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Details: Letter from Joint Committee on Audit to Joint Committee on Finance

(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2005-06

(session year)

Joint

(Assembly, Senate or Joint)

Committee on Audit...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**



WISCONSIN LEGISLATURE

P. O. Box 7882 Madison, WI 53707-7882

May 17, 2005

Senator Scott Fitzgerald and
Representative Dean Kaufert, Co-chairpersons
Joint Committee on Finance
State Capitol
Madison, Wisconsin 53702

Dear Senator Fitzgerald and Representative Kaufert:

The Legislative Audit Bureau has recently completed a number of audits containing findings or recommendations relevant to the biennial budget. We write to communicate our personal recommendations concerning several specific issues. These recommendations have not been circulated to the membership of the Joint Legislative Audit Committee and, therefore, represent only our views.

This letter presents background information on five recommendations for your consideration, including:

- clarifying the circumstances under which benefit recovery mechanisms may be used to address instances of Medical Assistance fraud;
- a technical correction that addresses the overpayment of beneficiary deductibles in the Health Insurance Risk-Sharing Plan;
- a change in the basis for determining the annual base operating budget for the State of Wisconsin Investment Board;
- adoption of the proposed trial jobs plus program for W-2 participants contained in 2005 Assembly Bill 100; and
- retaining funding and increasing accountability for the Children at Risk program.

MEDICAL ASSISTANCE FRAUD

Background:

In September 2004, the Legislative Audit Bureau released *An Evaluation: Medical Assistance Eligibility Determinations* (report 04-13). The Joint Legislative Audit Committee held a public hearing on the report in December 2004. The report notes that county officials indicated inconsistencies between the statutory definition of Medical Assistance fraud and the statutory authorization for Medical Assistance benefit recovery. These inconsistencies have hindered their efforts to recover Medical Assistance benefits.

Specifically, s. 49.49(1)(a), Wis. Stats., defines fraud as failure to disclose any event affecting initial or continued right to benefits. However, s. 49.497(1), Wis. Stats., limits benefit recovery to two specific circumstances: failure to disclose income or asset changes, or misstatements or omissions of fact at application or review. Failure to disclose other events affecting eligibility between application and review, such as changes in residence or household composition, is not grounds for pursuing Medical Assistance benefit recovery. Several counties reported having benefit recovery cases overturned at hearing as a result of this inconsistency.

In its audit report, the Legislative Audit Bureau recommended that the Legislature revise statutes to allow for recovery of Medical Assistance benefit payments when a recipient does not comply with program policies by failing to disclose information that affects eligibility between the time of application and review.

SECTION 1169, 2005 Assembly Bill 100, creates new statutory language that partially addresses these concerns. As introduced, that section reads:

SECTION 1169. 49.497 (1) (a) 3. of the statutes is created to read:

49.497 (1) (a) 3. The failure of a Medical Assistance or Badger Care recipient or any other person responsible for giving information on the recipient's behalf to report any change in the recipient's financial or nonfinancial situation or eligibility characteristics that would have affected the recipient's eligibility for benefits or the recipient's cost-sharing requirements.

Recommended Action:

As part of the Medical Assistance reform package, we recommend that the Joint Committee on Finance adopt the proposed revisions to s. 49.497(1), Wis. Stats., contained in SECTION 1168 and SECTION 1169 of 2005 Assembly Bill 100. In addition, we recommend that the Joint Committee on Finance add the following language to the bill that would create s. 49.497(1)(a) 4, Wis. Stats., and incorporate all fraud provisions into the benefit recovery statute:

“49.497 (1)(a) 4. Any action under 49.49(1)(a) 1 to 4.”

HEALTH INSURANCE RISK-SHARING PROGRAM

Background:

In April 2004, the Legislative Audit Bureau released *An Audit: Health Insurance Risk-Sharing Plan* (report 04-3). The Joint Legislative Audit Committee held a public hearing on the report in June 2004. The report noted that the contracted actuary for the Department of Health and Family Services (DHFS) and the Health Insurance Risk-Sharing Plan (HIRSP) had identified a technical statutory issue that required legislative action. This issue was discussed again by the Legislative Audit Bureau in its most recent financial audit of the HIRSP program (report 05-9).

