

AGENCY: Shared Revenue and Tax Relief

LFB PAPER #: 1237

ISSUE: Shared Revenue Modifications – Utility Aid Distribution for 2003 and Thereafter

ALTERNATIVE: 2b, 3b, 4a, and 5b (Wirch/Huebsch motion)

SUMMARY:

This is what Curt Pawlish's group wants. These provisions restore and enhance utility aid payments and encourage the development of reliable and affordable energy for all WI customers.

BY: Cindy



Legislative Fiscal Bureau

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

March 4, 2002

Joint Committee on Finance

Paper #1237

Shared Revenue Modifications -- Utility Aid Distribution for 2003 and Thereafter (Shared Revenue and Tax Relief)

[LFB Summary of the Governor's Budget Reform Bill: Page 77, #1]

CURRENT LAW

The shared revenue program is comprised of two separate distributions and funding levels -- one for municipalities and one for counties. For 2002, the funding levels are set at \$769,092,800 for municipalities and \$170,671,600 for counties, or \$939,764,400 in total. Payments are calculated under a formula that consists of four components: (1) public utility; (2) aidable revenues; (3) per capita; and (4) minimum guarantee/maximum growth. Act 16 suspended the shared revenue distribution formula for municipalities for payments in 2002 and 2003. Instead, each municipality's shared revenue payment in 2002 and 2003 will equal 101% of the amount the municipality received in the prior year. This Act 16 provision will not affect county shared revenue payments. For 2001, \$28,344,170 was distributed as utility aid. This comprised 3.0% of the total shared revenue appropriation.

Under the public utility component, municipalities and counties receive aid equal to the net book value of qualifying utility property multiplied by a rate of nine mills. Qualifying utility property is defined to include production plants, substations and general structures, such as office buildings. If the qualifying property is in a city or village, the municipality's payment is calculated at a rate of six mills, and the county receives a payment based on three mills. If the qualifying property is located in a town, the town's payment is calculated at a rate of three mills, and the county receives a payment based on six mills. The value of a utility's property at any single site is limited to \$125 million, and payments are further limited to no more than \$300 per capita for municipalities and \$100 per capita for counties. The values used in these calculations are limited to no less than the values used to calculate aid payments in 1991, for property that has remained in operation since that time. Each municipality and county is guaranteed \$75,000 if a

production plant with a capacity of 200 megawatts or more is located within its borders. The \$75,000 payment for municipalities is phased-out at the rate of 10% per year when plants are decommissioned (this phase-out is not extended to counties, so their aid on decommissioned plants drops to \$0). The phase-out is terminated when the plant is returned to the local property tax roll. By definition, decommissioned property cannot be operating utility property and, therefore, is subject to local taxation. As a result, the phase-out of aid on decommissioned property is not likely to occur. Finally, each municipality and county where spent nuclear fuel is stored receives an annual payment of \$50,000.

GOVERNOR

The Governor's proposal would make a number of modifications to the funding levels, distribution formulas, payment dates and funding sources for shared revenue, expenditure restraint, county mandate relief and small municipalities shared revenue programs. The Governor's proposal is described in full in LFB Paper #1235. However, this paper covers only the distribution of utility aid under the shared revenue program for 2003 and thereafter. Other Legislative Fiscal Bureau papers address other aspects of the Governor's proposal.

Specify that total payments in 2003 under the shared revenue program and under three related programs (expenditure restraint, county mandate relief and small municipalities shared revenue) for each municipality and county would equal the amount received in 2002, after any aid reductions enacted for 2002. Establish a sunset after 2003 for distributions under the shared revenue program, including all four of the program's payment components [per capita, aidable revenues, public utility (including payments for spent nuclear fuel storage) and minimum guarantee/maximum growth].

DISCUSSION POINTS

1. Under the Governor's proposal, no utility aid payments would be made as of 2004. The public utility component of the shared revenue program compensates local governments for costs they incur in providing services to electric utilities. These costs cannot be directly recouped through property taxation since public utilities are exempt from local taxation and, instead, are taxed by the state.

2. State law requires utilities to secure a certificate of public convenience and necessity from the Public Service Commission (PSC) before they can construct a generating plant with a rating of 100 megawatts or more. In addition to the PSC, plant owners and operators must receive approvals and permits from various federal agencies, other state government departments and local governments. Municipalities and counties grant approvals relative to land use, zoning, water and sewer connection, and drainage. Also, they issue building and occupancy permits. Without public utility aid serving as an incentive for local governments to host production plants within their boundaries, counties and municipalities may not grant the various approvals and permits necessary to build and operate new production plants.

3. The PSC reports that recent megawatt sales of electricity have been increasing at a rate of approximately 2% each year. In Wisconsin, production plants that are more than 25 years old account for more than half of the state's generated electricity, and no "base load" plants have been constructed since 1985. Base load plants, which produce approximately 80% of the state's electricity, are designed to run almost constantly because they have relatively low per unit costs. Intermediate load and peak load plants are used to supplement the production of base load plants. In response to increases in demand and the aging infrastructure of existing plants, utilities and independent power producers have proposed building more than 8,000 megawatts (MW) of new generation for the state. Based on PSC records, this could involve as many as 19 facilities, although not all 19 are likely to be built.

4. A reliable energy supply has been cited as an essential ingredient for the state's continued economic growth. If the utility aid distribution is considered an effective incentive for local governments to host production plants, its continuation may be worthwhile. Even if the Governor's proposal to eliminate the shared revenue distribution in 2004 is adopted, the Legislature could create a separate utility aid program with its own appropriation to distribute aid payments beginning in 2003 or 2004. A similar provision is contained in AB 584, which the Assembly has passed.

5. In addition to creating a separate utility aid appropriation, AB 584, as amended, contains a number of other provisions. It would increase the \$125 million value limit to \$250 million, increase the per capita payment limits from \$100 to \$600 for counties and from \$300 to \$1,200 for municipalities and revise the payment schedule for decommissioned plants.

6. Also under the bill, incentive payments would be made to local governments that contain newly constructed plants that meet three conditions. First, the plant must be built on, or adjacent to, the site of an existing or decommissioned plant or on, or adjacent to, the site of a brownfield, as defined under current law. Second, the plant must be operating at a total production capacity of at least 50 megawatts. Third, the plant cannot be nuclear-powered. Payments would be based on the plant's construction cost less depreciation and less the value of treatment plant and pollution abatement equipment. For municipalities, payments would be calculated at a rate of two mills if the plant is a coal-powered plant and one mill for all other eligible plants. For counties, payments would be calculated at a rate of one mill, regardless of the type of qualifying plant.

7. If the Legislature's primary policy objective is to encourage local governments to allow new production plants to be sited in their jurisdiction, a more effective aid formula could be developed. Under the current formula, aid payments decrease over time due to depreciation. This diminishes the incentive for local governments to allow plants to be located in their boundaries and can result in inequitable treatment between local governments. Greater disamenities are often associated with older plants, but those plants typically generate smaller aid payments than comparably sized plants that are newer and operate more efficiently. Also, some utility aid payments are so small that they are unlikely to have any impact on local governments' decisions to allow utility property to be located in their boundaries. In these instances, there are probably few disamenities associated with the utility property. For example, the Town of Lincoln (Burnett

County) received a utility aid payment of 19 cents in 2001. Finally, some utility aid payments are made for property that causes few disamenities, such as general structures, which are primarily office buildings. Aid payments are not made to other units of local government for general structures, nor is aid paid for general structures owned by other utilities, such as telephone companies.

8. In its deliberations on Act 16, the Committee considered an alternate distribution formula that would compensate local governments based on the generating capacity of plants within their boundaries. Under this alternative, aid would be paid only on properties that are accompanied by disamenities. This distribution formula could be designed to encourage local governments to accept production plants and provide higher incentives for locating additional production capacity. Such a system could eliminate the inequities of the current system that result from depreciated values and inflated construction costs, and administration of the payment system would be simplified.

9. The following payment schedule is structured to distribute approximately the same amount of utility aid statewide (\$28 million) as was distributed in 2001 (Alternative 2.b.). Payment increases would occur for a number of the municipalities that host production plants, but payment decreases would occur for municipalities that contain other types of property that would no longer qualify for aid payments.

<u>Megawatt Rating of Electric Production Plant</u>	<u>Combined Municipal and County Payment Amount</u>
Over 3,000	\$2,500,000
2,400 to 3,000	2,000,000
1,800 to 2,400	1,500,000
1,300 to 1,800	1,325,000
800 to 1,300	1,250,000
400 to 800	1,000,000
300 to 400	900,000
200 to 300	800,000
100 to 200	600,000
50 to 100	200,000
25 to 50	100,000
10 to 25	50,000
Under 10	25,000

10. An alternate structure could be developed that would distribute about \$20 million (Alternative 2.c.). This distribution would more closely approximate the amount paid in 2001 for production plants.

