

2003 Jr3 DRAFTING REQUEST

Bill

Received: **01/28/2003**

Received By: **smiller**

Wanted: **As time permits**

Identical to LRB:

For: **Administration**

By/Representing: **Schmiedicke**

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

Drafter: **smiller**

May Contact:

Addl. Drafters:

Subject: **State Finance - bud generally**

Extra Copies:

Submit via email: **YES**

Requester's email: **david.schmiedicke@doa.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Budget Adjustment Bill Companion to 03-1722

Instructions:

See Attached

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>
/?	chanaman 01/28/2003	csicilia 01/28/2003		_____			S&L
/1			jfrantze 01/28/2003	_____	amentkow 01/28/2003	amentkow 01/28/2003 mbarman 01/29/2003	

sent to
SCC per
SRM

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

→ At
Intro.

<END>

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/?	chanaman 01/28/2003	csicilia 01/28/2003		_____			S&L
/1			jfrantze 01/28/2003	_____	amentkow 01/28/2003	amentkow 01/28/2003	→ Not sent

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Page 2

LRB-1808

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<END>

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1/?	chanaman	1/28/03	1/28/03	3/28/03			

for SENATE

FE Sent For:

<END>



State of Wisconsin
LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX -
PLEASE DO NOT REMOVE FROM DRAFTING FILE

Date Added To File: 02/04/2003 (Per: CMH)



☞ The drafting file for 2003 LRB -1722/1

has been copied/added to the drafting file for

2003 LRB -1808

☞ The attached 2003 draft was incorporated into the new 2003 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied on yellow paper (darkened - auto centered - reduced to 90%), and added, as a appendix, to the new 2003 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

☞ This cover sheet was added to rear of the original 2003 drafting file. The drafting file was then returned, intact, to its folder and filed.



State of Wisconsin
2003 - 2004 LEGISLATURE
January 2003 Special Session

1808/1
LRB-~~12217~~
ALL:all:all

BILL

General

1 **AN ACT** ~~to repeal~~ 25.40 (2) (b) 27. and 292.77 (4); and **to create** 25.40 (2) (b) 27.
2 of the statutes; **relating to:** decreasing appropriations; lapsing moneys from
3 certain program revenue appropriation accounts to the general fund;
4 transferring moneys from certain segregated funds to the general fund;
5 increasing funding for out-of-state inmate contracts and for health care for
6 inmates of state prisons; increasing funding for the Medical Assistance and
7 Badger Care programs; increasing segregated funding for the payment of
8 principal and interest costs incurred in financing land acquisition and
9 development under the stewardship program; restricting distribution of funds
10 by the Tobacco Control Board to the Tobacco Research and Intervention Center
11 at the University of Wisconsin-Madison; lapsing or reestimating expenditures
12 from certain general purpose revenue appropriations; exempting the actions of

BILL

- 1 the legislature on this bill from the required general fund structural balance
2 and the required general fund statutory balance; and making appropriations.

Analysis by the Legislative Reference Bureau

This bill decreases various sum certain appropriations, lapses certain moneys from program revenue accounts to the general fund, transfers moneys from certain segregated funds to the general fund, and increases funding for certain purposes. Some specific provisions include:

This bill increases by \$22,211,700 the transfer of moneys in fiscal year 2002-03 from the transportation fund to the general fund. The bill also specifies that this transfer may occur without any order for payment by the secretary of transportation.

This bill transfers \$3,000,000 from the recycling fund, \$4,700,000 from the utility public benefits fund, and \$3,000,000 from the universal service fund to the general fund.

Under current law, the Department of Corrections (DOC) may contract with other states or local governments or private persons in other states for the confinement of prisoners in those states. This bill increases the amount appropriated to DOC for such contracts. The bill also increases the amount appropriated to DOC for health care costs for inmates of state prisons.

This bill lapses \$1,900,000 from a nonlapsing appropriation for state park and forest roads and roads in the Lower Wisconsin State Riverway to the general fund.

This bill reduces by specific amounts the largest sum certain appropriation for state operations of certain state agencies from general purpose revenue in the 2002-03 fiscal year. However, any such agency, no later than 14 days after the effective date of this bill, may submit an alternative plan to the secretary of administration concerning the agency's preference for allocating reductions among sum certain appropriations made to the agency from general purpose revenue. If the secretary does not approve the plan, the agency shall make the reductions from the agency's largest sum certain appropriation for state operations. If the secretary approves the plan, he or she shall submit the plan to the Joint Committee on Finance no later than 21 days after the effective date of this bill. If the cochairpersons of the committee do not notify the secretary that the committee has scheduled a meeting for the purpose of reviewing the plan to be held within 14 working days after the date of the secretary's submittal, the agency shall make the reductions specified in the plan. If the cochairpersons of the committee notify the secretary that the committee has scheduled a meeting for the purpose of reviewing the plan to be held within 14 working days after the date of the secretary's submittal, the agency may not implement the plan until it is approved by the committee, as submitted or as modified.

