

2003 DRAFTING REQUEST

Senate Amendment (SA-SB44)

Received: **05/05/2003**

Received By: **jkuesel**

Wanted: **Soon**

Identical to LRB:

For: **Legislative Fiscal Bureau 6-9918**

By/Representing: **Bauer**

This file may be shown to any legislator: **NO**

Drafter: **jkuesel**

May Contact:

Addl. Drafters:

Subject: **State Finance - miscellaneous
State Govt - electronic govt**

Extra Copies: **RAC - 1
RCT - 1**

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

LFB:.....Bauer -

Topic:

All-agency lapse/transfer to general fund; information technology appropriation structure; IT fee-setting methodology

Instructions:

Per paper # 295, alts 2, 4, and 5 a. , b. and d. and motion #350.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkuesel 05/06/2003	kgilfoy 05/07/2003		_____			
/1			rschluet 05/08/2003	_____	lemery 05/08/2003		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/2	jkuesel 05/28/2003	kgilfoy 05/28/2003	rschluet 05/29/2003	_____	sbasford 05/29/2003		

FE Sent For:

<END>

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/1	jkuesel 5/28	12-5/28 king	rschluet 05/08/2003	_____	lemery 05/08/2003		

Handwritten notes: 5-29-03 PG

FE Sent For:

<END>

NOTE

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/?	jkuesel	11-5/7 Kmg					
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FE Sent For:

<END>



Legislative Fiscal Bureau

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

April 30, 2003

Joint Committee on Finance

Paper #295

Repeal of the Department of Electronic Government and the Transfer of Its Functions to the Department of Administration (DOA and Electronic Government)

[LFB 2003-05 Budget Summary: Page 26, #1 and Page 147, #2]

CURRENT LAW

The Department of Electronic Government (DEG) is a separate state agency responsible for the management and oversight of information technology and telecommunications activities of state agencies and for assisting state agencies with information technology issues. Base funding for DEG is \$132,488,300 PR annually and 230.3 PR positions.

GOVERNOR

Eliminate DEG as a separate state agency and transfer its functions, duties, and the attached Information Technology Management Board to DOA, effective 30 days after publication of the bill. Following a base level reduction of \$512,300 PR annually, delete \$131,976,000 PR and 230.3 PR positions annually in DEG. Eliminate the position of chief information officer (the individual who serves as the Secretary of DEG).

Provide \$130,459,200 PR and authorize 208.3 PR positions annually under the Department of Administration (DOA) associated with the transfer of DEG's information technology functions to that agency.

DISCUSSION POINTS

1. DEG was created under provisions of 2001 Wisconsin Act 16 (the 2001-03 biennial budget act). Resources for the new agency were originally provided through a consolidation and

transfer of funding and staffing associated with two information technology divisions within DOA.

Current Duties and Functions of DEG

2. Executive branch agencies (other than the University of Wisconsin System) are generally required to obtain information technology processing services from DEG, and the agency may assess fees for these services. In addition, DEG may remove information technology functions from executive branch agencies and assume control of those functions directly. DEG is authorized to provide certain services to state authorities, local governments, units of the federal government, private schools, postsecondary institutions, museums, zoos, and other entities in the private sector. Under current law, DEG has the authority to make purchases without public notice or solicitation of bids or proposals and is not required to adhere to certain other purchasing requirements that apply to other state agencies.

3. In addition to the powers and duties given to DEG, current law also grants certain powers relating to information technology management to the chief information officer (CIO). Most information technology and telecommunications purchases by executive branch agencies (other than the University of Wisconsin System) are subject to prior approval by the CIO.

4. Currently, an Information Technology Management Board is attached to DEG. This Board: (a) advises the CIO; (b) provides the CIO with its recommendations concerning elements of strategic plans referred to the Board by executive branch agencies; (c) monitors progress in attaining goals for information technology and telecommunications development that are set by the CIO or by executive branch agencies (other than the University of Wisconsin System) and may make recommendations concerning appropriate means of attaining these goals; and (d) hears appeals by executive branch agencies concerning actions of the CIO.

5. In reviewing the Governor's recommendations relating to DEG, several issues merit attention by the Committee. First, the Committee may wish to consider whether the elimination of a separate Department is appropriate and desirable. Second, regardless of whether the Committee chooses delete or retain DEG as a separate agency, questions regarding the structure of information technology appropriations under either DOA or DEG need to be addressed.

Elimination of a Separate Department of Electronic Government

6. Under the 2001-03 budget adjustment bill, as passed by the Legislature (Enrolled 2002 Special Session Assembly Bill 1), provisions were included that repealed DEG as a separate agency and transferred the duties, responsibilities, funding and virtually all of the existing positions of DEG to a Division of Electronic Government under the Department of Administration, effective July 1, 2002.

7. The enrolled bill deleted funding of \$132,235,800 PR and 230.3 PR authorized positions in 2002-03 under DEG and provided \$131,723,500 PR and 225.3 PR authorized positions in 2002-03 under DOA. The net savings under the enrolled bill from the proposed elimination of DEG and the transfer of its functions to DOA amounted to \$512,300 PR and 5.0 unclassified PR

positions in 2002-03. These position reductions were attributable to the deletion of the DEG Secretary, the deputy secretary, an executive assistant and two unclassified division administrators.

8. In signing the 2001-03 budget adjustment bill as 2001 Wisconsin Act 109, the Governor vetoed these provisions, thereby maintaining DEG as a separate agency.

9. The current proposal before the Committee is substantially the same as that contained in the 2001-03 budget adjustment bill, as passed by the Legislature. However, under the current proposal, the net savings from the elimination and transfer would be greater because more permanent positions would be deleted. The 2001-03 budget adjustment bill proposal would have eliminated \$512,300 PR and 5.0 PR positions, while the current proposal deletes \$1,516,800 PR and 22.0 PR positions.

10. Under the current proposal, the structure of information technology activities in DOA after the transfer of DEG functions has not yet been determined. However, under the bill, the current powers and duties vested in the CIO would revert to the Secretary of DOA. Further, since 1.0 unclassified division administrator position is also created under DOA, it appears that one information technology-related division would also be created.

11. When Joint Finance and the Legislature considered creating DEG during deliberations on the 2001-03 biennial budget, it was argued that the establishment of a separate department would yield a variety of benefits. These expected benefits included increasing the stature and importance of information technology in state government by establishing a cabinet-level agency to oversee this function, providing overall coordination with respect to state government-wide IT issues, helping ensure that state resources for IT are used as efficiently as possible, and directing e-government activities. It was also stated that the creation of a separate department was consistent with the findings of an IT consulting organization (the Gartner Group) that reviewed a variety of options to improve the governance of the IT function in state government. The establishment of a separate IT function also emerged as the ultimate goal of a DOA study committee on the matter of the optimal information technology structure and management approach for state government.