Megawatt Rating of
Electric Production Plant

Combined Municipal and County
Payment Amount

Over 3,000	\$2,000,000
2,400 to 3,000	1,500,000
1,800 to 2,400	1,300,000
1,300 to 1,800	1,150,000
800 to 1,300	1,000,000
400 to 800	800,000
300 to 400	700,000
200 to 300	500,000
100 to 200	300,000
50 to 100	150,000
25 to 50	50,000
10 to 25	25,000
Under 10	15,000

11. Aid distributions under the two preceding alternatives are displayed on the attachment to this paper. If there is a desire to expend less aid, payments under the new system could be limited to a specified percentage of the amount received in 2001. The amounts on the attachment are based on information supplied by utility officials and data bases maintained by the U.S. government. However, the amounts should be regarded as estimates and would be subject to change upon actual implementation by DOR.

12. Under these alternative aid structures, payments would be based on the total capacity within each municipality's boundaries. In instances where a municipality contains more than one plant, the capacities of the plants would be combined. In instances where the generating facility is in more than one municipality, such as hydroelectric generating stations, the payments would be divided between the municipalities where the plant is located. A similar procedure could be employed for plants with related facilities, such as fly ash disposal pits, in adjoining municipalities. Because disamenities may be associated with these facilities, the payment on the production plant could be divided between the municipality where the plant is located and the adjoining municipality where the related facility is located. The division could be based on the net book value of the property.

13. Although aid would be calculated on a municipal-by-municipal basis, the resulting amounts could be divided between municipalities and counties under a method similar to that employed under current law. One-third of the payment generated by each city or village would be distributed to the overlying county, and two-thirds of the payment generated by each town would be distributed to the overlying county.

14. Finally, additional payments could be structured for new plants built on, or adjacent to, the site of an existing or decommissioned plant or on, or adjacent to, the site of a brownfield, as proposed in AB 584.

15. If the Committee wishes to continue the utility aid distribution, a series of alternatives are presented for the Committee with respect to distribution formulas, appropriations, timing and incentive payments. Otherwise, the Governor's recommendation (Alternative 1) could be adopted to discontinue utility aid payments.

ALTERNATIVES TO BILL

1. Approve the Governor's recommendation to discontinue the utility aid distribution, effective with payments in 2004.

2. *Distribution Formula.* Delete the Governor's recommendation and, instead, adopt one or more of the following with regard to the formula for distributing utility aid:

a. Retain the utility aid distribution formula authorized under current law.

b. Modify the utility aid distribution formula's valuation and per capita limits and payments for decommissioned plants as specified in AB 584.

c. Repeal the current law formula for distributing utility aid on the basis of net book value and rates of three mills or six mills, effective with payments for 2003. Create a distributional formula based on the capacity of light, heat and power production plants as follows: (1) extend payments to municipalities and counties that contain, within their boundaries, light, heat and power production plants used by a light, heat and power company, a qualified wholesale electric company, a wholesale merchant plant or an electric cooperative subject to state license fees imposed under Chapter 76 of the statutes or by municipal electric companies subject to ad valorem payments in lieu of taxes under s. 66.0825(16) of the statutes; (2) exclude property of municipal light, heat and power companies from the payments unless the production plant is located outside the municipality owning the plant; (3) specify that payments be calculated on the basis of total megawatt capacity of eligible production plants within each municipality, as reported by the plant's owner or operator, but distribute two-thirds of each municipal payment to the county where the municipality is located if the municipality is a town and distribute one-third of each municipal payment to the county where the municipality is located if the municipality is a city or village; (4) set municipal payments equal to \$2,500,000 if capacity is over 3,000 megawatts, \$2,000,000 if capacity is over 2,400, but not more than 3,000, megawatts, \$1,500,000 if capacity is over 1,800, but not more than 2,400, megawatts, \$1,325,000 if capacity is over 1,300, but not more than 1,800, megawatts, \$1,250,000 if capacity is over 800, but not more than 1,300, megawatts, \$1,000,000 if capacity is over 400, but not more than 800, megawatts, \$900,000 if capacity is over 300, but not more than 400, megawatts, \$800,000 if capacity is over 200, but not more than 300, megawatts, \$600,000 if capacity is over 100, but not more than 200, megawatts, \$200,000 if capacity is over 50, but not more than 100, megawatts, \$100,000 if capacity is over 25, but not more than 50, megawatts, \$50,000 if capacity is over 10, but not more than 25, megawatts, and \$25,000 if capacity is 10 megawatts, or less; (5) specify that if a production plant is located in more than one municipality or county, the

capacity associated with that plant shall be attributed to the municipality where the majority of the plant is located; however, provide that the resulting municipal payment be divided between the two municipalities based on the net book value of the plant as of December 31, 2002, or as of the date the property becomes operational, whichever is later; and finally, specify that only that portion of a municipal payment that is attributable to the plant that is located in two municipalities be divided, if the municipality to which the capacity is attributable contains more than one production plant; (6) specify that the payment division under (5) shall apply to property that is classified as production plant, under the system of accounts established by the PSC, but which is not an electric generating facility if the net book value of the related facility exceeds \$800,000; (7) eliminate aid payments on substations and general structures; (8) retain the distribution for nuclear storage facilities and the per capita payment limits authorized under current law; and (9) specify that in the case of a facility under construction, the megawatts associated with the facility shall be prorated for inclusion in the municipality's capacity based on the percentage of construction completed on December 31 of the prior year, as determined by DOR.

c. Adopt the changes under "b.", except replace "b.(4)" with the following payment schedule:

Set municipal payments equal to \$2,000,000 if capacity is over 3,000 megawatts, \$1,500,000 if capacity is over 2,400, but not more than 3,000, megawatts, \$1,300,000 if capacity is over 1,800, but not more than 2,400, megawatts, \$1,150,000 if capacity is over 1,300, but not more than 1,800, megawatts, \$1,000,000 if capacity is over 800, but not more than 1,300, megawatts, \$1,000,000 if capacity is over 400, but not more than 800, megawatts, \$700,000 if capacity is over 300, but not more than 400, megawatts, \$500,000 if capacity is over 200, but not more than 300, megawatts, \$300,000 if capacity is over 100, but not more than 200, megawatts, \$150,000 if capacity is over 50, but not more than 100, megawatts, \$50,000 if capacity is over 25, but not more than 50, megawatts, \$25,000 if capacity is over 10, but not more than 25, megawatts, and \$10,000 if capacity is 10 megawatts, or less.

d. Limit any payment for a municipality or county under "b." or "c." to the utility aid payment received in 2001, multiplied by one of the following:

- (1) 100%;
- (2) 150%; or
- (3) 200%.

e. Modify either "b." or "c." by repealing the current law per capita aid limits.

3. *Appropriations.* Adopt one of the following with regard to the appropriation for the utility aid distribution:

a. Retain the current law structure where utility aid is included in the shared revenue

appropriation; or

- b. Create a separate, sum sufficient appropriation for making utility aid payments.

4. *Incentive Aid.* Extend payments to municipalities and counties where production plants are sited that begin operation on, or after, January 1, 2004, provided the plant meets three conditions: (1) the plant must be built on, or adjacent to, the site of an existing or decommissioned plant or on, or adjacent to, the site of a brownfield, as defined under current law; (2) the plant must be operating at a total production capacity of at least 50 megawatts; and (3) the plant cannot be nuclear-powered. Calculate the payments according to one of the following options:

- a. Base payments on the plant's construction cost less depreciation and less the value of treatment plant and pollution abatement equipment. For municipalities, calculate payments at a rate of two mills if the plant is a coal-powered plant and one mill for all other eligible plants. For counties, calculate payments at a rate of one mill, regardless of the type of qualifying plant. Specify that payments would not be made for construction work-in-progress, as under the current law distribution formula.

- b. Set payments equal to the following amounts based on the total megawatt capacity of the new plant: (1) if the plant has a capacity of at least 50 megawatts, but less than 100 megawatts, \$45,000 each for counties and municipalities; (2) if the plant has a capacity of at least 100 megawatts, but less than 200 megawatts, \$90,000 each for counties and municipalities; (3) if the plant has a capacity of at least 200 megawatts, but less than 400 megawatts, \$180,000 each for counties and municipalities; (4) if the plant has a capacity of at least 400 megawatts, but less than 600 megawatts, \$300,000 each for counties and municipalities; and (5) if the plant has a capacity of 600 megawatts, or more, \$420,000 each for counties and municipalities. Specify that payments would not be made for construction work-in-progress, as under the current law distribution formula. Double the preceding municipal amounts if the production plant is coal-powered.

5. *Timing.* Adopt one of the following with regard to when utility aid payments are to commence:

- a. Authorize the preceding changes, effective with payments in 2003; or
- b. Authorize the preceding changes, effective with payments in 2004.