This bill requires the Department of Administration (DOA) to lapse moneys to the general fund from a number of program revenue appropriation accounts. The appropriations are made to the following state agencies: the departments of Administration, Agriculture, Trade and Consumer Protection, Commerce,

Electronic Government, Financial Institutions, Health and Family Services, Justice, Public Instruction, and Regulation and Licensing; the Historical Society; and the Office of the Commissioner of Insurance. The bill also requires DOA to reduce appropriations for program supplements from general purpose revenue during the 2002-03 fiscal year by \$929,800.

This bill decreases certain segregated fund appropriations and requires that moneys in the amount of these decreases be transferred to the general fund from the segregated funds from which the appropriations are made. The appropriations are made to the following state agencies: the departments of Administration, Commerce, Natural Resources, and Veterans Affairs; the Tobacco Control Board; and the Office of the Commissioner of Insurance.

This bill requires the cochairpersons of the Joint Committee on Legislative Organization to take actions during the 2001-03 fiscal biennium to ensure that from general purpose revenue appropriations for state operations to the legislature an amount equal to \$2,959,800 is lapsed from sum certain appropriation accounts or is subtracted from the expenditure estimates for any other types of appropriations, or both.

Under current law, there is appropriated to the governor certain sum sufficient and sum certain appropriations of general purpose revenues. This bill requires the governor to take action to ensure that from the general purpose revenue appropriations for state operations to the Office of the Governor \$175,600 is lapsed from sum certain appropriation accounts or is subtracted from the expenditure estimates for any other types of appropriations, or both.

This bill requires the Department of Commerce to lapse an amount determined by the secretary of commerce from the primary program revenues appropriation account for the Wisconsin development fund and decreases the primary general purpose revenues appropriation for the Wisconsin development fund by an amount determined by the secretary of commerce. The total of the lapse and the decrease must be \$7,000,000.

Under current federal and state law, Medical Assistance (MA) is a federal-state, jointly funded program that provides reimbursement for health care services provided to aged, blind, disabled, and certain other MA recipients, who have few assets and low income. The Badger Care program operates under a waiver of federal MA laws to provide MA health services and benefits to low-income families. Under current law, the MA trust fund consists of federal MA moneys received, based on public funds that are transferred under federal law and used as the nonfederal share of MA funding. This bill increases funding for MA from the MA trust fund by \$64,402,900 in fiscal year 2002-03, decreases general purpose revenue funding for MA by \$9,587,000 in fiscal year 2002-03, and increases general purpose revenue funding for Badger Care from the MA trust fund by \$9,587,000 in fiscal year 2002-03.

Under current law, the Tobacco Control Board must distribute from the tobacco control fund \$1,000,000 to the Board of Regents of the University of Wisconsin System for the Tobacco Research and Intervention Center at the University of Wisconsin-Madison. The Tobacco Control Board may distribute other moneys from

the tobacco control fund as grants for programs for tobacco use reduction, cessation, and prevention. This bill limits amounts that the Tobacco Control Board may distribute from the tobacco control fund for the Tobacco Research and Intervention Center at the University of Wisconsin–Madison in fiscal year 2002–03 to the required \$1,000,000 distribution and to no more than \$1,000,000 for a telephone response system for smokers who are attempting to cease smoking.

Current law grants the state bonding authority to acquire and develop land for various conservation purposes under the stewardship program. The program is administered by the Department of Natural Resources (DNR). Under current law, DNR is appropriated a specified amount from the conservation fund for the purpose of paying principal and interest costs incurred in financing land acquisition and development under the stewardship program. This bill increases the amount appropriated to DNR for this purpose in fiscal year 2003–04 by \$4,000,000.

Current statutes specify a rule of procedure that the legislature must follow in passing legislation. The rule provides that no bill may be adopted by the legislature if the bill would cause in any fiscal year the amount of expenditures from the general fund to exceed the sum of the amount of taxes and departmental revenues that are deposited in to the general fund for that fiscal year. The bill provides that this rule does not apply to the legislature in adopting this bill. (As a rule of procedure, the required general fund structural balance may not be legally enforced, but may nonetheless be effective in governing the internal operations of the legislature.)

