin and positions directly protecting public health and safety (including prosecutor positions in district attorney offices) and positions providing direct care were exempt from the hiring freeze.

17. By letter of November 7, 2001, the SPD requested that it be exempted from the hiring freeze as: (a) the SPD has no control over the number of cases for which it will be required to provide representation; (b) provision of that representation is less expensive if done by staff attorneys as opposed to the private bar; and (c) the SPD fits the exemption criteria for directly protecting public health and safety or providing direct care. Through February 19, 2002, DOA has not granted the SPD an exemption from the hiring freeze.

18. Some would argue that allowing additional exceptions to the hiring freeze will undermine the freeze and reduce the associated general fund savings. On the other hand, prior analysis has shown that SPD staff complete cases more cost effectively than the private bar. Imposing the hiring freeze on the SPD could hamper SPD efforts to have staff assume more cases and exacerbate the deficit in the private bar appropriation as more cases would have to be assigned to the private bar. One alternative the Committee could consider would be to maintain the hiring freeze for the SPD's administration division, but lift the freeze on the trial and appellate divisions that employ SPD attorneys and their staff.

Lowering Felony Thresholds

19. In Act 16, the 2001-03 biennial budget act, the felony thresholds for the following crimes were raised from \$1,000 to \$2,500: (a) criminal damage to property; (b) graffiti; (c) theft; (d)

fraud on hotel or restaurant keeper or taxicab operator; (e) receiving stolen property; (f) fraudulent insurance and employee benefit claims; (g) financial transaction card crimes; (h) retail theft; (i) theft of library materials; and (j) issuing a worthless check. Act 16 also raised the felony threshold for unlawful receipt of loan payments from \$500 to \$2,500. Act 16 raised the Class E felony range for property damage to a vending machine from \$500 to \$1,000, to \$500 to \$2,500. Finally, Act 16 reduced the SPD's private bar appropriation by \$40,600 GPR in 2001-02, and \$357,500 GPR in 2002-03, to reflect estimated lower costs to the SPD to defend these cases as misdemeanors.

20. Under the bill, the Governor would undo the Act 16 changes to these felony thresholds and range and lower these felony thresholds and range to their pre-Act 16 levels. The bill provides no additional funding to the SPD for the higher cost of defending these cases as felonies. It is estimated that these felony threshold and range decreases would increase SPD costs by \$89,400 GPR in 2002-03, with an annual cost increase of \$357,500 GPR.

21. DOA indicates that these changes were included so as to incorporate the truth-in-sentencing provisions of Engrossed 2001 Assembly Bill 3 into the budget reform bill. It should be noted, however, that in drafting the truth-in-sentencing provisions for the budget reform bill, other provisions of Engrossed 2001 Assembly Bill 3 were modified to incorporate Act 16 changes.

ALTERNATIVES TO BILL

A. Lowering Felony Thresholds

1. Approve the Governor's recommendation to lower the felony thresholds for the following crimes from \$2,500 to \$1,000: (a) criminal damage to property; (b) graffiti; (c) theft; (d) fraud on hotel or restaurant keeper or taxicab operator; (e) receiving stolen property; (f) fraudulent insurance and employee benefit claims; (g) financial transaction card crimes; (h) retail theft; (i) theft of library materials; and (j) issuing a worthless check. Lower the felony threshold for unlawful receipt of loan payments from \$2,500 to \$500. Finally, lower the Class E felony range for property damage to a vending machine from \$500 to \$2,500, to \$500 to \$1,000. Provide that these changes first apply to offenses committed on the first day of the seventh month after enactment of the bill.

2. Approve alternative 1. In addition, provide \$89,400 GPR in 2002-03, to the private bar and investigator reimbursement appropriation, to cover the increased cost of defending these cases as felonies.

<u>Alternative A2</u>	<u>GPR</u>
2001-03 FUNDING	\$89,400

3. Maintain current law.
Lowmy *from*

B. Private Bar Shortfall

1. Provide \$10,721,200 GPR to the private bar and investigator reimbursement appropriation in 2002-03, in order to address the projected private bar shortfall.