Prepared by: Rick Olin
Attachment

ATTACHMENT

Production Plant Inventory and State Aid Under Current Law and Under Capacity-Based Alternatives

<u>Municipality</u>	<u>County</u>	<u>Plant Name</u>	<u>Owner/Operator</u>	<u>Capacity (MW)</u>	<u>Aid Under Alternative 1</u>	<u>Aid Under Alternative 2</u>	<u>Aid Under at 9 Mills*</u>
V. Pleasant Prairie	Kenosha	Pleasant Prairie Power Plant	WEPCo/WPL/WPS	1,235.2	\$1,250,000	\$1,000,000	\$1,125,000
C. Oak Creek	Milwaukee	Oak Creek	WEPCo/WPL/WPS	1,211.2	1,250,000	1,000,000	921,849
T. Two Creeks	Manitowoc	Point Beach Nuclear	WEPCo	1,072.6	1,250,000	1,000,000	1,125,000
T. Pacific	Columbia	Columbia	WPL/WPS/MGE	1,023.0	1,250,000	1,000,000	922,593
C. Sheboygan	Sheboygan	Edgewater	WPL/WEPCo/WPS	830.0	1,250,000	1,000,000	1,125,000
C. Alma	Buffalo	Alma and Madgett	Dairyland	562.0	1,000,000	800,000	701,186
T. Carlton	Kewaunee	Kewaunee	WPS/WPL/WEPCo	535.0	1,000,000	800,000	874,869
V. Rothschild	Marathon	Weston	WPS	456.6	1,000,000	800,000	613,042
T. Christina	Dane	RockGen	Polisky/SkyGen	450.0	1,000,000	800,000	1,125,000
C. Port Washington	Ozaukee	Port Washington Power Plant	WEPCo/WPL/WPS	419.6	1,000,000	800,000	147,157
T. Watertown	Jefferson	Concord Generation Station	WEPCo	381.4	900,000	700,000	760,832
T. Paris	Kenosha	Paris	WEPCo	381.4	900,000	700,000	1,023,579
C. Green Bay	Brown	Pulliam	WPS	372.5	900,000	700,000	352,554
T. Neenah	Winnebago	Neenah	Southern Energy Inc.	350.0	900,000	700,000	930,742
T. Genoa	Vernon	Genoa	Dairyland	346.0	900,000	700,000	352,569
T. Wheaton	Chippewa	Wheaton	NSP	345.0	900,000	700,000	313,424
T. Fond du Lac	Fond du Lac	South Fond du Lac	WPL & WPPS	344.0	900,000	700,000	811,383
C. Madison	Dane	Blount Street, Sycamore & Other	MGE	303.6	900,000	700,000	288,210
T. Beloit	Rock	Rock River	WPL	294.0	800,000	500,000	68,775
C. Whitewater	Jefferson	Whitewater	Cogenrix	288.0	800,000	500,000	1,125,000
C. Milwaukee	Milwaukee	Valley	WEPCo/WPL/WPS	274.8	800,000	500,000	283,021
V. Germantown	Washington	Germantown Generation	WEPCo	244.8	800,000	500,000	479,127
V. Cassville	Grant	Nelson Dewey	WPL	200.0	800,000	500,000	89,031
V. Cassville	Grant	Stoneman	MidAmerican Power	48.0	See Above	See Above	103,890
C. La Crosse	La Crosse	French Island	NSP/MGE/WPS/WPL	183.0	600,000	300,000	154,050

<u>Municipality</u>	<u>County</u>	<u>Plant Name</u>	<u>Owner/Operator</u>	<u>Capacity (MW)</u>	<u>Aid Under Alternative 1</u>	<u>Aid Under Alternative 2</u>	<u>Aid Under at 9 Mills*</u>
C. De Pere	Brown	DePere	SkyGen (WPL&WPS)	180.0	\$600,000	\$300,000	\$505,811
T. Peshtigo	Marinette	West Marinette	WPS/Marshfield/MG&E	167.2	600,000	300,000	430,241
T. Eagle Point	Chippewa	Jim Falls Hydro/Wissota	NSP	94.0	200,000	150,000	60,830
C. Ashland	Ashland	Bayfront	NSP	74.5	200,000	150,000	62,312
C. Fitchburg	Dane	Fitchburg	MGE	59.2	200,000	150,000	7,395
T. Anson	Chippewa	Jim Falls Hydro	NSP	57.0	200,000	150,000	698,365
T. Lafayette	Chippewa	Wissota	NSP	37.0	100,000	50,000	82,421
T. Birch Creek	Chippewa	Holcombe Hydro	NSP	35.4	50,000	25,000	4,594
T. Lake Holcombe	Chippewa	Holcombe Hydro	NSP	35.4	50,000	25,000	27,399
T. Washington	Rusk	Holcombe Hydro	NSP	33.9	50,000	25,000	14
T. Willard	Rusk	Holcombe Hydro	NSP	33.9	50,000	25,000	192
C. Cornell	Chippewa	Cornell Hydro	NSP	30.3	100,000	50,000	99,020
T. Prairie du Sac	Sauk	Prairie du Sac	WPL	28.5	100,000	50,000	13,264
C. Saint Croix Falls	Polk	Saint Croix Hydro	NSP	24.5	50,000	25,000	20,668
C. Chippewa Falls	Chippewa	Chippewa Falls Hydro	NSP	23.1	50,000	25,000	77,289
T. Stephenson	Marinette	Caldron, High, Johnson & Sandstone Falls	WPS	22.0	50,000	25,000	5,665
T. Rock Falls	Lincoln	Grandfather Falls	WPS	17.2	50,000	25,000	6,348
T. Dewey	Rusk	Flambeau	Dairyland	15.0	50,000	25,000	38,177
C. Wauwatosa	Milwaukee	Milw. Co. Grounds Power Plant	WEPCo/WPL/WPS	11.0	50,000	25,000	103,151
T. Linwood	Portage	WI. River Dr. & Stevens Point	Consolidated WP	10.6	50,000	25,000	395
T. Lincoln	Kewaunee	Wind Generator Units	MGE/WPS	10.4	50,000	25,000	143,048
C. Wisconsin Dells	Columbia	Kilbourn	WPL/WPS/MGE	10.0	50,000	25,000	8,338
C. Wisconsin Rapids	Wood	Wisconsin Rapids Hydro	Consolidated /WPS	9.1	25,000	10,000	12,510
T. Swiss	Burnett	Danbury Dam	N.W. WI. Electric	9.0	25,000	10,000	12,917
C. Eau Claire	Eau Claire	Dells Hydro	NSP	8.8	25,000	10,000	10,741
V. Solon Springs	Douglas	Solon Diesel	Dahlberg L&P	8.0	25,000	10,000	7,761
C. Middleton	Dane	Unknown	MGE	7.9	25,000	10,000	24,526
T. Big Falls	Rusk	Big Falls Hydro	NSP	7.5	25,000	10,000	10,927
T. Dewey	Portage	Dubay Hydro	Consolidated WP	7.2	25,000	10,000	1,845
V. Frederic	Polk	Frederic Diesel	NW WI Electric	7.1	25,000	10,000	15,215

<u>Municipality</u>	<u>County</u>	<u>Plant Name</u>	<u>Owner/Operator</u>	<u>Capacity (MW)</u>	<u>Aid Under Alternative 1</u>	<u>Aid Under Alternative 2</u>	<u>Aid Under at 9 Mills*</u>
T. Red Cedar	Dunn	Cedar Falls Hydro	NSP	6.8	\$25,000	\$10,000	\$28,212
T. Biron	Wood	Biron Hydro	Consolidated WP	6.4	12,500	5,000	9,663
T. Rudolph	Wood	Biron Hydro	Consolidated/WPS	6.4	12,500	5,000	1,992
C. Wausau	Marathon	Wausau Hydro	WPS	6.2	25,000	10,000	1,632
V. Combined Locks	Outagamie	Combined Locks	Kaukana Elec & Water	6.2	25,000	10,000	100,854
V. Whiting	Portage	WL River Drive Hydro	Consolidated WP	5.8	25,000	10,000	12,368
T. Washington	Door	Washington Island	Washington Island	5.3	25,000	10,000	12,436
V. Grantsburg	Burnett	Grantsburg Diesel	N.W. WI. Electric	5.3	25,000	10,000	3,708
T. Menomonie	Dunn	Menomonie Hydro	NSP	5.1	25,000	10,000	8
C. Menomonie	Dunn	Menomonie Hydro	NSP	5.1	25,000	10,000	12,245
C. Stevens Point	Portage	Stevens Point Hydro	Consolidated WP	4.8	25,000	10,000	8,179
T. Commonwealth	Florence	Big Quinnessec Hydro	WEPCo	3.6	25,000	10,000	184
T. Florence	Florence	Pine Hydro	WEPCo	3.6	25,000	10,000	4,190
T. Saxon	Iron	Saxon/Superior Falls Hydro	NSP	3.3	25,000	10,000	4,729
V. Little Chute	Outagamie	Little Chute	Kaukana Elec & Water	3.3	25,000	10,000	5,037
C. Ladysmith	Rusk	Ladysmith Hydro	NSP	3.1	25,000	10,000	27,161
T. Westport	Dane	Unknown	MG&E	3.1	25,000	10,000	6,513
T. Somerset	Saint Croix	Apple River Hydro	NSP	2.9	25,000	10,000	9,357
C. Monona	Dane	Unknown	MGE	2.6	25,000	10,000	13,191
T. Buchanan	Outagamie	Rapide Croche	Kaukana Elec & Water	2.4	25,000	10,000	7,077
C. Merrill	Lincoln	Merrill Hydro	WPS	2.2	25,000	10,000	702
C. Appleton	Outagamie	Appleton Hydro	WEPCo	1.9	25,000	10,000	5,898
T. Cloverland	Vilas	Hat Rapids	WPS	1.7	25,000	10,000	2,876
T. Gordon	Douglas	Gordon	Dahlberg L & P	1.7	25,000	10,000	11,074
T. Red River	Kewaunee	Wind Generators, Units	MG&E	1.6	25,000	10,000	62,158
T. Thornapple	Rusk	Thornapple Hydro	NSP	1.5	25,000	10,000	10,969
T. Round Lake	Sawyer	Arpin Dam	North Central Power	1.5	25,000	10,000	5,048
T. Byron	Fond du Lac	Windmills	WEPCo	1.3	25,000	10,000	12,137
T. Union	Burnett	Clam River Dam	N.W. WI. Electric	1.2	25,000	10,000	6,278
T. Winter	Sawyer	East Fork	North Central Power	1.2	25,000	10,000	2,772