Current statutes specify an additional rule of procedure that the legislature must follow in passing legislation. The rule provides that no bill may be adopted by the legislature if the bill would cause the estimated general fund balance on June 30, 2003, to be an amount less than 1.2% of the total general purpose revenue appropriations for that fiscal year plus any amount from general purpose revenue designated as “Compensation Reserves” for that fiscal year in the schedule summary. The bill provides that this rule does not apply to the legislature in adopting this bill. (As a rule of procedure, the required general fund structural balance may not be legally enforced, but may nonetheless be effective in governing the internal operations of the legislature.)

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 1 **SECTION 1.** 25.40 (2) (b) 27. of the statutes is created to read:
- 2 25.40 (2) (b) 27. Section 20.855 (4) (v).
- 3 **SECTION 2.** 25.40 (2) (b) 27. of the statutes, as created by 2003 Wisconsin Act
- 4 (this act), is repealed.

1 **SECTION 3.** 292.77 (4) of the statutes is repealed.

2 **SECTION 9151. Nonstatutory provisions; tobacco control board.**

3 (1) **LIMITATION ON DISTRIBUTION.** From the appropriation under section 20.436
4 (1) (tc) of the statutes, in state fiscal year 2002-03 the tobacco control board may not
5 distribute amounts to the board of regents of the University of Wisconsin System for
6 the tobacco research and intervention center at the University of
7 Wisconsin-Madison that exceed \$1,000,000 under section 255.15 (3) (a) 1. of the
8 statutes and, for a telephone response system for smokers who are attempting to
9 cease smoking, \$1,000,000 under section 255.15 (3) (b) of the statutes.

10 **SECTION 9160. Nonstatutory provisions; other.**

11 (1) **REQUIRED GENERAL FUND STRUCTURAL BALANCE.** Section 20.003 (4m) of the
12 statutes does not apply to the action of the legislature in enacting this act.

13 (2) **REQUIRED GENERAL FUND BALANCE.** Section 20.003 (4) (d) of the statutes and
14 2001 Wisconsin Act 16, section 9101 (25j), do not apply to the action of the legislature
15 in enacting this act.

16 **SECTION 9201. Appropriation changes; administration.**

17 (1) **APPROPRIATION LAPSES FROM PROGRAM SUPPLEMENTS.** The department of
18 administration shall take actions during the 2001-03 fiscal biennium to ensure that
19 from general purpose revenue appropriations under section 20.865 of the statutes an
20 amount equal to \$929,800 is lapsed from sum certain appropriations.

21 (2) **UTILITY PUBLIC BENEFITS FUND TRANSFER.** There is transferred from the utility
22 public benefits fund to the general fund \$4,700,000 in fiscal year 2002-03.

23 **SECTION 9203. Appropriation changes; aging and long-term care**
24 **board.**

1 (1) GENERAL PROGRAM OPERATIONS APPROPRIATION DECREASE. In the schedule
2 under section 20.005 (3) of the statutes for the appropriation to the board on aging
3 and long-term care under section 20.432 (1) (a) of the statutes, as affected by the acts
4 of 2001 and 2003, the dollar amount is decreased by \$39,100 for fiscal year 2002–03
5 to decrease funding for the purpose for which the appropriation is made.

6 **SECTION 9209. Appropriation changes; commerce.**

7 (1) WISCONSIN DEVELOPMENT FUND APPROPRIATION LAPSE AND DECREASE. During
8 the 2002–03 fiscal year, the department of commerce shall take actions to ensure that
9 an amount determined under this subsection is lapsed from the appropriation under
10 section 20.143 (1) (ie) of the statutes. In the schedule under section 20.005 (3) of the
11 statutes for the appropriation to the department of commerce under section 20.143
12 (1) (c) of the statutes, as affected by the acts of 2001 and 2003, the dollar amount is
13 decreased for fiscal year 2002–03 by an amount determined under this subsection.
14 The secretary of commerce shall determine the amount of the lapse and the decrease
15 required under this subsection. The total of the lapse and the decrease shall be
16 \$7,000,000.

17 **SECTION 9210. Appropriation changes; corrections.**

18 (1) INMATE HEALTH CARE. In the schedule under section 20.005 (3) of the statutes
19 for the appropriation to the department of corrections under section 20.410 (1) (a) of
20 the statutes, as affected by the acts of 2001 and 2003, the dollar amount is increased
21 by \$7,269,800 for fiscal year 2002–03 to increase funding for inmate health care.