<u>Alternative B1</u>	<u>GPR</u>
2001-03 FUNDING	\$10,721,200

bury - 2. In addition to alternative B1, authorize the SPD trial and appellate divisions to hire additional staff when vacancies occur. *give \$2,100,000 position*

3. Maintain current law.

Prepared by: Paul Onsager



Legislative Fiscal Bureau

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February 27, 2002

TO: Senator Peggy Rosenzweig
Room 126 South, State Capitol

FROM: Rachel Carabell, Fiscal Analyst

SUBJECT: SeniorCare Changes

You requested a summary of several proposed modifications to SeniorCare, the prescription drug assistance program created in 2001 Wisconsin Act 16 (the 2001-03 biennial budget act) and an estimate of any fiscal effects of these proposals.

Clarify that Certain Medicare Beneficiaries Would be Eligible for SeniorCare. Currently, MA recipients are not eligible for SeniorCare. However, certain Medicare beneficiaries are eligible for certain MA benefits, but these benefits do not include prescription drug coverage. These individuals include Medicare beneficiaries with income above the current income eligibility limit for aged or disabled recipients, but low enough to qualify for a limited MA benefit that pays all or a portion of the Medicare premiums and copayments the individual is required to pay. This proposal would clarify that these Medicare beneficiaries who are eligible for MA, but not eligible for prescription drug coverage under MA, would be eligible for SeniorCare. This proposal would not increase SeniorCare spending above the amounts already budgeted for the program, since the amount of funding budgeted in Act 16 assumed that these individuals would be eligible for SeniorCare.

Clarify that the Provision that Excludes MA Recipients from SeniorCare would not Apply to SeniorCare Enrollees under an MA waiver. Current SeniorCare statutes specify that MA enrollees cannot be eligible for SeniorCare. The statutes also require DHFS to seek a waiver to implement SeniorCare as a demonstration project under MA. This proposal would specify that the exclusion of MA enrollees in SeniorCare would not apply to SeniorCare participants enrolled in MA under such a demonstration project. Neither SeniorCare costs or MA costs would increase as a result of this provision.

Clarify that SeniorCare Benefits are Only Available to the Individual that Applies for SeniorCare. Current SeniorCare statutes could be interpreted to include all members of a SeniorCare applicants' family as eligible for SeniorCare benefits. This proposal would clarify that SeniorCare benefits are only available to the individual found eligible based on the eligibility criteria specified in statute. The funding provided for SeniorCare assumed that benefits would only be available for those determined eligible and not the participants' entire family and therefore, this change would not affect estimated SeniorCare costs.

Clarify Allowed Uses of Private Insurance Information. Current law requires insurance companies operating in this state to provide DHFS with information on who is covered under health insurance policies. Under current law, this information can be used to determine third-party liability for costs incurred on behalf of MA recipients. DHFS also uses this information for BadgerCare eligibility determinations and third-party liability for Family Care recipients. A proposal to clarify that this insurance information could be used for BadgerCare, Family Care and SeniorCare would insure that DHFS is authorized to use the insurance information for enrollees in each of these programs. This modification is not expected to affect MA, BadgerCare, Family Care or SeniorCare costs.

I hope you find this information helpful.

RC/bh



Wisconsin Council on Long Term Care

Tom Rand
Chair

Members:

Dale Block
Lynn Breedlove
Beth Christie
Carol Eschner
Tom Frazier
Diane Hausinger
Marlea Linse
Julie Litza
Rita Maher
Ella Pious
George Potaracke
Ruth Roschke
David Slautterback
Melvin Steinke
Alice Westemeier
Chuck Wilhelm

Date: March 1, 2002
To: Wisconsin Senate & Assembly
From: Tom Rand, Chair
Wisconsin Council on Long Term Care
Subject: Protecting Long Term Care Reform Initiatives in the Budget Repair Process

I am writing to you on behalf of the Wisconsin Council on Long Term Care, which includes elderly people, people with disabilities, county officials, and advocates. We are concerned that in the current fiscal crisis facing the state, there is a danger that some of the essential components of the effort to reform Wisconsin long term care (LTC) system could be undermined.

The LTC system is so big and complex that it is only possible to achieve fundamental change through a sustained effort over several biennia. For example, the planning process for the Family Care initiative took place between 1995 and 1999; initial funding was included in the 1999-2001 budget; and the 5 Family Care pilots are approaching full enrollment in the current biennium.