Under current statutes, the method by which HIRSP's funding formula applies deductible and drug coinsurance subsidies for low-income policyholders results in policyholders being over-credited for subsidies they did not fund. DHFS and the HIRSP Board of Governors decided in 2001 that \$1.5 million of the resulting unallocated costs associated with the deductible subsidy credit would be paid by policyholders, insurers, and health care providers based on the statutory funding split used for HIRSP costs. In April 2004, DHFS and the Board decided to reduce the excess policyholder premium account by \$2.2 million for the balance of over-credited deductible subsidies that had subsequently accumulated through March 31, 2004.

Proposed statutory changes to address this technical issue were introduced in the Governor's budget proposal (see item 48, Department of Health and Family Services, page 239) and have been included in 2005 Assembly Bill 100.

Recommended Action:

We recommend that the Joint Committee on Finance support the implementation of this technical correction and adopt the statutory revisions presented in SECTIONS 2041, 2042, 2043, 2046, 2047, 2052, and 2053 of 2005 Assembly Bill 100.

STATE OF WISCONSIN INVESTMENT BOARD

Background:

In November 2004, the Legislative Audit Bureau released *An Evaluation: State of Wisconsin Investment Board* (report 04-13). The Joint Legislative Audit Committee held a public hearing on the report in March 2005. The audit report notes the Investment Board's operating costs for staff salaries and fringe benefits, supplies, and permanent property are funded through assessments to the various funds managed by the Investment Board, as authorized by its continuing program revenue appropriation. No general purpose revenues support Investment Board operations.

1999 Wisconsin Act 9 changed the Investment Board's operating budget from a set dollar amount to a budget that correlates to the value of assets under management. Specifically, the Investment Board was given the flexibility to use up to 2.75 basis points of the total assets under management for its annual operating budget. In recognition that financial markets can fluctuate, 1999 Wisconsin Act 9 established a minimum annual operating budget at \$17,720,500, which was 2.75 basis points of assets under management on June 30, 1999. In fiscal year 2002-03 and fiscal year 2003-04, the annual operating budget declined to this minimum level.

Since the audit report was released, Investment Board staff have contacted us concerning a proposed change to the basis for determining its annual operating budget. The Investment Board proposes a recalculation of the annual operating budget to reestablish the minimum amount. The Investment Board further proposes to use an average of the asset base for the six months prior to April 30, rather than the date of April 30, for the determination of the funds available for the next fiscal year. Investment Board staff believe this change will lessen the likelihood that a single market fluctuation or event could affect the annual operating budget and provide them with the flexibility they believe was intended when a basis point budget was established.

Recommended Action:

Given that its annual base operating budget has remained unchanged for some time, we recommend that the Joint Committee on Finance modify s. 25.187(2)(c)1., Wis. Stats., to:

- increase the minimum amount for the annual operating budget to \$19,390,300 in fiscal year 2005-06, which is the actual budget authority for fiscal year 2004-05;
- increase the minimum amount for the annual operating budget, beginning in fiscal year 2006-07, by the percent change in the Employment Cost Index published by the United States Department of Labor for the prior calendar year, and by the annualized cost of any positions authorized during the prior fiscal year under s. 16.505, Wis. Stats.; and
- use average month-end assets for the six months ending April 30 in the prior fiscal year to determine the budget authority for the current fiscal year.

TRIAL JOBS PLUS PROGRAM

Background:

In April 2005, the Legislative Audit Bureau released *An Evaluation: Wisconsin Works (W-2) Program* (report 05-6). The Joint Legislative Audit Committee held a public hearing on the report on April 27, 2005. Trial jobs provide work experience and training to program participants and may become permanent, unsubsidized positions. W-2 participants in these jobs earn not less than the minimum wage for every hour worked, and the employer receives a per participant subsidy of not more than \$300 per month. Each trial job may not exceed three months, with an opportunity for a three-month extension.