22 (2) CONTRACTS AND AGREEMENTS. In the schedule under section 20.005 (3) of the
23 statutes for the appropriation to the department of corrections under section 20.410
24 (1) (ab) of the statutes, as affected by the acts of 2001 and 2003, the dollar amount

1 is increased by \$9,247,800 for fiscal year 2002–03 to increase funding for the
2 purposes for which the appropriation is made.

3 **SECTION 9211. Appropriation changes; court of appeals.**

4 (1) APPELLATE PROCEEDINGS. In the schedule under section 20.005 (3) of the
5 statutes for the appropriation to the court of appeals under section 20.660 (1) (a) of
6 the statutes, as affected by the acts of 2001 and 2003, the dollar amount is decreased
7 by \$383,000 for fiscal year 2002–03 to reduce spending for the purpose for which the
8 appropriation is made.

9 **SECTION 9214. Appropriation changes; elections board.**

10 (1) GENERAL PROGRAM OPERATIONS. In the schedule under section 20.005 (3) of
11 the statutes for the appropriation to the elections board under section 20.510 (1) (a)
12 of the statutes, as affected by the acts of 2001 and 2003, the dollar amount is
13 decreased by \$47,800 for fiscal year 2002–03 to decrease funding for the purpose for
14 which the appropriation is made.

15 **SECTION 9216. Appropriation changes; employee trust funds.**

16 (1) PRIVATE EMPLOYER HEALTH CARE COVERAGE PROGRAM. In the schedule under
17 section 20.005 (3) of the statutes for the appropriation to the department of employee
18 trust funds under section 20.515 (2) (a) of the statutes, as affected by the acts of 2001
19 and 2003, the dollar amount is decreased by \$1,400 for the 2001–03 fiscal biennium
20 to reduce spending for the purpose for which the appropriation is made.

21 **SECTION 9217. Appropriation changes; employment relations**
22 **commission.**

23 (1) GENERAL PROGRAM OPERATIONS. In the schedule under section 20.005 (3) of
24 the statutes for the appropriation to the employment relations commission under
25 section 20.425 (1) (a) of the statutes, as affected by the acts of 2001 and 2003, the

1 dollar amount is decreased by \$124,000 for fiscal year 2002–03 to reduce spending
2 for the purpose for which the appropriation is made.

3 **SECTION 9218. Appropriation changes; employment relations**
4 **department.**

5 (1) GENERAL PROGRAM OPERATIONS. In the schedule under section 20.005 (3) of
6 the statutes for the appropriation to the department of employment relations under
7 section 20.512 (1) (a) of the statutes, as affected by the acts of 2001 and 2003, the
8 dollar amount is decreased by \$280,300 for fiscal year 2002–03 to reduce spending
9 for the purpose for which the appropriation is made.

10 **SECTION 9219. Appropriation changes; ethics board.**

11 (1) GENERAL PROGRAM OPERATIONS. In the schedule under section 20.005 (3) of
12 the statutes for the appropriation to the ethics board under section 20.521 (1) (a) of
13 the statutes, as affected by the acts of 2001 and 2003, the dollar amount is decreased
14 by \$11,600 for fiscal year 2002–03 to decrease funding for the purpose for which the
15 appropriation is made.

16 **SECTION 9222. Appropriation changes; governor.**

17 (1) APPROPRIATION LAPSES AND REESTIMATES. The governor shall take actions
18 during the 2001–03 fiscal biennium to ensure that, from the general purpose revenue
19 appropriations for state operations to the office of the governor under section 20.525
20 of the statutes, an amount equal to \$175,600 is lapsed from sum certain
21 appropriation accounts or is subtracted from the expenditure estimates for any other
22 types of appropriations, or both.

23 **SECTION 9224. Appropriation changes; health and family services.**

24 (1) MEDICAL ASSISTANCE TRUST FUND INCREASE. In the schedule under section
25 20.005 (3) of the statutes for the appropriation to the department of health and family

1 services under section 20.435 (4) (w) of the statutes, as affected by the acts of 2001
2 and 2003, the dollar amount is increased by \$64,402,900 for fiscal year 2002–03 to
3 increase funding for the purposes for which the appropriation is made.

4 (2) **MEDICAL ASSISTANCE PROGRAM FUNDING DECREASE.** In the schedule under
5 section 20.005 (3) of the statutes for the appropriation to the department of health
6 and family services under section 20.435 (4) (b) of the statutes, as affected by the acts
7 of 2001 and 2003, the dollar amount is decreased by \$9,587,000 for fiscal year
8 2002–03 to decrease funding for the purposes for which the appropriation is made.