If funding for any of the key elements of LTC reform is reduced as part of a Budget Repair package, it could unravel some of the hard-won progress made in recent years. Specifically, we ask that during your budget deliberations you protect:

- Funding for the Family Care Care Management Organizations and Resource Centers.
- 2001-2003 increases in COP, CIP, CSP, Family Support Program, and the Birth to Three Program.
- The Medicaid program, for which the budgeted expenditures derive from legislatively established reimbursement rates, statutorily defined services, and statutorily defined eligibility criteria. Keep in mind that GPR cuts in Medicaid also result in the loss of federal revenue.

Cc: Governor Scott McCallum
Secretary Phyllis Dubé

McGinnis, Cindy

From: Siemers, Sheri
Sent: Thursday, February 28, 2002 11:52 AM
To: McGinnis, Cindy
Subject: RE: 1169.pdf

Alternative 2

The ability to perform surveillance of communicable and infectious diseases, as well as biological and chemical threats is critical to maintain the health and safety of Wisconsin's residents. It is a core function of public health, and we must have the capacity and expertise to be prepared to respond to unanticipated outbreaks and incidents on a 24-hour, 7-day week basis. The support of 2.0 GPR epidemiologist positions is crucial to insure our ability to respond quickly and appropriately, reducing potential disease and death associated with the outbreak or incident.

Let's roll.

Sheri Siemers, MPH
Department of Health and Family Services
Division of Public Health
Southern Regional Office
2917 International Lane
Madison, WI 53704
phone: 608-243-2357
FAX: 608-243-2365
e-mail: SIEMESL@dhfs.state.wi.us

McGinnis, Cindy 02/28/02 11:16AM >>>

ASAP, just give me the best alternative with a brief, couple sentences why.

Cindy McGinnis
Legislative Aide
Senator Brian Burke
State Capitol, Room 317 East
266-8535, 1-800-249-8173
FAX: 267-0274

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

From: Siemers, Sheri
Sent: Thursday, February 28, 2002 10:44 AM
To: McGinnis, Cindy
Subject: Re: 1169.pdf

Hey, this is the year 2002 so reality exists. I've read it quickly, by what time would you want a few comments? Please let me know.

Thanks, Sheri

Sheri Siemers, MPH
Department of Health and Family Services
Division of Public Health
Southern Regional Office
2917 International Lane
Madison, WI 53704
phone: 608-243-2357

Tourism

(LFB Summary of the Governor's Budget Reform Bill: Page 87)

LFB Summary Item for Which an Issue Paper Has Been Prepared

<u>Item #</u>	<u>Title</u>
1	GPR Lapse (see Paper #1121)

TOURISM

Heritage Tourism Coordinator

Motion:

Move to delete \$57,700 GPR in 2002-03 and 1.0 heritage tourism program coordinator PR position from tribal gaming revenues.

Note:

Promotional and grant funding for the state heritage tourism program would remain. The motion would delete a PR position, and allow the \$57,700 PR in associated funding to be used for tourism marketing. A corresponding \$57,700 GPR from tourism marketing would be deleted, resulting in no net change to authorized tourism marketing expenditures.

[Change to Bill: - \$57,700 GPR and -1.0 PR position]

MO# 279

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
ROSENZWEIG	(Y)	N	A
0 GARD	(Y)	N	A
KAUFERT	(Y)	N	A
ALBERS	Y	N	A
2 DUFF	(Y)	N	A
WARD	(Y)	N	A
HUEBSCH	(Y)	N	A
HUBER	(Y)	(N)	A
COGGS	Y	(N)	A

Wisconsin Housing and Economic Development Authority

(LFB Summary of the Governor's Budget Reform Bill: Page 105)

LFB Summary Item for Which No Issue Paper Has Been Prepared

<u>Item #</u>	<u>Title</u>
1	Housing Grants

Commerce

(LFB Summary of the Governor's Budget Reform Bill: Page 27)

LFB Summary Items for Which Issue Papers Have Been Prepared

<u>Item #</u>	<u>Title</u>
1	3.5% and 5.0% Budget Reductions (see Paper #1120)
2	Business Development Initiative (Paper #1135)
3	Program Revenue Lapses (see Paper #1121)
5	Grants Management Office (Paper #1136)

*M-7 Sh. Bilski
motion somewhere here*

LFB Summary Item for Which No Issue Paper Has Been Prepared

<u>Item #</u>	<u>Title</u>
4	Petroleum Inspection Fund

AGENCY: Commerce

LFB PAPER #: 1135

ISSUE: Eliminating Business Development Initiative

ALTERNATIVE: #4

SUMMARY:

The Governor has proposed eliminating completely the BDI, which provides business start up grants to severely disabled individuals and organizations.