12. It could be argued that insufficient time has elapsed to determine whether or not any of the expected benefits of creating a separate department for information technology functions have been realized. Furthermore, the arguments that originally led to the creation of a separate IT department still presumably apply. Given these considerations, the Committee could choose to retain DEG as a separate agency.

13. During legislative deliberations on creation of a separate department, there were also questions raised about the actual need for such an agency. It was argued that while there were a number of new and modified powers and duties granted to the new agency, all of the staff and most of the statutory powers and duties that would be exercised by the new agency already existed in DOA and were simply being transferred to the new entity. Consequently, it was not entirely clear that the creation of a new agency was required.

14. Amplifying on these arguments, budget papers prepared for the Committee at that time noted that: "[t]he Committee could expand any of the new powers and duties established under the bill and vest them in DOA without creating a new Department. It could, therefore, be argued that the new Department is no different from the current structure in DOA, except for the CIO and the other unclassified positions. Further, DOA is administratively already well-suited to address IT issues because of its two current IT divisions and associated statutory authority. If the Secretary of DOA wants to create a CIO position, one of the existing division administrator positions could be designated as such and modifications to the position's current duties made by DOA."

15. The elimination of DEG and the merger of its functions into DOA, as proposed under SB 44, would effectively restore the conditions cited above, thereby allowing the state to coordinate IT management through enhancements to DOA administrative structures. If the Committee believes that this type of approach is preferable to maintaining a separate department, it could approve the Governor's recommendation.

Information Technology Appropriations Structure

16. Regardless of whether the Committee chooses to retain DEG as a separate state agency or repeal the Department and merge its functions under DOA, there are a variety of issues relating to the appropriations structure for the state's IT function that should be addressed.

Realignment of Funding and Position Authorizations

17. Under the bill, the following information technology and telecommunications-related appropriations are created under DOA:

- a. Printing, mailing, communications and information technology services for state agencies, established as a PR continuing appropriation and funded at \$2,157,400 annually.
- b. Information technology and communications services provided to non-state entities, established as a PR continuing appropriation and funded at \$84,345,100 and 164.3 positions annually.
- c. Telecommunications services for state agencies, established as a PR annual appropriation and funded at \$36,593,800 and 24.0 positions annually, including 1.0 unclassified division administrator position.
- d. Justice information systems, established as a PR annual appropriation and funded at \$1,491,900 and 16.0 positions annually.
- e. Justice information systems development, operation, maintenance and assistance, established as a PR annual appropriation and funded at \$857,500 and 3.0 positions annually.
- f. Telecommunications relay services, established as a PR annual appropriation and funded at \$5,013,500 and 1.0 position annually.

18. Under the bill, several adjustments are made when the DEG appropriations structure is repealed and then recreated under DOA. The most notable of these changes are the following:

a. DEG's omnibus services appropriation is divided into two separate PR continuing appropriations under DOA, one for printing, mailing, communications and information technology services for state agencies and the other for information technology and communications services to non-state entities.

b. Three existing DEG appropriations supporting justice information systems (funded respectively from the justice information fee, federal Byrne grant monies, and penalty assessment revenues) are collapsed into two appropriations under DOA, one funded from the justice information fee and one funded from a combination of federal Byrne grant monies and penalty assessment revenues. No separate justice information system appropriation supported solely from penalty assessment revenues would be retained under DOA.

19. Estimated expenditure and position authority under the new DOA appropriations appears to have been included in the bill without regard to the actual funding and staffing levels likely to be needed in these accounts. On March 19, 2003, DOA indicated that a series of corrections were required to properly align funding and position authority within the new DOA appropriations supporting the various information technology functions. In addition, DOA has recently indicated that, based on projected usage-based expenditure projections and the manner in which information technology services are provided, further funding modifications to the bill are necessary.

20. The following table summarizes the annual adjustments to the funding levels and position authorizations under the various DOA information technology-related appropriations that are required to properly implement the repeal of DEG and the transfer of its functions to DOA.

<u>Appropriation</u>	<u>Senate Bill 44</u>		<u>Reestimate</u>		<u>Difference</u>	
	<u>Amount</u>	<u>Positions</u>	<u>Amount</u>	<u>Positions</u>	<u>Amount</u>	<u>Positions</u>
Printing, mailing, communications and information technology services to state agencies [s. 20.505(1)(kL)]	\$2,157,400	0.00	\$83,926,300	164.30	\$81,768,900	164.30
Information technology and communications provided to non-state entities [s. 20.505(1)(is)]	84,345,100	164.30	14,373,000	0.00	-69,972,100	-164.30
Telecommunications services to state agencies [s. 20.505(1)(ke)]	36,593,800	24.00	24,002,600	24.00	-12,591,200	0.00
Justice information systems [s. 20.505(1)(ja)]	1,491,900	16.00	1,653,400	19.00	161,500	3.00
Justice information systems development, operation, maintenance and assistance [s. 20.505(1)(kq)]	857,500	3.00	1,753,000	0.00	895,500	-3.00
Telecommunications relay service [s. 20.505(1)(ir)]	<u>5,013,500</u>	<u>1.00</u>	<u>5,013,500</u>	<u>1.00</u>	<u>0</u>	<u>0.00</u>
Total	\$130,459,200	208.30	\$130,721,800	208.30	\$262,600	0.00

21. If the Committee chooses to retain DEG as a separate agency, it could also choose to fund the agency at the reestimated levels indicated in the table. This action would permit the Committee to realize all of the savings and position reductions recommended by the Governor under his proposal. If the Committee chooses this option, it should also retain the current DEG federal aid appropriation.

22. In order to provide no fiscal change to the bill, the Committee could adopt the reestimated appropriation schedule, but reduce the largest appropriation (printing, mailing, communications and information technology services to state agencies) by \$262,600 PR annually. Under this alternative, if expenditures exceed the estimated amount, DOA or DEG could still make necessary expenditures without further legislative action, if the appropriation is continuing, or with legislative approval under s. 16.515, if the appropriation is annual.

Consolidation of Justice Information Systems Appropriations

23. Under the bill, two DEG appropriations supporting the justice information system (a appropriation funded from penalty assessments and an appropriation funded from federal Byrne grants) are combined into a single, annual appropriation under DOA. The combined appropriation provides DOA with the ability to utilize funding from both penalty assessment revenues and Byrne grant funding for the development, operation, and maintenance of justice information systems.