9 (3) **BADGER CARE PROGRAM FUNDING INCREASE.** In the schedule under section
10 20.005 (3) of the statutes for the appropriation to the department of health and family
11 services under section 20.435 (4) (bc) of the statutes, as affected by the acts of 2001
12 and 2003, the dollar amount is increased by \$9,587,000 for fiscal year 2002–03 to
13 increase funding for the purpose for which the appropriation is made.

14 **SECTION 9233. Appropriation changes; legislature.**

15 (1) **APPROPRIATION LAPSES AND REESTIMATES.** The cochairpersons of the joint
16 committee on legislative organization shall take actions during the 2001–03 fiscal
17 biennium to ensure that from general purpose revenue appropriations for state
18 operations to the legislature under section 20.765 of the statutes an amount equal
19 to \$2,959,800 is lapsed from sum certain appropriation accounts or is subtracted
20 from the expenditure estimates for any other types of appropriations, or both.

21 **SECTION 9234. Appropriation changes; lieutenant governor.**

22 (1) **GENERAL PROGRAM OPERATIONS.** In the schedule under section 20.005 (3) of
23 the statutes for the appropriation to the lieutenant governor under section 20.540 (1)
24 (a) of the statutes, as affected by the acts of 2001 and 2003, the dollar amount is

1 decreased by \$26,300 for fiscal year 2002–03 to decrease funding for the purposes for
2 which the appropriation is made.

3 **SECTION 9238. Appropriation changes; natural resources.**

4 (1) RECYCLING FUND TRANSFER. There is transferred from the recycling fund to
5 the general fund \$3,000,000 in fiscal year 2002–03.

6 (2) STATE PARK, FOREST, AND RIVERWAY ROADS. Notwithstanding section 20.001 (3)
7 (c) of the statutes, on the effective date of this subsection, there is lapsed to the
8 general fund \$1,900,000 from the appropriation account of the department of natural
9 resources under section 20.370 (7) (mc) of the statutes, as affected by the acts of 2001
10 and 2003.

11 (3) STEWARDSHIP DEBT SERVICE. In the schedule under section 20.005 (3) of the
12 statutes for the appropriation to the department of natural resources under section
13 20.370 (7) (au) of the statutes, as affected by the acts of 2001 and 2003, the dollar
14 amount is increased by \$4,000,000 for fiscal year 2002–03 to increase funding for the
15 purpose for which the appropriation is made.

16 **SECTION 9239. Appropriation changes; personnel commission.**

17 (1) GENERAL PROGRAM OPERATIONS. In the schedule under section 20.005 (3) of
18 the statutes for the appropriation to the personnel commission under section 20.547
19 (1) (a) of the statutes, as affected by the acts of 2001 and 2003, the dollar amount is
20 decreased by \$40,500 for fiscal year 2002–03 to reduce spending for the purpose for
21 which the appropriation is made.

22 **SECTION 9243. Appropriation changes; public service commission.**

23 (1) UNIVERSAL SERVICE FUND TRANSFER. There is transferred from the universal
24 service fund to the general fund \$3,000,000 in fiscal year 2002–03.

25 **SECTION 9245. Appropriation changes; revenue.**

1 (1) GENERAL PROGRAM OPERATIONS; INTEGRATED TAX SYSTEM TECHNOLOGY. In the
2 schedule under section 20.005 (3) of the statutes for the appropriation to the
3 department of revenue under section 20.566 (3) (b) of the statutes, as affected by the
4 acts of 2001 and 2003, the dollar amount is decreased by \$810,600 for fiscal year
5 2002–03 to decrease funding for the purpose for which the appropriation is made.

6 **SECTION 9248. Appropriation changes; supreme court.**

7 (1) DIRECTOR OF STATE COURTS. In the schedule under section 20.005 (3) of the
8 statutes for the appropriation to the supreme court under section 20.680 (2) (a) of the
9 statutes, as affected by the acts of 2001 and 2003, the dollar amount is decreased by
10 \$555,000 for fiscal year 2002–03 to reduce spending for the purpose for which the
11 appropriation is made.

12 **SECTION 9253. Appropriation changes; transportation.**

13 (1) TRANSPORTATION FUND TRANSFER TO GENERAL FUND. In the schedule under
14 section 20.005 (3) of the statutes for the appropriation under section 20.855 (4) (v)
15 of the statutes, as affected by the acts of 2001 and 2003, the dollar amount is
16 increased by \$22,211,700 for fiscal year 2002–03 to increase funding for the purpose
17 for which the appropriation is made.