<u>Municipality</u>	<u>County</u>	<u>Plant Name</u>	<u>Owner/Operator</u>	<u>Capacity (MW)</u>	<u>Aid Under Alternative 1</u>	<u>Aid Under Alternative 2</u>	<u>Aid Under at 9 Mills*</u>
V. Cross Plains	Dane	Unknown	MG&E	1.1	\$25,000	\$10,000	\$4,023
T. White River	Ashland	White River Hydro	NSP	1.0	25,000	10,000	4,846
T. Stiles	Oconto	Stiles	Oconto REA	1.0	25,000	10,000	3,412
C. Peshigo	Marinette	Peshigo Hydro	WPS	0.7	25,000	10,000	311
T. Black Brook	Polk	Black Brook Dam	NW WI Electric	0.7	25,000	10,000	1,520
T. Star Prairie	Saint Croix	Riverdale Hydro	NSP	0.6	25,000	10,000	3,487
T. Minong	Washburn	Nancy -- Minong Flowage	Dahlberg L & P	0.5	25,000	10,000	278
T. Clam Falls	Polk	Clam Falls Dam	NW WI Electric	0.2	25,000	10,000	909
C. New Richmond	Saint Croix	Unknown	NSP	0.2	25,000	10,000	270
C. Hayward	Sawyer	Hayward Hydro	NSP	0.2	25,000	10,000	1,189
T. Balsam Lake	Polk	Balsam Lake Dam	NW WI Electric	0.1	25,000	10,000	3
C. Montreal	Iron	Gile Hydro	NSP	Under 0.1	25,000	10,000	1,404
T. Eau Claire	Portage	Hydro	WPS/Consolidated WP	Unknown	25,000	10,000	7,810

* Current law aid amounts reflect the \$125 million value limit, but not the \$100 and \$300 per capita limits. Also, the calculations are based on net book values as of December 31, 2000, which may differ from the minimum values from the 1991 payment calculations.



Legislative Fiscal Bureau

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

March 4, 2002

Joint Committee on Finance

Paper #1238

Shared Revenue Modifications -- Payments for 2003 and Thereafter Under Programs Related to Shared Revenue (Shared Revenue and Tax Relief)

[LFB Summary of the Governor's Budget Reform Bill: Page 77, #1]

CURRENT LAW

The state provides unrestricted state aid to counties and municipalities under shared revenue and three related programs. Those programs include expenditure restraint, county mandate relief and small municipalities shared revenue (SMSR). Act 16 increased funding for each of the programs by 1% for 2002 (2002-03) and by an additional 1% for 2003 (2003-04, the first year of the next biennium):

<u>Program</u>	<u>2001 (2001-02)</u>	<u>2002 (2002-03)</u>	<u>2003(2003-04)</u>
Expenditure Restraint	\$57,000,000	\$57,570,000	\$58,145,700
County Mandate Relief	20,763,800	20,971,400	21,181,100
Small Municipalities Shared Revenue	<u>11,000,000</u>	<u>11,110,000</u>	<u>11,221,100</u>
Total	\$88,763,800	\$89,651,400	\$90,547,900

GOVERNOR

The Governor's proposal would make a number of modifications to the funding levels, distribution formulas, payment dates and funding sources for the shared revenue, expenditure restraint, county mandate relief and small municipalities shared revenue programs. The Governor's proposal is described in full in LFB Paper #1235. However, this paper covers only

the funding level and distribution of expenditure restraint, county mandate relief and small municipalities shared revenue payments for 2003 and thereafter. Other Legislative Fiscal Bureau papers address other aspects of the Governor's proposal.

Specify that total payments in 2003 under the shared revenue program and under the three related programs (expenditure restraint, county mandate relief and small municipalities shared revenue) for each municipality and county would equal the amount received in 2002, after any aid reductions enacted for 2002.

Delete the 1% increase for 2003 in the statutory distribution level for each of the three affected programs, remove references to the 2003 level continuing in the future and specify that the statutory distribution levels are subject to the reductions used to save \$350,000,000 annually in 2003. Establish a June 30, 2004, sunset for encumbrances and expenditures from the current law appropriations for the three affected programs. Establish a sunset after 2003 for distributions under the three affected programs.

DISCUSSION POINTS

1. State law directs the Department of Revenue (DOR) to provide estimates each September of the aid payments that each local government will receive in the succeeding year. Local governments use these estimates in setting their succeeding year's budgets. Due to the state fiscal year in which the payments are actually made, this timetable requires the Legislature to authorize changes in funding levels and in distribution formulas well in advance of when the changes take effect. For example, Act 16 set an annual, combined funding level for the expenditure restraint, county mandate relief and small municipalities shared revenue programs at \$90,547,900 for 2003, even though those payments will be made in the first year of the next biennium. As a result, if the Legislature wishes to make changes to the 2003 distributions, it may be advisable to do so during the current session.

2. The expenditure restraint program distributes state aid to municipalities that meet two eligibility requirements. First, a municipality must have a local purpose tax rate that exceeds five mills. Second, a municipality must restrict the year-to-year growth in its budget to a percentage based on the rate of inflation and growth in the municipality's tax base due to new construction. Since 1994, between 240 and 315 of the state's 1,850 municipalities have qualified for aid under these criteria, including 300 municipalities for 2002 payments.

3. The small municipalities shared revenue program distributes state aid to municipalities that meet three eligibility criteria. First, the municipality's population cannot exceed 5,000. Second, the municipality must have a local purpose tax rate of at least one mill. Third, the municipality must have an adjusted full value of \$40 million, or less. If the municipality's total land area exceeds 54 square miles, the full value requirement is not applied. Since 1994, the number of municipalities that have qualified for payments has declined each year, from 1,142 in 1994 to 811 in 2002. This compares to 1,850 municipalities statewide.

4. Each of the state's 72 counties receives an annual payment under the county mandate relief program. The distribution is not contingent on eligibility requirements, and payments are allocated to counties on a per capita basis. Because funding has increased from \$4.7 million in 1994 to \$21.0 million for 2002, the reimbursement rate has increased over that period from \$0.94 per person to \$3.88 per person.

5. Since the county mandate relief program's distribution is more broad-based, a wider constituency may exist for its continuation. On the other hand, during periods of limited financial resources, targeted aid programs, such as expenditure restraint and SMSR, may result in a more efficient use of state resources.

6. The three programs are related to the shared revenue program because each program provides unrestricted aid to general purpose local governments and because they possess complementary policy objectives. Consequently, it may be appropriate to determine the funding level for each program relative to the funding level for the shared revenue program. The primary policy of the shared revenue program is to equalize local governments' tax base relative to their spending levels. Under this policy, local governments with comparable spending levels will impose comparable tax burdens, regardless of their levels of tax base. This occurs because state aid is used to supplement the tax base that some local governments lack relative to other local governments.

7. Under tax base equalization, differences in local governments' tax rates are primarily the result of different spending levels, which may be reflective of different service needs. Under the expenditure restraint program, aid is distributed to local governments with tax rates over five mills, so that a proportional reduction in the portion of their tax rates over five mills is achieved. In this manner, the program reduces the disparity in municipal purpose tax rates. The small municipalities shared revenue program is intended to provide aid to municipalities with a tax base that is so limited that the municipality may have difficulty providing a basic level of services. The county mandate relief program offers supplementary resources to each county on a uniform basis.