We don't want to eliminate the program completely. Alternative number four deletes the Governor's recommendation and maintains the current program.

If cuts need to be made, we can delete the GPR funding for the BDI and transfer some money out of the Wisconsin Development Fund which has a substantially larger appropriation. This is alternative #3.

BY: KATY



Legislative Fiscal Bureau

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February 28, 2002

Joint Committee on Finance

Paper #1135

Business Development Initiative (Commerce)

[LFB Summary of the Governor's Budget Reform Bill: Page 28, #2]

CURRENT LAW

The Business Development Initiative (BDI) program is designed to create employment opportunities for persons with severe disabilities by starting or expanding for-profit businesses. The program has three components: (a) direct technical assistance provided by Commerce staff to individuals, small businesses, or nonprofit organizations; (b) technical assistance grants; and (c) management assistance, working capital and fixed asset financing grants and loans to individuals, small businesses or nonprofit organizations. BDI is funded by both a GPR and program revenue repayments appropriation. Annual funding for the program is \$150,000 GPR and \$60,000 PR.

GOVERNOR

Eliminate the Business Development Initiative program and delete \$133,800 GPR in 2001-02 (\$16,200 in GPR has been awarded in 2001-02), \$150,000 GPR in 2002-03 and expenditure authority of \$60,000 PR in each year. The balance in the BDI repayments appropriation and all interest and principal received in repayment of loans under the program would be deposited in the general fund. As a result, GPR-earned would increase by \$184,300 in 2001-02 and \$18,300 in 2002-03.

DISCUSSION POINTS

1. The bill would require most state agencies to reduce GPR appropriations by 3.5% in 2001-02 and 5.0% in 2002-03. Under the bill, Commerce would be required to reduce GPR expenditures by \$694,600 in 2001-02 and \$992,300 in 2002-03. As part of the Department's GPR expenditure reductions, the Governor has recommended eliminating the Business Development Initiative program and GPR funding of \$133,800 in 2001-02 and \$150,000 in 2002-03. (The amount of funding reduction

for 2001-02 is lower because awards have been made.) In addition, the balance in the repayments appropriation and all interest and principal received from previous loans would be placed in the general fund. As a result, an estimated additional \$184,300 in 2001-02 and \$18,300 in 2002-03 would be deposited in the general fund.

2. As noted, BDI awards technical assistance grants and working capital, fixed asset financing and management assistance grants and loans. Technical assistance grants provide funding for developing and planning, at the preliminary, start-up or expansion stages of a for-profit business or to help create employment opportunities for persons with severe disabilities. Grants may be awarded to individuals with disabilities, small businesses (for-profit businesses with less than 100 full-time employees), or nonprofit organizations. Grants are awarded on a competitive basis and the maximum technical assistance grant is \$15,000. Technical assistance grants may be used for all of the following: (a) preparation of feasibility studies or business and financial plans; (b) providing a financial package; (c) engineering studies, appraisals, or marketing assistance; and (d) legal, accounting, or managerial services. Working capital, fixed asset financing and management assistance grants and loans provide funding related to the start-up or expansion of a for-profit business involving persons with disabilities. Eligible applicants include individuals, small businesses or nonprofit organizations. The maximum award is \$30,000 in a fiscal biennium. A grant of up to 20% of the total award not to exceed \$5,000 is to be used for management assistance; the remaining balance of up to \$25,000 can only be used to provide working capital or fixed-asset financing. Management assistance grants may be used for engineering and legal services and professional assistance in establishing or improving management systems, policies or procedures related to financial planning, personnel, inventory control, production planning, purchasing, bookkeeping, record keeping and marketing. Working capital or fixed asset financing loans may be used to purchase, improve or rehabilitate equipment, land or buildings or for working capital.

3. The Table below shows BDI program funding and awards for fiscal years 1995-96 through 2000-01. The table shows that demand for program awards has decreased substantially since 1997-98. As noted, Commerce expects to award a total of \$16,200 in grants and loans in 2001-02.