18 **SECTION 9254. Appropriation changes; treasurer.**

19 (1) COLLEGE TUITION AND EXPENSES PROGRAM. In the schedule under section
20 20.005 (3) of the statutes for the appropriation to the state treasurer under section
21 20.585 (2) (a) of the statutes, as affected by the acts of 2001 and 2003, the dollar
22 amount is decreased by \$2,300 for fiscal year 2002–03 to decrease funding for the
23 purpose for which the appropriation is made.

24 **SECTION 9260. Appropriation changes; other.**

25 (1) STATE AGENCY APPROPRIATIONS REDUCTIONS.

1 (a) *Appropriations reductions.* Except as provided in paragraph (b), the largest
2 sum certain appropriation for state operations made to the following state agencies
3 from general purpose revenue in the 2002–03 fiscal year is reduced by the amounts
4 indicated:

	Amount of Reduction
State Agency	2002–03 Fiscal Year
Administration, department of	\$ 549,000
Adolescent pregnancy prevention and pregnancy services board	1,100
Agriculture, trade and consumer protection, department of	951,700
Arts board	16,500
Commerce, department of	347,200
Corrections, department of	2,300,000
Educational communications board	257,100
Health and family services, department of	5,010,600
Higher educational aids board	37,600
Historical society	473,200
Judicial commission	10,700
Justice, department of	1,682,600
Military affairs, department of	318,400
Natural resources, department of	2,128,400
Public instruction, department of	559,600
Technology for educational achievement in Wisconsin board	32,100
Technical college system board	164,900

1	Tourism, department of	
2	University of Wisconsin System, Board of	
3	Regents of the	6,890,000
4	Veterans affairs, department of	35,900
5	Workforce development, department of	400,100

1,330,500
~~1,550,000~~

6 (b) *Submission of alternative plan to secretary of administration.* No later than
7 14 days after the effective date of this paragraph, any state agency specified in
8 paragraph (a) may submit an alternative plan to the secretary of administration
9 concerning the agency's preference for allocating reductions among sum certain
10 appropriations made to the agency from general purpose revenue. If the secretary
11 does not approve the plan, the agency shall make the reductions as provided in
12 paragraph (a). If the secretary approves the plan, he or she shall submit the plan to
13 the joint committee on finance no later than 21 days after the effective date of this
14 paragraph. If the cochairpersons of the committee do not notify the secretary that
15 the committee has scheduled a meeting for the purpose of reviewing the plan to be
16 held within 14 working days after the date of the secretary's submittal, the agency
17 shall make the reductions specified in the plan. If the cochairpersons of the
18 committee notify the secretary that the committee has scheduled a meeting for the
19 purpose of reviewing the plan to be held within 14 working days after the date of the
20 secretary's submittal, the agency may not implement the plan until it is approved by
21 the committee, as submitted or as modified.

22 (2) STATE AGENCY APPROPRIATION LAPSES TO THE GENERAL FUND.

23 (a) *Appropriation lapses to the general fund.* Subject to paragraph (b), in the
24 2002-03 fiscal year, from the following appropriation accounts, the secretary of
25 administration shall lapse to the general fund the amounts indicated:

	Agency	2002-03 Fiscal Year
1		
2		
3	20.505 Administration, department of	
4	(1) (kf)	268,500
5	(1) (kj)	468,700
6	(5) (ka)	665,800
7	20.115 Agriculture, trade and consumer	
8	protection, department of	
9	(1) (gb)	195,200
10	20.143 Commerce, department of	
11	(1) (L)	1,000,000
12	(3) (j)	520,000
13	20.530 Electronic government, department of	
14	(1) (g)	493,000
15	(1) (ke)	2,000,000
16	20.144 Financial institutions, department of	
17	(1) (g)	667,300
18	(2) (g)	91,800
19	20.435 Health and family services, department of	
20	(1) (gm)	267,000
21	(4) (gm)	83,300
22	(4) (hg)	125,000
23	20.245 Historical society	
24	(1) (g)	174,200
25	20.145 Insurance, office of the commissioner of	
26	(1) (g)	5,556,200
27	20.455 Justice, department of	

1 (2) (ja) 132,300

2 **20.255 Public instruction, department of**

3 (1) (hg) 135,500

4 **20.165 Regulation and licensing, department of**

5 (1) (g) 497,800

6 (b) *Prohibited appropriation lapses and transfers.* The secretary of
 7 administration may not lapse or transfer moneys to the general fund from any
 8 appropriation account specified in paragraph (a) if the lapse or transfer would violate
 9 a condition imposed by the federal government on the expenditure of the moneys or
 10 if the lapse or transfer would violate the federal or state constitution.

11 (3) STATE AGENCY APPROPRIATION DECREASES AND TRANSFERS TO THE GENERAL FUND.