8. The Commission on State-Local Partnerships for the 21st Century documented the state's large number of local governments, and that number was cited as a factor that contributes to Wisconsin's high tax burden in the Governor's budget summary. It could be argued that the state's aid system may contribute to patterns of inefficient service delivery by prolonging local governments that are not viable. Given the state's limited fiscal resources, arguments could be made to eliminate each of the programs. For example, the expenditure restraint program's role in limiting the year-to-year growth in municipal budgets may become less important if the Governor's proposal to impose a levy limit on municipal governments is adopted. Second, compared to a statewide average municipal purpose tax rate of 5.69 mills in 2000(01), municipalities receiving SMSR had an average municipal purpose tax rate of only 3.16 mills, and 741 of the 880 aid recipients had rates below the statewide average. Finally, despite its name, the county mandate relief program has insufficient resources (\$21 million) to effectively address those mandates that counties have identified as being the most burdensome.

9. The Governor has proposed to reduce funding for shared revenue and the three

related programs in 2002 and to set each municipality's and county's 2003 payment at the same amount received in 2002. If there is a desire to continue the three related programs, as well as the shared revenue program, Table 1 shows several options for funding reductions. The amounts in the table complement the reduction options presented for 2002 in LFB Paper #1235, "Shared Revenue Modifications -- Distribution of 2002 Payments" and the reduction options presented for 2003 in Table 2 of LFB Paper #1236, "Shared Revenue Modifications -- Shared Revenue Payments for 2003 and Thereafter."

TABLE 1

Alternate 2003 Distribution Levels

Reduction Amount and Procedure:	Expenditure <u>Restraint</u>	County <u>Mandate Relief</u>	Small Municipalities <u>Shared Revenue</u>
<u>-\$350 Million</u>			
Per Capita	\$43,795,700	\$4,605,900	\$8,451,800
Aid + Levy	41,769,400	7,832,600	8,060,800
Uniform Percent	37,996,300	13,841,100	7,332,600
<u>-\$200 Million</u>			
Per Capita	\$50,193,100	\$10,832,800	\$9,686,400
Aid + Levy	48,802,900	13,046,700	9,418,100
Uniform Percent	46,385,000	16,897,000	8,951,500
<u>-\$100 Million</u>			
Per Capita	\$54,076,600	\$15,591,600	\$10,435,800
Aid + Levy	53,276,700	16,865,300	10,281,500
Uniform Percent	51,977,500	18,934,200	10,030,800

ALTERNATIVES TO BILL

1. Approve the Governor's recommendation to specify that total payments in 2003 under the shared revenue program and under the three related programs (expenditure restraint, county mandate relief and small municipalities shared revenue) for each municipality and county would equal the amount received in 2002, after any aid reductions enacted for 2002. Delete the 1% increase for 2003 in the statutory distribution level for each of the three affected programs, remove references to the 2003 level continuing in the future and specify that the statutory distribution levels are subject to the reductions used to save \$350,000,000 annually in 2003. Establish a June 30, 2004, sunset for encumbrances and expenditures from the current law

appropriations for the three affected programs. Establish a sunset after 2003 for distributions under the three affected programs.

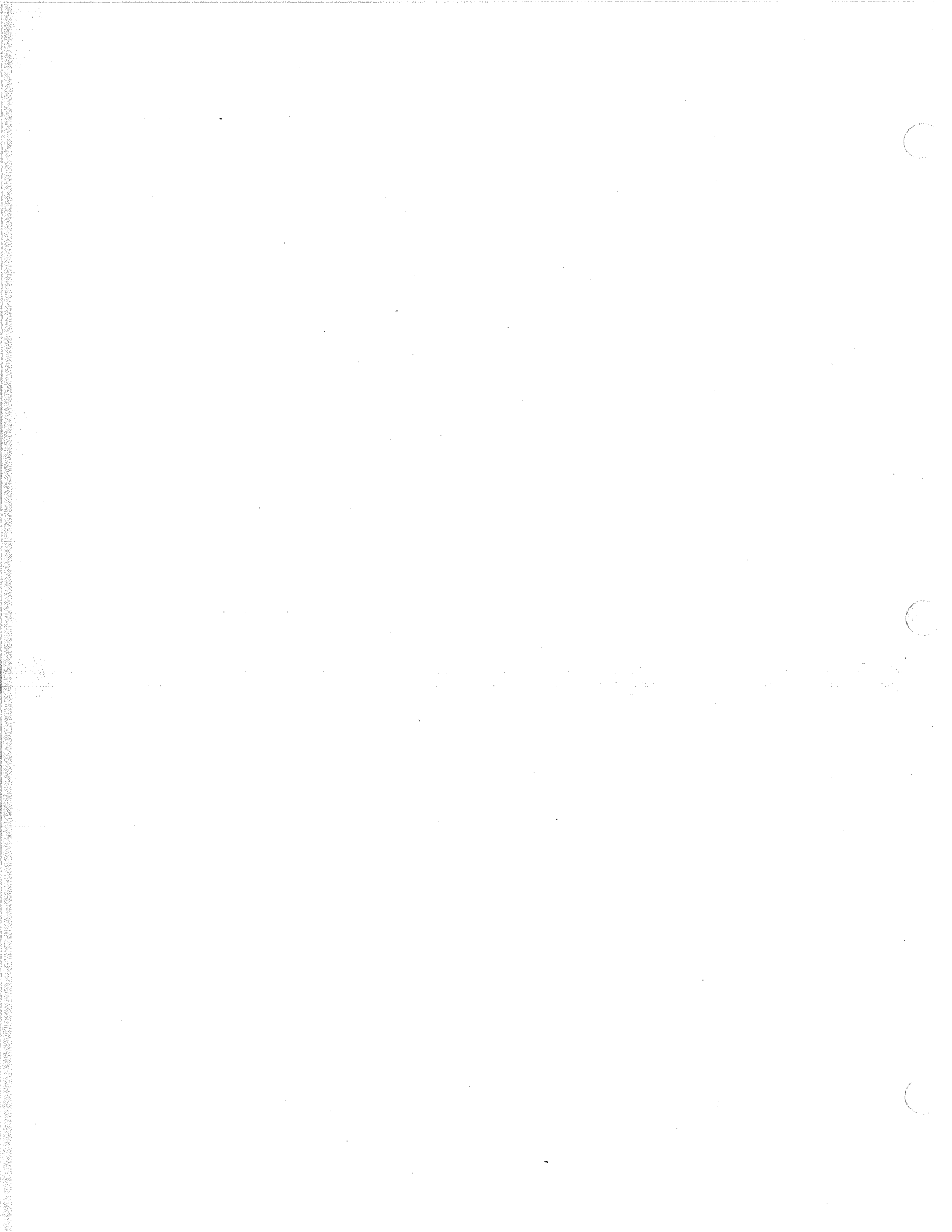
2. Repeal the expenditure restraint, county mandate relief and small municipalities shared revenue programs as of December 31, 2002, effective with the distributions for 2003. Specify that the notice requirement for September, 2002, relative to estimated payments for 2003, would not include estimates for payments under the three programs.

3. Establish expenditure restraint, county mandate relief and small municipalities shared revenue funding levels for 2003 and thereafter that are consistent with the policy of making proportionate reductions to those programs and to the county and municipal shared revenue distributions and that are consistent with the policy adopted to make aid reductions in 2002 and one of the following overall reductions (see Table 1 for specific details):

- a. \$350,000,000;
- b. \$200,000,000; or
- c. \$100,000,000.

4. Delete the Governor's recommendation to reduce in 2003 and eliminate in 2004 state aid payments under the expenditure restraint, county mandate relief and small municipalities shared revenue programs.

Prepared by: Rick Olin





Legislative Fiscal Bureau

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

March 4, 2002

Joint Committee on Finance

Paper #1239

County and Municipal Operating Levy Limit (Shared Revenue and Tax Relief)

[LFB Summary of the Governor's Budget Reform Bill: Page 80, #2]

CURRENT LAW

Each county is subject to a tax rate limit on the general operations portion of its levy. For purposes of the control, each county's total tax levy and rate are separated into two components. The debt levy and debt levy rate are comprised of amounts for debt service on state trust fund loans, general obligation bonds and long-term promissory notes, while the operating levy and operating rate are comprised of all other taxes. Each county's operating levy is limited to no more than an amount based on its prior year's allowable levy plus an adjustment equal to the percent change in the county's equalized value. For example, if a county's equalized value increases, or decreases, by 5%, its allowable levy will increase, or decrease, by 5%. Unless a county has claimed an adjustment to its levy, this mechanism has the effect of limiting each county's tax rate to the rate that was in effect in 1992(93), the year before the tax rate limit took effect.

Municipalities are not subject to a mandatory fiscal control. However, as a condition for receiving aid under the expenditure restraint program, municipalities must limit the year-to-year growth in their budgets to a percentage determined through a statutory formula. The statutes define municipal budget as the municipality's budget for its general fund exclusive of principal and interest payments on long-term debt. The percentage limitation on budgets equals the change in the Consumer Price Index (CPI) plus an adjustment based on growth in the municipality's property value.

GOVERNOR

Prohibit any political subdivision, defined as a city, village, town or county, whose total property tax levy rate is greater than or equal to one mill (\$1 per \$1,000 of value), from

increasing its operating levy in each year by a percentage that exceeds the sum of: (a) the percentage increase in inflation from June of the preceding year to June of the current year; and (b) the percentage increase in population in the political subdivision from the preceding year to the current year.