24. However, consolidation of the appropriations eliminates the ability of the Legislature to readily differentiate between penalty assessment and Byrne grant funding for the program. Further, consolidation makes it more difficult for the Legislature to track total penalty assessment and total Byrne grant funding. Despite the fact that the bill does not actually provide any penalty assessment revenues for the justice information system, the Committee may wish to retain the separate appropriation funded from these two revenue streams so that any future penalty assessment funding can be identified.

Continuing Versus Annual Appropriations

25. Continuing appropriations are appropriations that are expendable until fully depleted or repealed by subsequent action of the Legislature. The amount of a continuing appropriation from program revenues consists of the balance in the appropriation account at the end of the previous fiscal year, if any, together with any revenues received during the fiscal year that are directed by law to be credited to the appropriation account. The dollar amounts shown in the appropriation schedule represent the most reliable estimates of the amounts that will be expended during any fiscal year. Generally, expenditures made from a continuing program revenue appropriation are limited only by the availability of the revenues supporting the appropriation.

26. By contrast, annual appropriations are expendable only up to the amount shown in the appropriation schedule and only for the fiscal year for which made. At the end of the fiscal year the unencumbered balances in a program revenue or program revenue-service appropriation, remains in that appropriation if the statutes indicate the monies are to be credited to the account for that appropriation.

27. Under a continuing appropriation, legislative oversight of expenditures is decreased because the dollar amounts in the appropriations schedule are merely estimates of the amount of funds that the agency expects to spend for these purposes. By having a continuing appropriation for these purposes, expenditures that agencies wish to make are not limited by any legislatively-established appropriation level. Rather, an agency may expend as much as the accumulated revenue in the appropriation level will allow. Further, depending on the purpose of the appropriation, an agency may collect the full cost of its operation through chargebacks to users of its services at whatever level of expenditures are actually made. Consequently, the funding levels that the Legislature includes in the appropriations schedule do not serve as any limit on the amount that an agency can actually expend for the purposes of the appropriation.

28. Under the bill, two continuing appropriations are created under DOA related to information technology: (a) printing, mailing, communications and information technology services for state agencies; and (b) information technology and communications services provided to non-state entities. These new appropriations would fund activities that are currently included under DEG's services appropriation.

29. Currently, DEG's omnibus services appropriation is also a continuing appropriation and funds: (a) state agency printing, mail processing and information technology processing

services; (b) executive branch IT development and management services; (c) computer and telecommunications services to local units of government and others; (d) supercomputer services to local units of government and others; and (e) development, maintenance and operation of any system or device facilitating internet or telephone access to information about programs of the agencies, authorities, local units of government or entities in the private sector, or permitting the transaction of business by the agencies, authorities, local unit of government or private sector entities.

30. In the 2001-03 biennial budget legislation, the Legislature intended to create all DEG appropriations as annual appropriations. However, a partial veto by the Governor resulted in the combination of a variety of specific purpose appropriations into an omnibus services appropriation. The Governor's partial veto was also effected in such a manner that the omnibus services appropriation was created as a continuing appropriation. All other PR appropriations in DEG are currently annual appropriations.

31. DOA argues that continuing appropriations allow the agency to respond quickly to the information technology needs of state agencies, local governments and other customers. This is particularly the case when the agency is developing larger computer systems or operating newer systems and costs cannot be fully determined in advance. A continuing appropriation, DOA argues, allows the agency to make unplanned purchases to take advantage of changing information technology markets. Since no legislative approval is necessary for increased expenditures above budgeted levels, an agency may make any expenditure from the appropriation that it considers necessary to carry out its responsibilities.

32. However, it could be argued that creation of continuing appropriations lessens the Legislature's ability to review, monitor and evaluate the financial status of the appropriations. Further, the 14-day review process under s. 16.515 is available for increased expenditure authority for annual appropriations. Given that any large IT purchase should be planned in advance, the timely submission of a s. 16.515 request would allow the Department to respond to IT needs appropriately. Therefore, the Committee could modify the bill to change the continuing appropriations to annual appropriations.

Incurring of Financial Liability

33. Under current law, the following appropriations may create liabilities and expend monies in an additional amount not exceeding the depreciated value of the equipment for operations financed under these appropriations: (a) equipment pool operations in the Department of Natural Resources; (b) data processing services in the Department of Transportation; (c) fleet operations in DOT; (d) other department services in DOT; (e) services to nonstate units of governments in DOA; (f) materials and services to state agencies and certain districts in DOA; (g) transportation, records and document services in DOA; and (h) capital planning and building construction services in DOA. Further, current law specifies that the Secretary of the DOA may require the submission of statements of assets and liabilities before approving expenditure estimates in excess of the unexpended monies in the appropriation.

34. The ability to expend more than the balance in an appropriation provides an agency with increased expenditure flexibility. Generally, the appropriations granted this authority are those that have significant equipment value associated with the appropriation and those that may need to make significant equipment purchases. Prior to the transfer of certain DOA appropriations to DEG under provisions of 2001 Wisconsin Act 16, the former DOA printing, document sales, mail distribution and records services appropriation had been granted this authority.

35. None of the appropriations being transferred from DEG to DOA would have this authority. Given that the proposed printing, mailing, communications and information technology services to state agencies appropriation would have significant annual equipment purchases, the Committee could choose to authorize this appropriation to incur increased liabilities.

36. However, to the extent that an agency utilizes its ability to expend additional monies equivalent to a portion of its depreciated assets, these costs are supported as a loan from the general fund. The recent accumulated depreciated value of the equipment under DEG's services appropriation was \$10.4 million. Further, since DEG does not currently have this authority for any of its appropriations, it can be argued that allowing DOA to expend additional amounts equal to the value of depreciated computer equipment-related assets is not necessary at this time. Accordingly, the Committee could choose not to take action on this matter.

Fee Setting Methodology

37. Currently DEG has the authority to charge agencies fees for IT-related services provided. This authority would be transferred to DOA under the bill. The 2001-03 biennial budget, as passed by the Legislature, included a provision that required DEG to promulgate rules prescribing methodologies for establishing all fees and charges established or assessed by the agency or by the CIO. This provision had been included in light of Legislative Audit Bureau findings that DOA experienced difficulties in apportioning overhead charges and developing central processing unit cost pool charges that were free of inappropriate cross-subsidizations and cost allocations. Further, under current practice, the agency's rate methodology must be submitted periodically to the federal government for review and approval. This rate methodology review provision was partially vetoed in such a manner that requirement that the methodology be established by administrative rule was deleted. As a result, the manner by which DEG currently sets these fees is not subject to legislative review.