The audit report noted that of all 674 new participants in June 2004, none were placed in trial jobs. There are a number of reasons why few participants have been placed in trial jobs. The W-2 agencies visited by the Bureau noted that many employers believe the \$300 monthly wage subsidy they receive for each trial job participant is insufficient, the administrative requirements are too burdensome, and participants are sometimes unqualified for the available jobs.

The Legislative Audit Bureau made no specific recommendations on the trial jobs program. However, the Department of Workforce Development testified that the absence of a viable subsidized wage-paying job tier limits the program's effectiveness in helping participants obtain unsubsidized employment. Under the Governor's proposal for the 2005-07 biennial budget, a "trial jobs plus" pilot project would be created for up to 1,000 participants in Milwaukee County and two other counties. The project, which would operate from January 2006 through June 2007, would reimburse employers for the monthly costs of participants' wages, not to exceed the federal minimum wage, for up to 30 hours per week, as well as applicable social security taxes, unemployment insurance contributions, and worker's compensation premiums. Participants could be in trial jobs plus placements for up to six months, with the opportunity for a three-month extension.

Statutory changes to create the Trial Jobs Plus project were introduced in the Governor's budget proposal (see item 1, Department of Workforce Development, page 591) and have been included in 2005 Assembly Bill 100.

Recommended Action:

We recommend that the Joint Committee on Finance support the implementation of the Trial Jobs Plus project and adopt the statutory revisions presented in SECTION 1060 of 2005 Assembly Bill 100. We further recommend that the Joint Committee on Finance adopt alternatives 1a and 3 of the Legislative Fiscal Bureau's issue paper (paper 852) dated May 18, 2005.

CHILDREN AT RISK PROGRAM

Background:

In March 2005, the Legislative Audit Bureau released *An Evaluation: Children At Risk Program* (report 05-4). The Joint Legislative Audit Committee held a public hearing on the report in April 2005. The Children at Risk program, which is administered by the Department of Public Instruction (DPI), is intended to reduce the number of students in grades 5 through 12 who are at risk of not graduating from high school. It was created in the 1985-87 Biennial Budget Act and, in response to recommendations from the Joint Legislative Council Special Committee on Children at Risk, was last modified in 1999 Wisconsin Act 123. Each year since fiscal year 1990-91, the program has provided \$3.5 million in general purpose revenue (GPR) to participating school districts.

In the 2003-04 school year, 21 school districts participated in the Children At Risk program. They identified 29,669 at-risk students. The number of students at risk of not graduating statewide is not known because only districts that receive program funding are required to report to DPI.

Districts receive funding based on the number of their at-risk students who achieve statutory performance objectives. Among the 21 participating districts, 40.2 percent of students identified as at-risk achieved at least three statutory performance objectives in the 2003-04 school year. This is the lowest level since the 1999-2000 school year. In addition, the audit report notes that most participating districts do not comply with one or more statutory requirements, which raises questions about the priority they assign to complying with program requirements.

The best indicators of success for the Children at Risk program may be comparative graduation and dropout rates for participating and nonparticipating, but otherwise similar, students. School districts do not track this type of information. However, the audit analyzed trends in 11 school districts that participated in the Children at Risk program in each school year from 1999-2000 through 2002-03. Among the 11 participating districts, the graduation rate increased 6.5 percentage points, from 71.1 percent to 77.6 percent. Statewide, the increase was 2.5 percentage points. In addition, 10 of the 11 districts reduced their dropout rates over the same period and 6 of the 11 districts had dropout rates below the statewide average.

It may not be reasonable to attribute changes in student performance solely to the Children At Risk program because of the availability of other funding for district at-risk programs. Additionally, because districts receive reimbursement under the Children At Risk program in the year after expenses are incurred, districts decide which programs and services to offer without regard to the level of Children At Risk funding they may subsequently receive.