Define "operating levy" as the total political subdivision levy minus any portion of the total levy attributable to the political subdivision's levy for debt service on loans provided to the political subdivision by the Board of Commissioners of Public Lands or bonds or promissory notes issued by the political subdivision, less any revenues that abate the debt service levy. Specify that the "total levy rate" equals the total levy divided by the equalized value of the political subdivision, exclusive of any tax incremental district value increment. Specify that, for the purpose of this provision, "inflation" is the percentage change in the U.S. Bureau of Labor Statistics consumer price index for Milwaukee and Racine, all items, all urban consumers, or its successor index. Specify that "population" means the number of persons residing in the political subdivision, as determined by DOA under current law provisions.

Specify that the levy limit shall be adjusted, as determined by DOR, as follows: (a) if a political subdivision transfers to another governmental unit responsibility for providing any service that the political subdivision provided in the preceding year, the levy increase limit otherwise applicable to the political subdivision is decreased to reflect the cost that the political subdivision would have incurred to provide the service; or (b) if a political subdivision increases the services that it provides by adding responsibility for providing a service transferred to it from another governmental unit in any year, the levy increase limit otherwise applicable to the political subdivision in the current year is increased to reflect the cost of that service.

Require DOR, not later than August 15 of each year, to notify every political subdivision of the increase in inflation and population that applies to the political subdivision.

Create a procedure under which a political subdivision may exceed its operating levy limit if the governing body of the political subdivision adopts a resolution to that effect and the electors of the political subdivision approve the resolution in a referendum. Specify that the resolution adopted by the governing body shall specify the operating levy and the percentage increase in the levy that the governing body wishes to impose. Require the governing body, in the event it adopts such a resolution, to call a special election for the purpose of submitting the resolution to the electors for a referendum on approval or rejection, or, in lieu of a special election, allow the governing body to specify that the referendum be held at the next succeeding spring primary or election or September primary or general election to be held not earlier than 42 days after the adoption of the resolution by the governing body. Require the governing body to file the resolution to be submitted to the electors according to current law requirements for referenda petitions or questions.

Specify that the question submitted at the referendum shall be as follows: "Under state law, the operating levy increase for the [name of political subdivision], for the tax to be imposed for the year [year], is limited to [percentage limit calculated for the political subdivision]% that

results in an operating levy of \$..... Notwithstanding the operating levy increase limit, shall the [name of political subdivision] be allowed to exceed this operating levy increase limit such that the operating levy increase for the year [year] will be [the amount specified in the governing body's resolution]% that results in an operating levy of \$....?"

Specify that, if such a resolution is approved by the majority of those voting on the question, the political subdivision may exceed the operating levy increase limit otherwise applicable to it in that year, but that the operating levy increase may not exceed the percentage approved in the referendum. Specify that the operating levy that results from approval of the referendum shall be the base levy to which the levy limit is applied in the following year.

Require the clerk of the political subdivision in which such a referendum is held to certify the results of the referendum to DOR, immediately after expiration of the time allowed to file a petition for a recount. Specify that, if a petition for a recount is filed, the clerk shall make this certification immediately after the recount has been completed and the time allowed for filing an appeal has passed or, if appealed, immediately after the appeal is decided.

Specify that the operating levy limit calculated under these provisions does not apply to any county in which that levy exceeds the operating levy that the county may impose under current law county levy rate limit provisions. Specify that the limit imposed under these provisions does not apply to any increase in a political subdivision's operating levy that results from complying with a court order.

Specify that these provisions first apply to property tax assessments as of January 1, 2002.

DISCUSSION POINTS

1. The Governor's bill would retain the county tax rate limit program, but would eliminate the expenditure restraint program for municipalities in 2004. The bill does not provide additional personnel for the Department of Revenue to administer the proposed program. The objectives of the current tax rate limit and proposed levy limit programs would be somewhat duplicative, so both programs may not be needed.

2. It could be argued that neither of the existing programs has provided an effective control for property tax increases. Over the five-year period from 1996 to 2000, statewide tax levy increases for both counties and municipalities outpaced the change in the CPI by considerable margins. Municipalities that received expenditure restraint payments in both of the corresponding years averaged a lower rate of increase than other municipalities, but even that rate was slightly more than double the inflation rate. However, it should be acknowledged that funding for the shared revenue program remained unchanged over this period. Due to funding increases for programs related to the shared revenue program, state assistance under the combined programs increased by 0.3% for counties and 1.2% for municipalities over the five-year period.

TABLE 1

**Comparison of Statewide Tax Increases
for Counties and Municipalities to Inflation
1996 to 2000**

	<u>Total Change</u>	<u>Average, Annual Change</u>
Consumer Price Index (CPI-U)	9.8%	2.4%
County Levies	29.3	6.6
Municipal Levies	26.7	6.1
Recipients of ERP in both years	21.4	5.0
Other Municipalities	39.0	8.6

3. The CPI is calculated by the U.S. Department of Labor and measures changes in the prices of a set market basket of goods. The index for urban consumers (CPI-U) measures goods consumed by households in 87 urban areas and covers approximately 80% of the U.S. population. Separate indices are also published for various regions of the country and for 26 local areas. The CPI for Milwaukee-Racine is one such index and is published semiannually.

4. Because the CPI for Milwaukee-Racine is published in two specific months, it can result in larger or smaller percentage changes than is indicative of the general rate of inflation. Prior to 1991, the inflation measure used in the expenditure restraint program relied on the December CPI. To avoid unintended fluctuations in the index, the measure was changed to the average index for the 12 months ending in September of the year prior to the budget year. Table 2 compares the change in the Milwaukee-Racine CPI to the CPI used under the expenditure restraint program for the 1991 to 2001 period.

TABLE 2

Comparison of Two Inflation Measures

	<u>Milwaukee-Racine Index</u>		<u>Expenditure Restraint</u>	
	<u>July Index</u>	<u>Change</u>	<u>12-Month Avg.</u>	<u>Change</u>
1991	131.0		135.2	
1992	135.9	3.7%	139.3	3.0%
1993	140.5	3.4	143.5	3.0
1994	146.0	3.9	147.3	2.6
1995	150.6	3.2	151.4	2.8
1996	153.7	2.1	155.6	2.8
1997	157.6	2.5	159.8	2.7
1998	159.6	1.3	162.4	1.6
1999	162.7	1.9	165.5	1.9
2000	167.6	3.0	170.8	3.2
2001	171.8	2.5	176.3	3.2
Total Change		31.1%		30.4%

5. The inflation measure under the Governor's proposal would be adjusted to reflect the percentage change in each county's or municipality's population. Many municipal government services are provided to properties. In recognition of this, the inflation measure in the expenditure restraint program is adjusted to include a percentage equal to 60% of the percentage change in the municipality's equalized value due to new construction. The inflation measure can be increased by no more than 2% under this adjustment. The adjustment recognizes municipalities' need to extend services to new properties and reflects that not all new development is accompanied by population gains. Only 60% of the change is included to reflect the distinction between fixed costs and variable costs. A population-based adjustment may be more appropriate for counties because a significant portion of their expenditures are for human services.

6. If the expenditure restraint program is retained and the Governor's proposed levy limit program is adopted, two separate measures of inflation, with adjustments, would be tracked for municipalities. Although this is not difficult, it is unnecessary and could lead to confusion regarding which measure relates to which program. An alternative would be to use the same measure for both programs. A separate adjustment technique could be employed for counties, but the CPI measure could be the same for counties and municipalities.

7. Local officials are elected to make decisions to establish spending priorities and to determine appropriate taxation levels within their communities. The bill would replace this discretion with a statewide policy that mandates how much can be raised and spent within each local government. The bill would allow local officials to regain some of the lost autonomy through referendum. However, the cost of holding a referendum may discourage its use if there is an environment of limited local resources. Some autonomy could be preserved by also allowing

increases beyond the limit, if adopted by three-fourths of the members-elect of the local governing body. A similar provision could be extended to the electors of a town in attendance at the town's annual meeting. The municipal levy for towns is set at the annual town meeting, although the meeting can delegate that authority to the town board.

8. In the bill, the Governor proposes to reduce state aid to counties and municipalities under the shared revenue, expenditure restraint, county mandate relief and small municipalities shared revenue programs by \$350 million in 2002 and by \$360 million in 2003 and to eliminate state aid under those programs in 2004. In the Governor's summary of the bill, the rationale for the proposed levy limit is to eliminate "the need for tax increases to offset the aid reduction." Thus, the proposal is intended to have the effect of forcing counties and municipalities to reduce their current expenditure levels.