<u>Appropriations</u>	<u>1995-96</u>		<u>1996-97</u>		<u>1997-98</u>		<u>1998-99</u>		<u>1999-00</u>		<u>2000-01</u>	
GPR	\$150,000		\$150,000		\$150,000		\$150,000		\$150,000		\$150,000	
PR-Repayments	<u>30,000</u>		<u>12,700</u>		<u>60,000</u>		<u>60,000</u>		<u>60,000</u>		<u>60,000</u>	
Total	\$180,000		\$162,700		\$210,000		\$210,000		\$210,000		\$210,000	

<u>Awards</u>	<u>Amount</u>		<u>No.</u>		<u>Amount</u>		<u>No.</u>		<u>Amount</u>		<u>No.</u>		<u>Amount</u>		<u>No.</u>	
Technical Assistance	\$77,000	7	\$75,000	8	\$78,000	8	\$17,000	3	\$9,000	3	\$24,700	8				
Working Capital, Fixed-Asset Financing & Mgmt. Assistance	47,800	4	43,500	4	30,000	1	22,000	2	62,500	3	52,400	3				
Other*	<u>18,200</u>	<u>8</u>	<u>43,500</u>	<u>17</u>	<u>26,500</u>	<u>17</u>	<u>5,000</u>	<u>1</u>	<u>5,000</u>	<u>1</u>	<u>9,500</u>	<u>1</u>				
Total	\$143,000	19	\$162,500	29	\$134,500	26	\$44,000	6	\$76,500	7	\$86,600	12				

*Includes state share of awards made under the self-employment and job creation programs operated in conjunction with DVR in DWD.

4. The Department indicates that, after BDI is eliminated, it can continue to meet the needs of BDI applicants through its other financial assistance programs. Both the rural economic development program (RED) and the minority business finance program (MBF) have early planning grant and working capital and fixed asset financing grant and loan programs that could provide financial assistance to applicants that would otherwise be eligible for BDI grants and loans. The early planning grant programs are similar to the BDI technical and management assistance programs. Total annual funding for the RED is \$656,600 GPR and \$120,100 PR (repayments). Total funding for MBF is \$279,200 GPR annually and \$477,200 PR in 2001-02 and \$317,200 PR in 2002-03. In addition, the Development Finance Board, which approves awards from the Wisconsin Development Fund (WDF), has indicated a willingness to work with disabled applicants to obtain fixed asset and working capital financing. The WDF also has an urban early planning grant program similar to those offered under RED and MBF. Total funding for the WDF is \$5,953,800 GPR and \$4,050,000 PR (repayments).

5. Demand for financial assistance through the WDF, MBF, and RED typically exceeds available annual funding. Eliminating the BDI would increase competition for WDF, MBF and RED grants and loans. As a result, it is possible that applicants that would otherwise receive grants or loans through BDI would not obtain financial assistance when forced to compete for that funding through other programs. (As noted, Commerce staff believe that existing programs would have sufficient funding to accommodate the additional applicants.) In order to ensure that eligible applicants receive priority consideration for financial assistance, the Committee may wish to retain the BDI program at some level of funding. One alternative would be to retain the BDI program and GPR funding at its current annual level of \$150,000. A second alternative would be to retain the program but provide annual funding of \$90,000. As shown in the Table above, this level of funding would be sufficient to meet the highest annual demand for grants and loans since fiscal year 1997-98.

6. However, if GPR funding were retained for BDI without some offsetting decrease in GPR expenditures, Commerce would not meet the 3.5% and 5.0% annual GPR expenditure reductions required under SS AB 1. As noted, Commerce has indicated it believes it could meet demand for BDI awards through its existing financial assistance programs, including WDF. Since WDF has substantially more GPR funding than the other programs, annual funding for WDF could be reduced by the amount needed to offset the GPR provided for BDI (\$150,000 or \$90,000). In addition, the bill would eliminate the BDI program revenue repayments appropriation and deposit in the general fund an estimated \$184,300 in 2001-02 and \$18,300 in 2002-03 from the appropriation balance and from interest and principal received from repayment of loans under the program. In order to retain this revenue, expenditure authority for the BDI repayments appropriation could be established at \$0 and the June 30, 2003, balance in the appropriation could be deposited in the general fund.