38. Given the broad IT-related powers of DEG (or of DOA under the bill) and the number of items for which IT-related charges or assessments may be made, the Committee may conclude that legislative review of the methodology used to determine these fees may be appropriate. If the Committee wishes, DEG (if it is retained) or DOA (under the bill) could be directed to submit its methodologies for determining fees and assessments to the Legislature for approval as an administrative rule. Under this alternative, while the actual fee would not be established and approved by rule, the methodology for establishing such a fee would be subject to approval by the Legislature.

ALTERNATIVES

1. Approve the Governor's recommendation to: (a) eliminate the Department of Electronic Government and transfer its functions, duties, and the attached Information Technology Management Board to DOA, effective 30 days after publication of the bill; (b) delete \$131,976,000 PR and 230.3 PR positions annually in DEG; (c) eliminate the position of chief information officer (the individual who serves as the Secretary of the Department of Electronic Government); and (d) provide \$130,459,200 PR and 208.3 PR positions annually associated with the transfer of information technology functions to DOA as the result of the elimination of DEG.

ND 2. Modify funding and positions recommended under DOA as follows: (a) printing, mailing, communications and information technology services to state agencies, \$81,768,900 PR and 164.3 PR positions annually; (b) information technology and communications provided to non-state entities, -\$69,972,100 PR and -164.3 PR positions annually; (c) telecommunications services to state agencies, -\$12,591,200 PR annually; (d) justice information systems, \$161,500 PR and 3.0 PR positions annually; and (e) justice information systems development, operation, maintenance and assistance, \$895,500 PR and -3.0 PR positions annually.

<u>Alternative 2</u>	<u>PR</u>
2003-05 FUNDING (Change to Bill)	\$525,200

3. Retain a separate Department of Electronic Government. Reestimate funding for information technology by \$262,600 PR annually. Establish the following revised DEG appropriation structure, annual expenditure authority amounts and position authorizations in order to recognize the other funding and position savings in the bill (net of the amount of the reestimate). Establish all of the following appropriations as PR annual appropriations, except retain a FED continuing appropriation with estimated funding of \$0 annually.

<u>Appropriation</u>	<u>Annual Funding and Position Levels</u>	
	<u>Amount</u>	<u>Positions</u>
Printing, mailing, communications and information technology services to state agencies [s. 20.530(1)(kL)]	\$83,926,300	164.30
Information technology and communications provided to non-state entities [s. 20.530(1)(is)]	14,373,000	0.00
Telecommunications services to state agencies [s. 20.530(1)(ke)]	24,002,600	24.00
Justice information systems [s. 20.530(1)(ja)]	1,653,400	19.00
Justice information systems development, operation, maintenance and assistance [s. 20.530(1)(kq)]	1,753,000	0.00
Telecommunications relay service [s. 20.530(1)(ir)]	<u>5,013,500</u>	<u>1.00</u>
Total	\$130,721,800	208.30

<u>Alternative 3</u>	<u>PR</u>
2003-05 FUNDING (Change to Bill)	\$525,200

ND

4. Adopt Alternative 2 (DEG transferred to DOA) or Alternative 3 (DEG retained), but reduce estimated expenditures in the largest PR appropriation by \$262,600 PR annually.

5. Modify the bill by adopting any of the following:

✓ a. Retain separate PR annual appropriations for justice information system funding provided from penalty assessment revenues and Byrne grant funding.

✓ b. Change the continuing appropriations created under DOA as a result of the elimination of DEG to annual appropriations.

c. Allow expenditures to be made in the printing, mailing, communications and information technology services to state agencies appropriation equal to the value of depreciated assets.

d. Direct that the methodologies for determining fees and assessments be submitted to the Legislature for approval as an administrative rule.

6. Maintain current law. Retain the separate Department of Electronic Government.

<u>Alternative 6</u>	<u>PR</u>
2003-05 FUNDING (Change to Bill)	\$3,033,600
2004-05 POSITIONS (Change to Bill)	22.00

Prepared by: Jere Bauer

Senator Welch

ELECTRONIC GOVERNMENT/ADMINISTRATION

Directed Lapse

Motion:

Move to require the Department of Administration to lapse \$20 million annually from state agency information technology projects in 2003-04 and 2004-05 from state agencies appropriations to the general fund as a result of DOA or DEG management of state agency information technology projects.

Note:

This motion would require DOA to lapse \$20 million annually from state agency information technology projects in 2003-04 and 2004-05 from state agencies appropriations to the general fund as a result of DOA or DEG management of state agency information technology projects. Under current law (s. 22.05(2)(g)), DEG (or under the bill DOA), is authorized to assume direct responsibility for the planning and development of any information technology system in the executive branch (other than the UW System) that is determined to be necessary to effectively develop or manage the system, with or without the consent of the affected agency, and may charge reasonable costs associated with that management.

[Change to Bill: \$40,000,000 GPR-REV]

Post-it® Fax Note	7671	Date	4/30	# of pages	1
To	Jeff Kussel	From	Jerre Bauer		
Co./Dept.	LRS	Co.	LFB		
Phone #	66778	Phone #	6-3847		
Fax #	4-6948	Fax #			

2003

Date (time) needed _____

DNOTE

LRB b 0135, 1

**LFB BUDGET AMENDMENT
[ONLY FOR LFB]**

JFK: King

See form **AMENDMENTS — COMPONENTS & ITEMS.**

**LFB AMENDMENT
TO 2003 SENATE BILL 44**

*Fix
Request Sheet*

>>FOR JT. FIN. SUB. — NOT FOR INTRODUCTION<<

At the locations indicated, amend the bill as follows:

#. Page , line :