9. The impact of the proposed levy limit will increase over time. On a statewide basis, county tax levies increased by rates ranging from 3.6% to 8.1% and municipal tax levies have increased by rates ranging from 3.6% to 7.9% between 1996(97) and 2000(01). Over this period, the annualized rate of change in statewide levies has averaged 6.6% for counties and 6.1% for municipalities. This compares to a combined percentage change in the CPI and the state's population that has averaged 3.0% annually. The tax levies of individual counties and municipalities between 1996(97) and 2000(01) were examined without regard for any distinction between operating and debt levies and assuming no referenda would be successful. Under those parameters, county and municipal tax levies would have been allowed to increase in aggregate by only 12.5% and 12.4%, respectively. Thus, for taxes levied in 2000(01), the limit would have reduced county levies by \$174.1 million (-13.2%) and municipal levies by \$202.0 million (-12.7%). Table 3 displays the distribution for counties and municipalities by percentage reduction, relative to their actual 2000(01) levies.

TABLE 3

**Distribution of Counties and Municipalities by Estimated 2000(01) Levy Reductions
Assuming Initial Imposition of Proposal in 1996(97)**

	<u>Counties</u>		<u>Municipalities</u>	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
1996 Levies Under One Mill	0	0.0%	140	7.6%
Est. 2000 Levy Lower by:				
No Change	5	6.9%	426	23.0%
Less than 5%	4	5.6	150	8.1
5% to 10%	8	11.1	154	8.3
10% to 20%	29	40.3	317	17.1
Over 20%	<u>26</u>	<u>36.1</u>	<u>663</u>	<u>35.8</u>
Total	72	100.0%	1,850	100.0%

10. If the impact of the proposed levy limits is combined with the elimination of shared revenue and its related programs, counties and municipalities will be confronted with considerable service reductions over the coming years. If additional flexibility in the program seems warranted, local governments could be allowed to carry-forward some of their unused allowable increase from one year to the next. This could remove some of the incentive for each government to levy up to its maximum allowable amount each year. In its deliberations on Act 16, the Senate included a change to the expenditure restraint budget test that would have provided an adjustment to the allowable increase in budgets equal to 50% of the difference between the prior year's allowable and adopted budgets. This provision was deleted by the Conference Committee.

11. The Governor's proposals to impose a levy limit and to reduce shared revenue funding would require counties and municipalities to reduce their 2003 expenditure amounts. Based on statewide estimates of current county and municipal property taxes and shared revenue payments, 2003 expenditures funded from those revenues would have to be reduced, on average, by 7.2% for counties and 6.2% for municipalities. If there is a desire to avoid reductions of that magnitude, the Governor's proposal could be modified to allow local governments to recapture part of the loss in state aid through property tax increases.

ALTERNATIVES TO BILL

1. Approve the Governor's recommendation to prohibit any political subdivision, defined as a city, village, town or county, whose total property tax levy rate is greater than or equal to one mill (\$1 per \$1,000 of value), from increasing its operating levy in each year by a percentage that exceeds the sum of: (a) the percentage increase in inflation from June of the preceding year to June of the current year; and (b) the percentage increase in population in the political subdivision from the preceding year to the current year.

2. Repeal the county tax rate limit authorized under current law, effective with taxes levied in 2002 (payable in 2003). [The current law provisions pertaining to the conditions for debt issuance by counties would be retained (s. 67.045 of the state statutes).]

3. Repeal the eligibility requirement for receiving an aid payment under the expenditure restraint program that is based on the year-to-year increase in a municipality's general fund budget, effective with aid payments for 2004.

4. Modify the Governor's recommendation by changing the definition of "inflation" to mean a percentage equal to the average, annual percentage change in the U.S. consumer price index for all urban consumers, U.S. city average, as determined by the U.S. Department of Labor, for the 12 months ending on September 30 of the year of the levy. Modify the date by which DOR would notify political subdivisions from August 15 to November 1. [This is the same measure used for the expenditure restraint program.]

5. Modify the Governor's recommendation by replacing the municipal adjustment to the inflation measure based on population with an adjustment set at a percentage equal to 60% of

the percentage change in the jurisdiction's equalized value due to new construction, less improvements removed, between the year before the year of the levy and the previous year, but not less than 0% nor greater than 2%. [This is the same measure used for the expenditure restraint program.]

6. Modify the Governor's recommendation to authorize levy increases in excess of the limit if approved by referendum to also apply to increases approved by one of the following [this would not delete the referendum provision, but would be an alternative to increases allowed through referendum]:

- a. at least three-fourths of the members-elect of the governing body; or
- b. at least three-fourths of the electors in attendance at the annual town meeting, if the levy is set by the meeting.

7. Modify the Governor's recommendation by authorizing an additional adjustment to the allowable increase calculated for each county and municipality. Set the adjustment equal to 50% of the difference between the prior year's allowable and adopted levy.

8. Modify the Governor's recommendation by authorizing an additional adjustment to the allowable increase calculated for each county and municipality. Set the adjustment equal to one of the following percentages of the difference between the local government's estimated state aid for 2002 under the shared revenue, expenditure restraint, county mandate relief and small municipalities shared revenue programs, as determined by DOR in September, 2001, and the amount the local government is expected to receive in 2003:

- a. 25%;
- b. 50%; or
- c. 75%.

9. Delete the Governor's recommendation to impose a levy limit on counties and municipalities.

Prepared by: Rick Olin



Legislative Fiscal Bureau

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

March 4, 2002

Joint Committee on Finance

Paper #1240

Waiver from State-Imposed Mandates on Local Governments (Shared Revenue and Tax Relief)

[LFB Summary of the Governor's Budget Reform Bill: Page 81, #3]

CURRENT LAW

Upon request of a school board, state law authorizes the Department of Public Instruction (DPI) to waive any school board or school district requirement included in chapters 115 to 121 of the state statutes or in the Department's administrative rules, unless the statutes or rules relate to the health or safety of pupils, pupil discrimination, the pupil assessment program, the standardized reading test, pupil records, the collection of data by DPI, the uniform financial accounting system, audits of school district accounts, licensure of teachers, certification of school nurses or the commencement of the school term.

State law requires the preparation of a fiscal estimate on any bill that increases or decreases general local government fiscal liability or revenues.

GOVERNOR

Specify that a political subdivision, defined as a city, village, town or county, may file a request with the Department of Revenue (DOR) for a waiver from a state mandate, except for a state mandate related to health or safety. Define a "state mandate" as a state law that requires a political subdivision to engage in an activity or provide a service or to increase the level of its activities or services. Require the political subdivision, in such a request, to specify its reason for requesting the waiver.

Require DOR, upon receiving a request for a waiver, to forward the request to the administrative agency that is responsible for administering the state mandate. Require the administrative agency to determine whether to grant the waiver and notify the political

subdivision and DOR of its decision in writing. Require DOR to determine whether to grant a waiver for a state mandate if there is no state agency responsible for administering the mandate and require the Department to notify the political subdivision of its decision in writing. Authorize administrative agencies and DOR to grant such waivers. Specify that a waiver granted from a state mandate is effective for four years and that the administrative agency, or DOR in the case of waivers granted by DOR, may renew the waiver for additional four-year periods.

Require DOR, by July 1, 2004, to submit a report to the Governor and the appropriate standing committees of the Legislature specifying the number of state mandate waivers requested, a description of each waiver request, the reason given for each waiver request and the financial effects on the political subdivision of each waiver that was granted.

DISCUSSION POINTS

1. The state's original constitution directed the Legislature to establish and organize Wisconsin's local governments. Thus, most local government authority is granted through state statute, and most local government functions are associated with a state law. While the bill would define mandate as "a state law that requires a political subdivision to engage in an activity or provide a service, or to increase the level of its activities or services," this definition would encompass a broad range of activities and services. Consequently, much of what local governments do could be characterized as mandates.

2. If the Legislature approves the Governor's recommendations to impose levy limits on counties and municipalities and to eliminate shared revenue funding and funding for three related programs, adopting the Governor's recommendation on mandate waivers would be one way for the Legislature to provide some fiscal relief to local governments in a period where local financial resources are limited.

3. A program similar to the Governor's proposal was extended to school districts in 1995 and is administered by the Department of Public Instruction. From the program's creation in 1995 through the end of 2001, 122 requests for waivers had been sought, and 101 of the requests were approved, based on statistics provided by the Department. Most of the requests involved the number of instructional days in a school year and the state's foreign language requirement.

4. If some local governments receive waivers and others do not, the state's laws would be inconsistently applied. Thus, a county or municipality in one part of the state could be subject to different rules or procedures than a county or municipality elsewhere. Further, some statutes impose identical requirements on school districts and technical college districts, as on counties and municipalities. As a result, state agencies could be in a position to grant relief to one type of local government, but be unable to grant relief from the same provision to another type of local government. In some instances, the jurisdictions' boundaries could be coterminous, but they would still receive different treatment.

5. The proposal does not create standards for the state's agencies to apply when

deciding on requests for waivers. As a result, agencies may apply different standards, thereby treating local governments in an inconsistent manner. For example, one agency may agree to grant waivers upon a showing of financial hardship, while another agency might not employ financial considerations in making its decisions. The lack of standards could result in agencies being subject to political pressure to grant waivers. Even in instances where no political pressure is exerted, charges of favoritism could be raised and taint the waiver process.