Recommended Action:

Although the audit noted that the program has had mixed results, we are encouraged by the improvements to graduation rates. As a Legislature, our intention is to increase the number of high school graduates, which is the fundamental purpose of this program. However, the audit and the testimony offered before the Joint Legislative Audit Committee identified the need for program improvements and greater program accountability. Therefore, we recommend that the Joint Committee on Finance retain funding for the Children At Risk program in the 2005-07 biennial budget, and modify the program, as follows:

1. reduce the number of grade levels served by the program by revising s. 118.153 (1)(a), Wis. Stats., to read:

“Children at risk” means pupils in grades 5 7 to 12 who are at risk of not graduating from high school because they are dropouts...

2. allow for the demonstration of achievement through an additional program criterion by students who are not high school seniors by modifying s. 118.153 (4)(c)3, Wis. Stats., to read:

The pupil, if a high school senior, received a high school diploma. If not a senior, the pupil has demonstrated, on standardized tests or other appropriate measures, gains in subject areas other than reading or mathematics commensurate with the duration of his or her enrollment in the program. [Note: Reading and mathematics are included in a separate program criteria.]

3. increase program accountability and program outcomes by creating nonstatutory language in 2005 AB 100 that reads:

No later than October 1, 2006, the state superintendent shall report to Joint Legislative Audit Committee on the status and outcomes of children at risk services provided at the school district level and describe recommendations for best practices in service delivery and program improvements.

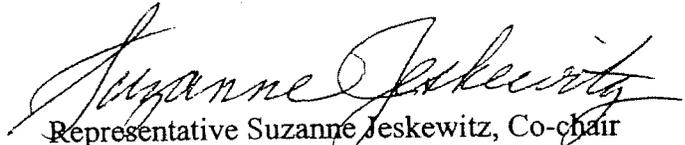
Given the importance of this program, it is our intention to work closely with the Department of Public Instruction over the course of the next year to ensure that program outcomes are well documented and evaluated. In a separate letter to the State Superintendent, we will identify a number of follow-up actions in response to the audit findings. In addition to the October 2006 report, we will also request an interim report to the Joint Legislative Audit Committee, in order to document the compliance of school districts with the program's statutory requirements and identify the specific children at risk programs eligible for program funding within each school district.

We appreciate your consideration of these items. Please contact us if you have any questions or if we may provide any further information.

Sincerely,



Senator Carol A. Roessler, Co-chair
Joint Legislative Audit Committee



Representative Suzanne Jeskewitz, Co-chair
Joint Legislative Audit Committee

cc:

Senator Robert Cowles
Senator Mark Miller
Senator Julie Lassa

Senator Mary Lazich
Senator Alberta Darling
Senator Joseph Leibham
Senator Luther Olsen
Senator Russell Decker
Senator Lena Taylor

Representative Samantha Kerkman
Representative David Travis
Representative David Cullen

Representative David Ward
Representative Scott Jensen
Representative Jeff Stone
Representative Kitty Rhoades
Representative Dan Meyer
Representative Mark Pocan
Representative Pedro Colon

Ms. Elizabeth Burmaster, Superintendent of Public Instruction
Department of Public Instruction

Mr. David Mills, Executive Director
State of Wisconsin Investment Board

Ms. Helene Nelson, Secretary
Department of Health and Family Services

Mr. Robert Lang, Director
Legislative Fiscal Bureau

Ms. Janice Mueller
State Auditor



Asbjornson, Karen

From: Roessler, Carol
Sent: Wednesday, May 18, 2005 11:08 AM
To: Sen.Cowles; Sen.Fitzgerald; Sen.Miller; Sen.Lassa; Rep.Kerkman; Rep.Kaufert; Rep.Travis;
Rep.Cullen
Subject: Re: Roessler and Jeskewitz letter to Joint Finance Committee

Dear Joint Legislative Audit Committee Members:

The Legislative Audit Bureau has recently completed a number of audits containing findings or recommendations relevant to the biennial budget. We have written to the Joint Finance Committee outlining our personal recommendations on several specific issues. As you know, these recommendations were not circulated to the membership of the Joint Legislative Audit Committee and, therefore, represent only our views. A copy of the letter we submitted to the Joint Finance Committee was delivered to your office late yesterday. The letter presents background information on five budget recommendations including:

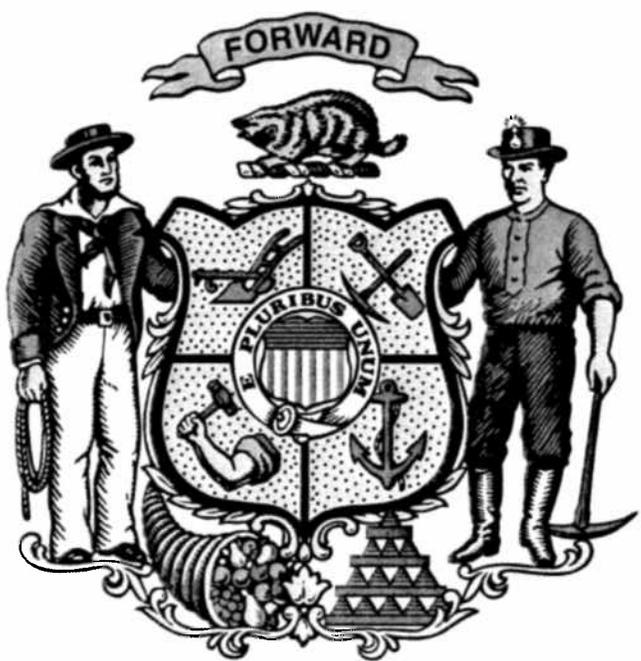
- clarifying the circumstances under which benefit recovery mechanisms may be used to address instances of Medical Assistance fraud;
- a technical correction that addresses the overpayment of beneficiary deductibles in the Health Insurance Risk-Sharing Plan;
- a change in the basis for determining the annual base operating budget for the State of Wisconsin Investment Board;
- adoption of the proposed trial jobs plus program for W-2 participants contained in 2005 Assembly Bill 100; and
- retaining funding and increasing accountability for the Children at Risk program.

Please let either of our offices know if you need an additional copy of this letter. Thank you for your consideration.

Sincerely,

Senator Carol A. Roessler, Co-chair
Joint Legislative Audit Committee

Representative Suzanne Jeskewitz, Co-chair
Joint Legislative Audit Committee



Asbjornson, Karen

From: Roessler, Carol
Sent: Wednesday, May 18, 2005 11:09 AM
To: Sen.Fitzgerald; Rep.Kaufert; Sen.Lazich; Sen.Darling; Sen.Cowles; Sen.Leibham; Sen.Olsen; Sen.Decker; Sen.Taylor; Rep.Ward; Rep.Jensen; Rep.Stone; Rep.Rhoades; Rep.Meyer; Rep.Pocan; Rep.Colon
Cc: Burmaster, Elizabeth A DPI; Nelson, Helene; Drew, Sandy; Gassman, Roberta; Lang, Bob; Mueller, Janice
Subject: Re: Letter to JFC Regarding Audit Topics in the Budget

Dear Joint Finance Committee Members:

The Legislative Audit Bureau has recently completed a number of audits containing findings or recommendations relevant to the biennial budget. On May 17, we sent a letter to your offices to communicate our personal recommendations concerning several specific issues. These recommendations have not been circulated to the membership of the Joint Legislative Audit Committee and, therefore, represent only our views. The letter delivered to your offices late yesterday presents background information on five budget recommendations including:

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Please let either of our offices know if you need an additional copy of this letter. Thank you for your consideration.

Sincerely,

Senator Carol A. Roessler, Co-chair
Joint Legislative Audit Committee

Representative Suzanne Jeskewitz, Co-chair
Joint Legislative Audit Committee