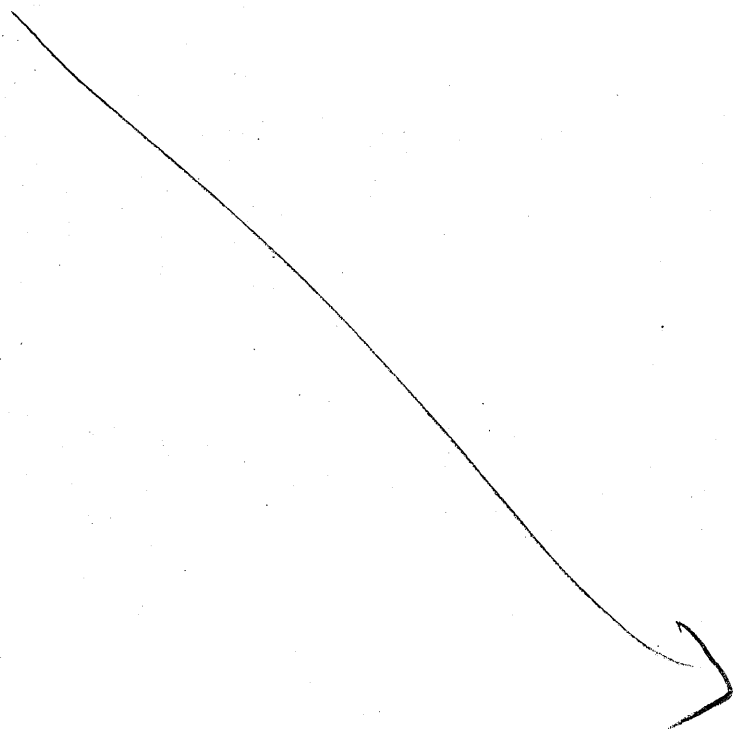
#. Page , line :

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#. Page , line :



✓ # Page 394, line 7: delete lines 7 to 12 and substitute:

1 ~~provided under par. (is), and inventory items which are provided primarily to~~
2 ~~purchasers other than state agencies shall be credited to this appropriation account.~~

3 ✗ SECTION 44bd. 20.505 (1) (is) of the statutes is created to read:

4 " 20.505 (1) (is) Information technology and ~~the~~ communications services;
5 nonstate entities. From the sources specified in ss. 16.972 (2) (b) and (c), 16.974 (2) and (3)
6 and ~~16.974~~ (2) (d), to provide computer services, telecommunications services and electronic
7 supercomputer services to state authorities, units of the federal government, local
8 governmental units, and entities in the private sector, the amounts in the schedule.

9 ✗ SECTION 44bL. 20.505 (1) (it) of the statutes is created to read:

10 20.505 (1) (it) Electronic communications services; nonstate entities. From the
11 source specified in s. 16.974 (3), to provide electronic communications services to
12 state authorities, units of the federal government, local governmental units, and
13 entities in the private sector, the amounts in the schedule.

14 ✗ SECTION 44bp. 20.505 (1) (kg) of the statutes is created to read:

15 20.505 (1) (kg) Electronic communications services; state agencies. From the
16 source specified in s. 16.974 (3), to provide electronic communications services to
17 state agencies, the amounts in the schedule.

✓ # Page 394, line 23: delete the material beginning with first line and ending with

18 ✗ SECTION 44c. 20.505 (1) (kL) of the statutes is created to read:

19 " 20.505 (1) (kL) Printing, mail processing, and information technology and line 2,
20 ~~processing services~~ agencies. From the sources specified in ss. 16.972, ~~and~~ 16.973, ~~and~~ 16.974(3) and
21 to provide printing, mail processing, and information technology processing services
22 to state agencies, the amounts in the schedule. " development, management, and

23 ✗ SECTION 44ce. 20.505 (1) (kr) of the statutes is created to read:

24 20.505 (1) (kr) Information technology development and management services.
25 From the source specified in s. 16.971 (11), to provide information technology

✓ # Page 405, line 9: delete "(kp)" and substitute "(ki)".

1 ~~22.03 16.971 (9). Two-ninths of the moneys received under s. 814.635 (1) shall be~~
2 credited to this appropriation account.

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

3 SECTION 55. 20.530 (1) (ke) of the statutes is renumbered 20.505 (1) (ke) and
4 amended to read:

5 20.505 (1) (ke) *Telecommunications services; state agencies; veterans services.*
6 The amounts in the schedule to provide telecommunications services to state
7 agencies and to provide veterans services under s. ~~22.07 16.973~~ (9). All moneys
8 received from the provision of telecommunications services to state agencies under
9 ss. ~~22.05 and 22.07 16.972 and 16.973~~ or under s. 44.73 (2) (d), other than moneys
10 received and disbursed under s. 20.225 (1) (kb), shall be credited to this
11 appropriation account.

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

✓ #. Page 407, line 13: delete that line and substitute:

12 SECTION ~~56~~ 20.530 (1) (kp) of the statutes is renumbered 20.505 (1) (kp) and
13 amended to read:

14 20.505 (1) (kp) *Interagency assistance; justice information systems.* The
15 amounts in the schedule for the development and operation of automated justice
16 information systems under s. ~~22.03 16.971~~ (9). All moneys transferred from the
17 appropriation accounts under s. ~~20.505 sub.~~ (6) (kt) and (m) shall be credited to this
18 appropriation account.

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

19 SECTION 57. 20.530 (1) (kq) of the statutes is renumbered 20.505 (1) (kq) and
20 amended to read:

✓ #. Page 407, line 16: delete lines 16 to 21 and substitute!

1 " 20.505 (1) (kq) *Justice information systems development, operation and*
 2 *maintenance.* The amounts in the schedule for the purpose of developing, operating
 3 and maintaining automated justice information systems under s. ~~22.03~~ 16.971 (9).
 4 All moneys transferred from the appropriation account under s. ~~20.505~~ sub. (6) (j) 12.
 5 shall be credited to this appropriation account. " .

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

6 **SECTION 58.** 20.530 (1) (m) of the statutes is repealed

 ***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

7 **SECTION 59.** 20.923 (4) (h) 2. of the statutes is repealed.

 ***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

8 **SECTION 60.** Chapter 22 (title) of the statutes is repealed.

9 **SECTION 61.** 22.01 (intro.) of the statutes is repealed.

10 **SECTION 62.** 22.01 (1), (2), (2m), (3) and (4) of the statutes are renumbered 16.97
 11 (1m), (2), (2m), (3) and (4).

12 **SECTION 63.** 22.01 (5) of the statutes is repealed.

13 **SECTION 64.** 22.01 (5m) to (10) of the statutes are renumbered 16.97 (5m) to
 14 (10).

15 **SECTION 65.** 22.03 (title) of the statutes is renumbered 16.971 (title).

16 **SECTION 66.** 22.03 (2) (intro.), (a) and (ae) of the statutes are renumbered
 17 16.971 (2) (intro.), (a) and (ae).

18 **SECTION 67.** 22.03 (2) (am) to (k) of the statutes are renumbered 16.971 (2) (am)
 19 to (k).

20 **SECTION 68.** 22.03 (2) (L) to (m) of the statutes are renumbered 16.971 (2) (L)
 21 to (m) and amended to read:

40: port of open

✓ #. Page 937, line 11: delete "(kp)" and substitute "(ki)".