ALTERNATIVES TO BILL

1. Approve the Governor's recommendation to eliminate the BDI program and delete \$133,800 GPR in 2001-02 and \$150,000 GPR in 2001-02 and expenditure authority of \$60,000 PR annually. In addition, deposit the balance in the repayments appropriation and all interest and principal received in repayment of loans in the general fund (estimated at \$202,600 for the biennium).

2. Delete the Governor's recommendation and retain BDI annual funding of \$150,000 GPR. Further, delete expenditure authority of \$60,000 PR annually for the repayments appropriation. Require the June 30, 2003, balance in the program revenue repayments appropriation to lapse to the general fund (estimated at \$202,600). Delete \$133,800 GPR in 2001-02 and \$150,000 GPR in 2002-03 from the Wisconsin Development Fund.

3. Delete the Governor's recommendation. Instead provide the BDI annual funding of \$90,000 GPR and expenditure authority of \$0 for the program revenue repayments appropriation. Require the June 30, 2003, balance in the program revenue repayments appropriation to lapse to the general fund (estimated at \$202,600). Delete \$90,000 GPR annually from the Wisconsin Development Fund

4. Delete the Governor's recommendation.

<u>Alternative 4</u>	<u>GPR</u>	<u>PR</u>	<u>TOTAL</u>
2001-03 REVENUE	-\$202,600	\$0	-\$202,600
2001-03 FUNDING	\$283,800	\$120,000	\$403,800

Gov

Prepared by: Ron Shanovich

MO# _____

① 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
ROSENZWEIG	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 _____ NO _____ ABS _____

COMMERCE

Convert Funding Source for Division of International and Export Services

Motion:

Move to delete \$1,893,000 GPR and 10.0 GPR positions and provide expenditure authority of \$1,893,000 PR and 10.0 PR positions in 2002-03 to convert the funding source for the Division of International and Export Services from GPR to PR.

Note:

The Division of International and Export Services in the Department of Commerce assists Wisconsin businesses in increasing their sales in the international marketplace. The Division contracts with individuals or agencies in foreign countries for assistance in the growth of Wisconsin exports and the promotion of Wisconsin as an investment location. The Division contracts with individuals to operate dedicated trade offices, shares trade offices with other states and has personal service contracts with companies for export assistance in countries in Europe, Asia, Africa, and North and South America. The Division has international outreach consultants in regional offices to assist businesses in expanding into international markets. Designated staff members specialize in specific regions of the world to help exporters adapt their export activities to targeted countries. Additional staff activities include arranging itineraries of visiting business delegations, organizing Governor-led trade missions and sponsoring participation in trade shows, missions and events. The Division also administers the Wisconsin Development Fund (WDF) trade show grant program.

This motion would convert the funding source for the Division of International and Export Services from GPR to PR. Commerce is currently authorized to charge fees for services provided to businesses and the funds are placed in the Department's gifts and grants appropriation. Fees and donations would be the source of program revenue funding for the Division, beginning on July 1, 2002.

[Change to Bill: -\$1,893,000 GPR; -10.0 GPR positions; \$1,893,000 PR; 10.0 PR positions]

MO# 276

② BURKE	Y	N	A
① DECKER	Y	N	A
MOORE	Y	N	A
SHIBILSKI	Y	N	A
PLACHE	Y	N	A
WIRCH	Y	N	A
DARLING	Y	N	A
ROSENZWEIG	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
ALBEBS	Y	N	A
DUFF	Y	N	A
WARD	Y	N	A
HUEBSCH	Y	N	A
HUBER	Y	N	A
COGGS	Y	N	A

AYE 7 NO 7 ABS

COMMERCE

Gaming Economic Development and Diversification Grants and
Loans-Grant to M7 Corporation

Motion:

Move to authorize the Department of Commerce to make a gaming economic development or diversification grant of up to \$1.0 million to the M7 Development Corporation for constructing a multipurpose center in the City of Milwaukee. Require M7 Development Corporation to provide matching funds from public and private sources equal to the amount of the grant. Require Commerce to enter into an agreement with the M7 Development Corporation that provides for reporting and auditing requirements.