12 (a) *Appropriation reductions and transfers to the general fund.* Subject to
 13 paragraph (b), and notwithstanding sections 604.03 (2), 607.15, and 655.27 (6) of the
 14 statutes, appropriations for the 2002-03 fiscal year are decreased by the amounts
 15 indicated in each of the following appropriations and the secretary of administration
 16 shall transfer from the fund from which each appropriation is made to the general
 17 fund an amount equal to the amount of the decrease:

	Agency	2002-03 Fiscal Year
18		
19		
20	20.505 Administration, department of	
21	(1) (v)	\$ 38,800
22	20.143 Commerce, department of	
	(1) (qa)	100,000
23	(1) (qm)	3,500,000
24	(3) (r)	251,300
25	(3) (w)	139,300

1	20.145	<i>Insurance, office of the commissioner of</i>	
2	(2) (u)		35,900
3	(3) (u)		33,700
4	(4) (u)		27,700
5	20.370	<i>Natural resources, department of</i>	
6	(2) (dv)		1,000,000
7	(2) (mq)		218,700
8	(3) (mq)		56,900
9	(4) (mq)		125,600
10	(4) (mr)		22,200
11	(6) (eu)		500,000
12	(8) (iw)		11,500
13	(8) (mq)		23,300
14	(8) (mv)		171,000
15	(9) (mv)		30,300
16	20.436	<i>Tobacco control board</i>	
17	(1) (tc)		2,000,000
	20.485	<i>Veterans affairs, department of</i>	
	(3) (s)		223,800

18 (b) *Prohibited appropriation transfers.* The secretary of administration may
19 not transfer moneys from a segregated fund to the general fund if the transfer would
20 violate a condition imposed by the federal government on the expenditure of the
21 moneys or if the transfer would violate the federal or state constitution.

22 **SECTION 9400. Effective dates; general.** Except as otherwise provided in
23 SECTIONS 9401 to 9460 of this act, this act takes effect on the day after publication.

24 **SECTION 9453. Effective dates; transportation.**

1 (1) TRANSPORTATION FUND TRANSFER TO GENERAL FUND. The repeal of section
2 25.40 (2) (b) 27. of the statutes takes effect on June 30, 2003.

3

(END)

Barman, Mike

From: Barman, Mike
Sent: Tuesday, January 28, 2003 3:05 PM
To: Aaron Gary; Becky Tradewell; Cathlene Hanaman; Debora Kennedy; Gordon Malaise; Jeffery Kuesel; Joseph Kreye; Madelon Lief; Marc Shovers; Mark Kunkel; Mary Glass; Michael Dsida; Pam Kahler; Peggy Hurley; Peter Dykman; Peter Grant; Rick Champagne; Robert Marchant; Robert Nelson; Robin Kite; Robin Ryan; Steve Miller; Timothy Fast; Chris Siciliano; Joy Geller; Karen Gilfoy; Kathy Follett; Wendy Jackson
Subject: LRB-1722 & LRB-1808 (Budget Adj. Bills)



03-1722/2



03-1808/1

Mike Barman

Mike Barman - Senior Program Asst. (PH. 608-266-3561)
(E-Mail: mike.barman@legis.state.wi.us) (FAX: 608-264-6948)

State of Wisconsin
Legislative Reference Bureau - Legal Section - Front Office
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Madison, WI 53703



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STEPHEN R. MILLER
CHIEF

February 11, 2003

MEMORANDUM

To: Senator Panzer

From: Robert P. Nelson, Sr. Legislative Attorney, (608) 267-7511
Richard A. Champagne, Legislative Attorney, (608) 266-9930

Subject: Technical Memorandum to 2003 SB-1 (Jr3) (LRB -1808/1)

We received the attached technical memorandum relating to your bill. This copy is for your information and your file. If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

Title: Technical Memo for LRB 03-1808/1 SB-1 (JR3)

Subject: Position paper on the transfer of surplus funding on the Mortgage Loan Repayment Fund (MLRP) to the General Fund

Law Background: Under section 9260 (3) (a) of Senate Bill 1, the operations appropriation in the primary mortgage loan repayment fund is decreased by \$223,800. That amount is then transferred to the general fund. Under section 9260 (3) (b) of Senate Bill 1, the transfer may not be made "if the transfer would violate a condition imposed by the federal government on the expenditure of the moneys or if the transfer would violate the federal or state constitution."