✓ 1. Page 437, line 10: delete ", (kp)" and substitute ", (kp)".

✓ 2. Page 440, line 16: after "Promulgate" insert ", by rule,".

✓ 3. Page 440, line 17: delete "chapter" and substitute "chapter subchapter".

✓ 4. Page 1105, line 19: after that line insert:

OR TRANSFER (a) LAPSE OF APPROPRIATION BALANCES TO THE GENERAL FUND. (a) In this subsection:

NONSTAT.

1. "Information technology" has the meaning given under section 20.001 (1) of the statutes.

2. "State agency" has the meaning given under section 20.001 (1) of the statutes.

(b) Notwithstanding section 20.001 (1) (a) to (c) of the statutes, the department of administration shall lapse to the general fund from the unencumbered balances of the appropriations, other than sum sufficient appropriations, made to state agencies from the general fund amounts equal to \$20,000,000 in fiscal year 2003-04 and \$20,000,000 in fiscal year 2004-05. The department of administration shall lapse these moneys from allocations for information technology projects that would have been undertaken in those fiscal years with funding from those appropriations.

Notwithstanding section 16.50 (1) of the statutes, the secretary of administration shall not waive submission of expenditure estimates for information technology projects during the 2003-05 fiscal biennium and shall disapprove estimates of expenditures for information technology projects in the 2003-05 fiscal biennium in an amount equivalent to the amount lapsed under this subsection.

✓ 5. Page 1108, line 15: delete "(kL)" and substitute "(kp)".

X
X

A
16.97 (b)

CERTAIN

(3)

amounts required to be
or transferred
paragraph

✓ **6.** Page 1108, line 17: delete lines 17 to 20.

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0135/lins

JTK...
King

Jere Bauer:

1. I do not know and I understand that you are not sure whether there are sufficient moneys allocated for information technology projects in general and program revenue supported programs for the 2003-05 fiscal biennium to fund the ~~laps~~ proposed in this draft. Unless we are certain that sufficient moneys are available, the draft should address the contingency under which the ~~laps~~ cannot be effected, or it could be **inoperative**. *lapses or transfers*

WSA *5/10* In preparing this amendment, I noticed that the reference to "chapter" in s. 22.17 (3), stats., should be changed to "subchapter". Since that subsection does not appear in the draft, I did not treat it, but if you wish, we can either include it in this draft or in the LRB technical amendment.

Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266-6778

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1660/1dn
RJM&PAC:cjs:ch

January 22, 2003

INSA: 1

2. This draft would be improved if federal revenues were exempted from any potential lapse or transfer. The use of federal revenues for purposes other than the purpose for which they are provided will likely be contrary to federal law. There may not be an appropriation from which the federal government can be repaid for any disallowance that may result.

Dave Schmiedicke:

As you review the attached draft, please note the following issues:

1. In some cases, it was not clear whether this draft would leave enough money in a particular appropriation account to make payments or transfers required by statute. For example, lapsing \$7,000,000 from the appropriation account under s. 20.143 (1) (ie), stats., may not leave sufficient money to make the payments required under s. 560.06 (2), stats. If a lapse proposed under this draft would not leave sufficient money to make required payments or transfers, please let us know so that we can amend the statutes as necessary to provide an exception from the required payments or transfers.

3. Generally, the state's authority to regulate a particular occupation or business includes the authority to charge regulated individuals or entities a reasonable fee or tax to defray the cost of regulation, but only to the extent necessary for that purpose, and does not include the authority to impose a fee or tax for the purpose of raising revenue. See *Wis. Tel. Co. v. Public Service Comm.*, 206 Wis. 589 (1932). In determining the validity of such a fee imposed by a state, the burden is on the state to demonstrate that the fee is necessary to cover the reasonable costs of the regulatory system and that the fee is used for no other purpose than to meet those costs. *Milw. Mobilization for Survival v. Milw. County Park Comm.*, 477 F. Supp. 1210, 1220 (D.C. Wis., 1979). Although the Wisconsin Supreme Court has recently expressed great deference to the legislature's decisions regarding taxing and spending, see *Flynn v. Department of Administration*, 216 Wis. 2d 521 (1998) (upholding lapse of court automation fees to the general fund), this draft may be susceptible to constitutional challenge because it lapses regulatory fees (e.g., certain DRL, DFI, OCI, DPI, and ~~SNDS~~) to the general fund.

accorded

if it results in the lapse of

If you have any questions regarding these issues please feel free to call.

Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: robert.marchant@legis.state.wi.us

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

or segregated (DWSA:2)

~~While in general the use of program revenue for a purpose other than the purpose for which it was~~

4.

The diversion of program revenue that is collected under statutes that authorize the revenue to be collected to recover specific items of costs may be argued to result in unauthorized charges in certain situations. In some cases, the statutes that authorize program revenue to be collected are worded so that agencies may charge for their services and the charges need not relate to any particular cost items. See, for example, s. 16.53 (13), stats., which permits DOA to charge any agency for financial services provided to the agency. In this case, nothing limits the charges solely to recovery of costs of providing financial services. However, under s. 16.53 (1) (d) 2., stats., DOA is permitted to charge agencies for the department's costs of estimation, collection, and payment of benefits under ch. 108, stats. See also s. 16.98 (3), stats., which directs that the proceeds of program revenue collected under the federal resource acquisition program be used for specified purposes.

was originally intended is permissible the I

which could potentially entitle the payers to refunds

(I)

for example,

If more than one revenue stream feeds a particular appropriation [as is the case with s. 20.505 (1) (ka), stats.], then it may be possible for DOA to effect the diversion authorized by this draft by adhering to laws that require or permit charges to be levied to recover specific costs and to fund the diversion from sources where the statutes authorizing charges accord more discretion to DOA, and, if the issue is raised, the courts may require DOA to fund the cost of the diversion in this way.

or segregated

Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266-6778

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0135/1dn
JTK:kmg:rs

May 8, 2003

Jere Bauer:

1. I do not know and I understand that you are not sure whether there are sufficient moneys allocated for information technology projects in general and program revenue supported programs for the 2003–05 fiscal biennium to fund the lapses or transfers proposed in this draft. Unless we are certain that sufficient moneys are available, the draft should address the contingency under which the lapses or transfers cannot be effected, or it could be **inoperative**.
2. This draft would be improved if federal revenues were exempted from any potential lapse or transfer. The use of federal revenues for purposes other than the purpose for which they are provided will likely be contrary to federal law. There may not be an appropriation from which the federal government can be repaid for any disallowance that may result.
3. Generally, the state's authority to regulate a particular occupation or business includes the authority to charge regulated individuals or entities a reasonable fee or tax to defray the cost of regulation, but only to the extent necessary for that purpose, and does not include the authority to impose a fee or tax for the purpose of raising revenue. See *Wis. Tel. Co. v. Public Service Comm.*, 206 Wis. 589 (1932). In determining the validity of such a fee imposed by a state, the burden is on the state to demonstrate that the fee is necessary to cover the reasonable costs of the regulatory system and that the fee is used for no other purpose than to meet those costs. *Milw. Mobilization for Survival v. Milw. County Park Comm.*, 477 F. Supp. 1210, 1220 (D.C. Wis., 1979). Although the Wisconsin Supreme Court has accorded great deference to the legislature's decisions regarding taxing and spending, see *Flynn v. Department of Administration*, 216 Wis. 2d 521 (1998) (upholding lapse of court automation fees to the general fund), this draft may be susceptible to constitutional challenge if it results in the lapse of regulatory fees to the general fund.
4. The diversion of program or segregated revenue that is collected under statutes that authorize the revenue to be collected to recover specific items of costs may be argued to result in unauthorized charges in certain situations, which could potentially entitle the payers to refunds. In some cases, the statutes that authorize program or segregated revenue to be collected are worded so that agencies may charge for their services and the charges need not relate to any particular cost items. See, for example,

s. 16.53 (13), stats., which permits DOA to charge any agency for financial services provided to the agency. In this case, nothing limits the charges solely to recovery of costs of providing financial services. However, under s. 16.53 (1) (d) 2., stats., DOA is permitted to charge agencies *for the department's costs* of estimation, collection, and payment of benefits under ch. 108, stats. See also s. 16.98 (3), stats., which directs that the proceeds of program revenue collected under the federal resource acquisition program be used for specified purposes.

If more than one revenue stream feeds a particular appropriation [as is the case, for example, with s. 20.505 (1) (ka), stats.], then it may be possible for DOA to effect the diversion authorized by this draft by adhering to laws that require or permit charges to be levied to recover specific costs and to fund the diversion from sources where the statutes authorizing charges accord more discretion to DOA, and, if the issue is raised, the courts may require DOA to fund the cost of the diversion in this way.

5. In preparing this amendment, I noticed that the reference to "chapter" in s. 22.17 (3), stats., should be changed to "subchapter." Since that subsection does not appear in the draft, I did not treat it, but if you wish, we can either include it in this draft or in the LRB technical amendment.

Jeffery T. Kuesel
Managing Attorney
Phone: (608) 266-6778

LFB:.....Bauer - All-agency lapse/transfer to general fund; information
technology appropriation structure; IT fee-setting methodology

FOR 2003-05 BUDGET -- NOT READY FOR INTRODUCTION

**SENATE AMENDMENT ,
TO 2003 SENATE BILL 44**

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 394, line 7: delete lines 7 to 12 and substitute:

3 "20.505 (1) (is) *Information technology and communications services; nonstate*
4 *entities.* From the sources specified in ss. 16.972 (2) (b) and (c), 16.974 (2) and (3),
5 and 115.9995 (2) (d), to provide computer, telecommunications, electronic
6 communications, and supercomputer services to state authorities, units of the
7 federal government, local governmental units, and entities in the private sector, the
8 amounts in the schedule."

9 **2.** Page 394, line 23: delete the material beginning with that line and ending
10 with page 395, line 2, and substitute:

1 “20.505 (1) (kL) *Printing, mail, communication, and information technology*
2 *services; agencies.* From the sources specified in ss. 16.971, 16.972, 16.973, and
3 16.974 (3), to provide printing, mail processing, electronic communications, and
4 information technology development, management, and processing services to state
5 agencies, the amounts in the schedule.”.

6 **3.** Page 405, line 9: delete “(kp)” and substitute “(ki)”.

7 **4.** Page 407, line 13: delete that line and substitute:

8 “**SECTION 643m.** 20.530 (1) (kp) of the statutes is renumbered 20.505 (1) (kp)
9 and amended to read:

10 20.505 (1) (kp) *Interagency assistance; justice information systems.* The
11 ~~amounts in the schedule for the development and operation of automated justice~~
12 ~~information systems under s. 22.03 16.971 (9).~~ All moneys transferred from the
13 ~~appropriation accounts under s. 20.505 sub. (6) (kt) and (m)~~ shall be credited to this
14 appropriation account.”.

15 **5.** Page 407, line 16: delete lines 16 to 21 and substitute:

16 “20.505 (1) (kq) *Justice information systems development, operation and*
17 *maintenance.* The amounts in the schedule for the purpose of developing, operating
18 and maintaining automated justice information systems under s. 22.03 16.971 (9).
19 All moneys transferred from the appropriation account under ~~s. 20.505 sub. (6) (j)~~ 12.
20 shall be credited to this appropriation account.”.

21 **6.** Page 437, line 10: delete “,(kp)” and substitute “, (kp)”.

22 **7.** Page 440, line 16: after “Promulgate” insert “, by rule.”.

23 **8.** Page 440, line 17: delete “chapter” and substitute “chapter subchapter”.

24 **9.** Page 937, line 11: delete “(kp)” and substitute “(ki)”.

1 **10.** Page 1105, line 19: after that line insert:

2 "(2x) LAPSE OR TRANSFER OF CERTAIN APPROPRIATION BALANCES TO THE GENERAL
3 FUND. ✓

4 (a) In this subsection:

5 1. "Executive branch agency" has the meaning given in section 16.70 (4) ✓
6 ~~At 2, in~~ "Information technology" has the meaning given in section 16.97 (6) of the ✓
7 statutes. ~~of~~ the statutes.

8 2. "State agency" has the meaning given under section 20.001 (1) of the
9 statutes. ✓

10 (b) Notwithstanding section 20.001 (3) (a) to (c) of the statutes, ~~the department~~ ^{except as provided in paragraph (c),} Secretary
11 of administration shall lapse to the general fund or transfer to the general fund from
12 the unencumbered balances of the appropriations, other than sum sufficient
13 appropriations, made to ~~state~~ ^{executive branch} agencies amounts equal to \$20,000,000 in fiscal year
14 2003-04 and \$20,000,000 in fiscal year 2004-05. The ~~department~~ ^{Secretary} of administration ✓
15 shall lapse or transfer these moneys from allocations for information technology
16 projects that would have been undertaken in those fiscal years with funding from
17 those appropriations. Notwithstanding section 16.50 (1) of the statutes, the
18 secretary of administration shall not waive submission of expenditure estimates for
19 information technology projects during the 2003-05 fiscal biennium and shall
20 disapprove estimates of expenditures for information technology projects in the
21 2003-05 fiscal biennium in an amount equivalent to the amounts required to be
22 lapsed or transferred under this paragraph. ✓

23 ~~11. Page 1108, line 15: delete "(kl)" and substitute "(kp)".~~

24 **12.** Page 1108, line 17: delete lines 17 to 20.