Note:

The gaming economic development and diversification grant and loan program provides financial assistance to businesses that are located in areas affected by Native American gaming operations. Funding is provided from tribal gaming revenue provided to the state under state-tribal gaming compact amendments. Commerce may not make an award that is tourism related unless the Department of Tourism concurs in the award. To be eligible for financial assistance under the program, the claimant must be an existing or start-up business that is locating or expanding in Wisconsin. The types of financial assistance provided through the gaming economic development or diversification grant and loan program includes: (a) economic impact early planning grants made as planning or special opportunity grants to fund professional services necessary to evaluate the feasibility of a proposed project for starting, expanding, modernizing or improving a business [maximum \$3,000 planning grant, \$15,000 special opportunity grant]; (b) economic impact loans to provide fixed asset financing related to modernizing and improving operations in businesses that have been negatively impacted by gaming [maximum \$100,000]; and (c) economic diversification loans to provide fixed asset financing to businesses that are starting-up or expanding to diversify a community's economy so that it is less dependent on revenue derived from gaming. Total funding is \$2,238,700 PR in 2001-03 and \$3,238,700 PR in 2002-03.

This motion would authorize Commerce to make a gaming economic development or diversification grant to the M7 Development Corporation for a project in Milwaukee if certain conditions are met.

MO# 219

②	BURKE	Y	N	A
	DECKER	Y	N	A
	MOORE	Y	N	A
①	SHIBILSKI	Y	N	A
	PLACHE	Y	N	A
	WIRCH	Y	N	A
	DARLING	Y	N	A
	ROSENZWEIG	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 4 NO 10 ABS

COMMERCE

Wisconsin Development Fund--Technology Development and
Commercialization Grants and Loans

Motion:

Move to require that beginning with the 2001-03 biennium \$364,400 in Wisconsin Development Fund technology development grants or commercialization loans be awarded in a biennium for projects that involve research and development or commercialization activities related to the reduction of pollution or the conservation of energy.

Note:

The Wisconsin Development Fund (WDF) consists of the following programs: (a) technology development grants and loans to fund technical research by a business or consortium to develop new, or improve existing, industrial products and processes and to assist businesses in infrastructure development and commercialization of a new product or process; (b) customized labor training grants and loans to fund labor training programs which provide employees with training in new or more advanced technology, industrial and other employment-related skills or manufacturing processes; (c) major economic development grants and loans to fund projects that involve significant capital investment and creation or retention of a significant number of jobs; (d) urban early planning grants to fund professional services related to business start-ups or expansions; (e) Wisconsin trade project to reimburse small businesses for costs associated with attending certain trade shows or events; (f) employee ownership assistance grants to fund the cost of an independent third party to provide professional services to evaluate the feasibility of an employee buy-out; (g) revolving loan fund capitalization grants to provide funding to local revolving loan funds that are used to promote local and regional economic development, primarily in areas that experience business closings or substantial layoffs; (h) the rapid response fund to provide financial assistance to businesses or local governments to prepare sites for businesses to locate or expand in communities that have experienced plant closings or substantial layoffs; and (i) manufacturing extension grants to provide financial assistance to the Wisconsin Manufacturing Extension Partnership (WMEP). The WDF is funded through both a general purpose revenue (GPR) and a program revenue (PR) appropriation. The program revenue appropriation operates similar to a revolving loan fund. Amounts received from WDF loan repayments are credited to the repayments appropriation and these monies are used to fund WDF

grants and loans. Total annual funding for the WDF is \$10,003,800 (\$5,953,800 GPR and \$4,050,000 PR).

Technology development grants and loans provide funding for technical research to develop new, or improve existing, industrial products or processes and to assist in infrastructure development and commercialization of a new product or process. Eligible applicants include a business or consortium. A consortium is an association between a Wisconsin business and a Wisconsin higher educational institution. Awards can be granted for the following purposes: (a) a technology development grant to a business or consortium to fund technical research to develop new or to improve existing industrial products or processes; or (b) a technology development loan to a business to provide working capital or fixed asset financing to develop the infrastructure of the business or for the initial commercialization of the new industrial product or process.

This motion would require that beginning with the 2001-03 biennium \$364,400 per biennium in technology development grants or commercialization loans be used for projects related to pollution reduction or energy conservation. The amount represents 5% of total technology development grants and technology commercialization loans awarded during the 1999-01 biennium.

MO# 295

②	BURKE	Y	N	A
	DECKER	Y	N	A
	MOORE	Y	N	A
①	SHIBILSKI	Y	N	A
	PLACHE	Y	N	A
	WIRCH	Y	N	A
	DARLING	Y	N	A
	ROSENZWEIG	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 6 ABS _____