6. Generally, the Legislature is empowered to enact and modify the state's laws, and the role of the Governor and the state's agencies is to administer those laws. The proposal would authorize state agencies to override the actions of the Legislature. As such, it may be an invalid delegation of legislative authority. There are instances where the Legislature has delegated its authority to state agencies, but that delegation is generally subject to legislative oversight. The administrative rule process is one example of this delegation. However, the Joint Committee for Review of Administrative Rules may suspend rules and introduce legislation to repeal the suspended rule, thereby providing a safeguard for the Legislature's authority.

7. Over time, the state has addressed mandates in a somewhat ad hoc fashion by changing state laws in response to complaints regarding specific statutes. A different approach would be to provide a systematic review of mandates. This could be done on a one-time basis through a Legislative Council study committee or on an ongoing basis through a joint survey committee.

ALTERNATIVES TO BILL

1. Approve the Governor's recommendation to allow local governments to request waivers from state mandates and authorize state agencies to grant waivers from those mandates.

2. Request that the Legislative Council establish a study committee to develop a statewide policy on municipal and county mandates, review existing mandates and establish a procedure to evaluate specific requests for additional mandates.

3. Create a Joint Survey Committee on Mandates, composed of two majority party members and one minority party member from each house of the Legislature and three public members, appointed by the Governor to represent county, town and incorporated municipal governments. Require that any bill establishing a mandate, as defined in the bill, on municipal or county governments be referred to this Committee before the bill can be passed by either house of the Legislature.

4. Delete the Governor's recommendation.

Prepared by: Rick Olin

Transportation

(LFB Summary of the Governor's Budget Reform Bill: Page 88)

LFB Summary Item for Which No Issue Paper Has Been Prepared

<u>Item #</u>	<u>Title</u>
1	Transportation Fund Transfer to the General Fund

MO# 290

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 7 NO 9 ABS

See back of red sheet
for vote

Senator Decker

TRANSPORTATION

Restriction on Use of State Highway Rehabilitation and Major Highway Development Funds for Southeast Wisconsin Freeway Projects; Exclusion of Capacity Expansion on Southeast Wisconsin Freeways from Definition of Major Highway Project; Bonding Authorization to Compensate for Reductions in Federal Highway Aid

Motion:

Move to prohibit DOT from using any of the following appropriations for southeast Wisconsin freeway rehabilitation projects: (a) the SEG, FED or SEG-L appropriations for state highway rehabilitation; (b) the SEG, FED, SEG-S or SEG-L appropriations for major highway development; or (c) the general obligation bonding appropriations that provide bonding authorization for accelerated highway improvements and for highway construction projects. Specify that southeast Wisconsin freeway rehabilitation projects, including the Marquette Interchange reconstruction project and projects that involve adding one or more lanes five miles or more in length to the existing freeway, may only be funded from the SEG, FED and SEG-L appropriations for southeast Wisconsin freeway rehabilitation or with the proceeds of bonds authorized (by this motion) to compensate for a reduction in the amount of federal aid received by the state.

Require DOT to make a request to the Joint Committee on Finance under s. 13.10 of the statutes, for the first such quarterly meeting after the effective date of the bill, for the transfer of funds from the appropriations for state highway rehabilitation to the appropriations for southeast Wisconsin freeway rehabilitation to allocate funds for the rehabilitation of southeast Wisconsin freeways. Specify that DOT's request may not include the transfer of funds that are currently allocated for projects in other parts of the state or other funding that is not currently allocated to rehabilitation of southeast Wisconsin freeways.

Modify the definition of a major highway project to exclude southeast Wisconsin freeway rehabilitation projects. Prohibit DOT from expending funds from the appropriations for southeast Wisconsin freeway rehabilitation for a southeast Wisconsin freeway rehabilitation project that involves adding one or more lanes five miles or more in length to the existing freeway unless the project is specifically enumerated in a newly created list for such projects. Specify that no projects are currently enumerated in this list.

Authorize \$200,000,000 in transportation fund-supported, general obligation bonding to compensate for reductions in federal highway aid received by the state. Prohibit the Department of Transportation from using the proceeds from these bonds unless their use is approved by the Joint Committee on Finance under the current law process by which DOT is required to submit a plan to the Joint Committee on Finance for adjusting the Department's appropriations if the amount of federal transportation aid received by the state differs from the amounts estimated for the state

biennial budget by more than 5%. Specify that DOT may request, and the Committee may approve, an amount of this bonding that is not more than the amount by which federal highway aid received by the state in the federal fiscal year is less than the amount of such aid appropriated in the state biennial budget in the corresponding state fiscal year. Specify that the bonds may be used only in the major highway development, state highway rehabilitation or southeast Wisconsin freeway rehabilitation programs. Create a new appropriation for the authorization of this bonding and a new appropriation for the payment of debt service on the bonds.

Note:

This motion has three principal provisions. First, it would prohibit DOT from using state highway rehabilitation or major highway development funds for highway projects on southeast Wisconsin freeways, including the reconstruction of the Marquette Interchange or capacity expansion projects on those freeways. Instead, these projects would have to be funded from the current appropriations for southeast Wisconsin freeway rehabilitation. DOT would be required to make a request under s. 13.10 of the statutes for transferring base funds that are currently allocated to southeast Wisconsin freeway rehabilitation from the state highway rehabilitation appropriations to the southeast Wisconsin freeway rehabilitation appropriations. Under current law, southeast Wisconsin freeways are defined as state trunk highways located in Kenosha, Milwaukee, Ozaukee, Racine, Walworth, Washington or Waukesha counties that have four or more lanes of traffic physically separated by a median or barrier and that give preference to through traffic by limiting access to interchanges only.

Second, the motion would specify that capacity expansion projects (those adding lanes for five or more miles) on southeast Wisconsin freeways are not considered to be major highway projects. Therefore, such projects would not go through the current process of study and recommendation by the Transportation Projects Commission and would not be enumerated in the same manner as major highway development projects. However, capacity expansion projects on southeast Wisconsin freeways would still have to be enumerated in the statutes before DOT could commence construction on such projects, although a separate statutory section would be created for these projects. The motion would not enumerate any southeast Wisconsin freeway capacity expansion projects.

Third, the motion would provide \$200,000,000 in bonding authority to be used in the event that the amount of federal transportation aid received by the state in any federal fiscal year is less than 95% of what had been estimated for that year in the biennial budget act. Under current law, DOT is required to submit a plan to the Joint Committee on Finance for adjusting the Department's appropriations if federal transportation aid received by the state differs from the amounts estimated for the state biennial budget by more than 5%. The motion would allow DOT, in submitting such a plan when the amount received is less than the estimated amount, to request a supplement of bonding proceeds to make up the difference between the estimated amount and the amount actually received.

[Change to Bill: \$200,000,000 BR]

TRANSPORTATION

Transfer State Patrol Funding to Counties for Law Enforcement

Motion:

Move to delete \$49,124,800 SEG, \$2,439,200 FED and \$780,400 PR and 640.0 SEG positions, 30.0 FED positions and 3.0 PR positions in 2002-03 to reflect the elimination of the Wisconsin State Patrol and all associated administrative functions, except the chemical test section, effective July 1, 2002. Eliminate the Secretary of the Department of Transportation's authority to hire 399 traffic officers, plus a person in the classified service who is designated to head the traffic officers. Eliminate all statutory references to the state traffic patrol, motor vehicle inspectors and other terms associated with the Wisconsin State Patrol.

Provide \$49,124,800 SEG in 2002-03 in a new appropriation for making a transfer to the common school fund and making payments to counties for law enforcement. Require the DOT Secretary to calculate the amount of fines and forfeitures deposited in the common school fund in 2000-01 as the result of traffic citations written by State Patrol officers and annually, beginning on July 1, 2002, make a payment to the common school fund from the new appropriation equal to this amount adjusted by the rate of inflation, as determined using the U.S. consumer price index for all urban consumers, as determined by the U.S. Department of Labor for the 12-month period ending on the preceding December 31. Require the DOT Secretary to distribute the remaining amounts in the appropriation to all counties, except Milwaukee County, based on the number of troopers and inspectors stationed in each county on January 1, 2002, excluding those stationed at the Hill Farms State Office Building and the State Patrol Academy. Specify that counties must use these funds for law enforcement activities. Require the DOT Secretary, by December 31, 2002, to distribute all the law enforcement vehicles used by the State Patrol to counties in the same proportion that the funds from the new appropriation are distributed to counties. Specify that the DOT Secretary may reduce the amount of funds distributed to counties in 2002-03 by the amount needed to pay any debt on the vehicles.

Require the Department of Transportation to establish a process to sell the assets of the State Patrol, other than the law enforcement vehicles distributed to counties, and deposit the proceeds from the sale in the transportation fund, less any amounts needed to retire debts on those assets. Permit the Department of Transportation to submit a request under s. 13.10 of the statutes during 2002-03 to appropriate amounts from the transportation fund to pay unemployment compensation costs for State Patrol employees.