~~Don't~~

✓
ANS
3-21

INS 3-21

1	(4) (hi)	50,000	50,000
2	(6) (jm)	275,000	275,000
3	20.145 Insurance, office of the commissioner		
4	<i>of</i>		
5	(1) (g)	1,226,800	1,226,800
6	20.455 Justice, department of		
7	(2) (ja)	161,500	161,500
8	20.165 Regulation and licensing, department		
9	<i>of</i>		
10	(1) (g)	1,969,900	1,969,900

11 ✓ (c) ~~Prohibited appropriation lapses and transfers.~~ The secretary of ✓
12 administration ^{shall} may not lapse or transfer moneys to the general fund from any
13 appropriation account ^{Under paragraph (b)} specified in ~~paragraph (a)~~ if the lapse or transfer would violate
14 a condition imposed by the federal government on the expenditure of the moneys or
15 if the lapse or transfer would violate the federal or state constitution.

- 16 **SECTION 9301. Initial applicability; administration.**
- 17 **SECTION 9302. Initial applicability; adolescent pregnancy prevention**
- 18 **and pregnancy services board.**
- 19 **SECTION 9303. Initial applicability; aging and long-term care board.**
- 20 **SECTION 9304. Initial applicability; agriculture, trade and consumer**
- 21 **protection.**
- 22 (1) **AGRICULTURAL CHEMICAL CLEANUP PROGRAM REIMBURSEMENT.** The treatment
- 23 of section 94.73 (6) (b) and (c) (intro.) of the statutes first applies to costs incurred on
- 24 the effective date of this subsection.



State of Wisconsin
2003 - 2004 LEGISLATURE

LRBb0135/2
JTK:kmg:rs

LFB:.....Bauer – All–agency lapse/transfer to general fund; information
technology appropriation structure; IT fee–setting methodology

FOR 2003–05 BUDGET — NOT READY FOR INTRODUCTION

**SENATE AMENDMENT ,
TO 2003 SENATE BILL 44**

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 394, line 7: delete lines 7 to 12 and substitute:

3 “20.505 (1) (is) *Information technology and communications services; nonstate*
4 *entities.* From the sources specified in ss. 16.972 (2) (b) and (c), 16.974 (2) and (3),
5 and 115.9995 (2) (d), to provide computer, telecommunications, electronic
6 communications, and supercomputer services to state authorities, units of the
7 federal government, local governmental units, and entities in the private sector, the
8 amounts in the schedule.”

9 **2.** Page 394, line 23: delete the material beginning with that line and ending
10 with page 395, line 2, and substitute:

1 “20.505 (1) (kL) *Printing, mail, communication, and information technology*
2 *services; agencies.* From the sources specified in ss. 16.971, 16.972, 16.973, and
3 16.974 (3), to provide printing, mail processing, electronic communications, and
4 information technology development, management, and processing services to state
5 agencies, the amounts in the schedule.”.

6 **3.** Page 405, line 9: delete “(kp)” and substitute “(ki)”.

7 **4.** Page 407, line 13: delete that line and substitute:

8 “**SECTION 643m.** 20.530 (1) (kp) of the statutes is renumbered 20.505 (1) (kp)
9 and amended to read:

10 20.505 (1) (kp) *Interagency assistance; justice information systems.* The
11 amounts in the schedule for the development and operation of automated justice
12 information systems under s. ~~22.03~~ 16.971 (9). All moneys transferred from the
13 appropriation accounts under s. ~~20.505~~ sub. (6) (kt) and (m) shall be credited to this
14 appropriation account.”.

15 **5.** Page 407, line 16: delete lines 16 to 21 and substitute:

16 “20.505 (1) (kq) *Justice information systems development, operation and*
17 *maintenance.* The amounts in the schedule for the purpose of developing, operating
18 and maintaining automated justice information systems under s. ~~22.03~~ 16.971 (9).
19 All moneys transferred from the appropriation account under s. ~~20.505~~ sub. (6) (j) 12.
20 shall be credited to this appropriation account.”.

21 **6.** Page 437, line 10: delete “,(kp)” and substitute “, (kp)”.

22 **7.** Page 440, line 16: after “Promulgate” insert “, by rule.”.

23 **8.** Page 440, line 17: delete “chapter” and substitute “chapter subchapter”.

24 **9.** Page 937, line 11: delete “(kp)” and substitute “(ki)”.

1 **10.** Page 1105, line 19: after that line insert:

2 “(2x) LAPSE OR TRANSFER OF CERTAIN APPROPRIATION BALANCES TO THE GENERAL
3 FUND.

4 (a) In this subsection:

5 1. “Executive branch agency” has the meaning given in section 16.70 (4) of the
6 statutes.

7 2. “Information technology” has the meaning given in section 16.97 (6) of the
8 statutes.

9 (b) Notwithstanding section 20.001 (3) (a) to (c) of the statutes, except as
10 provided in paragraph (c), the secretary of administration shall lapse to the general
11 fund or transfer to the general fund from the unencumbered balances of the
12 appropriations, other than sum sufficient appropriations, made to executive branch
13 agencies amounts equal to \$20,000,000 in fiscal year 2003–04 and \$20,000,000 in
14 fiscal year 2004–05. The secretary of administration shall lapse or transfer these
15 moneys from allocations for information technology projects that would have been
16 undertaken in those fiscal years with funding from those appropriations.
17 Notwithstanding section 16.50 (1) of the statutes, the secretary of administration
18 shall not waive submission of expenditure estimates for information technology
19 projects during the 2003–05 fiscal biennium and shall disapprove estimates of
20 expenditures for information technology projects in the 2003–05 fiscal biennium in
21 an amount equivalent to the amounts required to be lapsed or transferred under this
22 paragraph.

23 (c) The secretary of administration shall not lapse or transfer moneys to the
24 general fund from any appropriation under paragraph (b) if the lapse or transfer

1 would violate a condition imposed by the federal government on the expenditure of
2 the moneys or if the lapse or transfer would violate the federal or state constitution.”.

3 **11.** Page 1108, line 17: delete lines 17 to 20.

4 (END)