Background: The funds in the primary mortgage loan repayment fund consist generally of direct bond proceeds, repayments on mortgages, and investment earnings on proceeds. The great majority of these funds was generated as a result of the issuance of tax-exempt qualified veterans' mortgage bonds under the authority of 26 USC sec.143. Under that federal tax law provision, "proceeds" generally includes direct bond proceeds, repayments on mortgages, and investment earnings. Further, the provision limits the expenditure of proceeds to making loans to qualified veterans and other narrowly defined purposes.

In addition to the issue of whether or not it is legal to lapse funds from the Mortgage Loan Repayment Fund (MLRF) to the General Fund, it is important to understand how the surplus monies in Fund 583 were generated. Under 26 USC sec. 143, there is a maximum allowable spread of 1.125% between the interest rate on the tax-exempt bonds, the proceeds from which the mortgage loans are made, and the interest rate charged the veteran on the mortgage loan. That spread is used to cover insurance fees, servicing fees and administrative costs. It has been the department's policy to charge the maximum spread. Historically, the total amount of costs applied against that spread has been less than the maximum allowed under federal tax code. As a result, there has been a slight "profit" that has been credited to the MLRF due to the fact that the department has been able to keep administrative costs below the maximum. Although that profit margin is very small, when applied to the hundreds of millions of dollars of outstanding veteran mortgage loans the total accumulated dollar amount is significant.

Arbitrage is another means by which a surplus of monies has been generated in the MLRF. Arbitrage involves selling new bonds and using the proceeds to payoff old bonds that have a higher rate of interest. For example, bonds totaling \$50 million were sold 10 years ago with an interest rate of 8-percent and a 30-year term. The current unamortized amount of that bond issue is \$40 million. The current interest rate for a bond with a 20-year term is 5-percent. A total of \$40 million in new bonds with a 6-percent rate of interest and a 20 year term are sold and used to refund the old bonds. Unless a veteran who has a mortgage with an interest rate based on the 8-percent interest rate of the old bond issue refinances his/her mortgage loan with a private lender, he/she will continue to pay that rate of interest. Thus, the 3-percent difference between the interest rate on the old bond issue and the new one is the profit due to arbitrage. Under federal tax code for any tax-exempt bonds issued after 1984, any surplus funds (profit) above the allowable spread must be either:

1. Rebated to the federal government,
2. Placed in a subsidy pool to be used to blend down the interest rate at a 0-percent interest rate on future mortgage loans to veterans, or
3. Rebated to veterans with loans funded from the old bond issue in the form of a payment holiday.

The department determined that, as a long-term strategy to provide additional revenues to the Veterans Trust Fund, the best strategy would be to place the surplus funds in a subsidy pool and use those funds to blend down the interest rates on future loans to veterans. Administratively it

would be extremely difficult and costly to implement a payment holiday for affected outstanding mortgage loans and it would defy logic to rebate the funds to the federal government. Another advantage of placing those funds in a subsidy pool is that once those funds are recycled (paid back as part of a blended loan) they become free-and-clear of any federal tax code restrictions. If it is determined by the state's bond counsel that those funds (or some portion of them) are not need to issue sufficient cash flows to pay bondholders, then with the appropriate approvals they can be transferred to the Veterans Trust Fund.

Conclusion: First, there is no clear authority to transfer proceeds to the general fund of the state issuing the tax-exempt bonds. More importantly, it is the department's position that the surplus funds were paid by veterans and retained in the MLRF with the intent that they would be transferred to the Veterans Trust Fund once they were free-and-clear of federal tax code restrictions and no longer needed to insure payments to bondholders. In fact, with the exception of the statutorially-required lapses for FY 02 and FY 03, all other transfers of cash and loan portfolios from the MLRF have been to the Trust Fund. A provision to require an additional cash transfer from the MLRF to the General Fund was removed by the legislature from the Budget Reform Bill (2001 Wisconsin Act 109). Any further transfers to the General Fund further deplete available funds in the MLRF that can be transferred to the Veterans Trust Funds. The surplus funding in the MLRF have been paid by Veterans and should be used to provide future benefits to veterans and not transferred to the General Fund in order to address the projected shortfall of tax revenues.

Recommendation: In light of the prohibition contained section 9260 (3) (b) of Senate Bill 1, at a minimum, it is essential that an opinion be secured from bond counsel to evaluate whether the proposed transfer to the general fund would violate 26 USC sec.143. Even if it is legal to make the proposed revenue transfer from the MLRF, the surplus cash in the MLRF was paid by veterans and should only be used to provide benefits and services for Wisconsin's veterans. Therefore, the Department of Veterans Affairs recommends that no additional revenues be transferred from the MLRF to the general fund since any such transfers reduce the amount of MLRF assets that can eventually be transferred to the Veterans Trust Fund.