



Legislative Fiscal Bureau

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

May 23, 2005

Joint Committee on Finance

Paper #467

Crime Laboratories and Drug Law Enforcement Surcharge (Justice)

[LFB 2005-07 Budget Summary: Page 318, #1(g), Page 324, #13, Page 325, #14, and Page 325, #15]

CURRENT LAW

Under s. 165.75(2) of the statutes, the Department of Justice (DOJ) is required to locate a state crime laboratory in Madison, Milwaukee, and Wausau. The state crime laboratories are responsible for providing scientific and technical assistance to state and local law enforcement agencies, upon their request. The budget in 2004-05 for the state crime laboratories totals \$10,904,600 and 108.33 positions (all funds).

Under s. 165.70 of the statutes, DOJ is charged with enforcing the Uniform Controlled Substance Act (Chapter 961) for violations that are statewide in nature, importance or influence. The Narcotics Bureau under the Department's Division of Criminal Investigation administers a statewide drug enforcement program. The Bureau: (1) participates in cooperative anti-drug efforts with local, state, and federal law enforcement agencies; (2) provides investigative assistance to local law enforcement; and (3) initiates independent drug investigations. The budget for the Narcotics Bureau in 2004-05 totals \$7,813,700 and 66.0 positions (all funds).

A \$7 crime laboratories and drug law enforcement surcharge is applied if a court imposes a sentence, places a person on probation, or imposes a forfeiture for a violation of state law or municipal or county ordinance (other than for nonmoving traffic or smoking violations). Currently, this surcharge, along with revenue from a \$250 DNA surcharge, supports: (1) the state's DNA databank; (2) DNA evidence prosecution efforts; (3) the crime laboratories; and (4) drug law enforcement efforts.

GOVERNOR

Make the following modifications to the crime laboratories and drug law enforcement surcharge and to the DOJ appropriations funded from the surcharge.

Crime Laboratories and Drug Law Enforcement Surcharge. Increase the amount of the surcharge from the current \$7 to \$8. Estimate additional surcharge revenues of \$1,046,300 in 2006-07, as a result of this increase.

Unencumbered Crime Laboratories and DNA Surcharge Balances. Provide that all unencumbered balances on June 30 of each fiscal year in the DOJ appropriation accounts funded by both the crime laboratories and drug law enforcement surcharge and the DNA surcharge would lapse to the general fund. Estimate increased GPR-Earned receipts under DOJ of \$400,000 in 2005-06 and \$1,300,000 in 2006-07 to reflect this lapse requirement.

Fund the following initiatives from the crime laboratories and drug law enforcement surcharge:

DNA Analyst Positions. Provide \$188,100 PR in 2005-06 and \$205,500 PR in 2006-07 and 4.0 PR positions annually to provide the Madison and the Milwaukee Crime Laboratories with two additional DNA analysts each.

Methamphetamine Training and Equipment. Provide \$196,300 PR in 2005-06 and \$20,600 PR in 2006-07 to support two methamphetamine drug enforcement efforts: (1) \$97,300 PR in 2005-06 and \$20,600 PR in 2006-07 for the Department's Clandestine Laboratory Enforcement and Response (CLEAR) team; and (2) \$99,000 PR in 2005-06 to establish a Drug Endangered Children training program.

Budgetary Restructuring. Approve a series of offsetting transfers within the same appropriation, which collectively would implement a budgetary restructuring of the agency. Included in this restructuring would be the merger of separately identifiable budgeting elements associated with the Narcotics Bureau.

DISCUSSION POINTS

Recommended Revenue Changes

1. The Governor has estimated that the crime laboratories and drug law enforcement surcharge increase would result in additional revenues of \$1,046,300 in 2006-07. No additional revenues associated with the surcharge change have been estimated for the 2005-06 fiscal year, although the increased surcharge would be in place during that fiscal year.

2. The Governor has also estimated that the proposal to lapse all unencumbered balances from the DOJ appropriations funded from both the crime laboratories and drug law enforcement surcharge and the DNA surcharge would increase GPR-Earned receipts under DOJ by

\$400,000 in 2005-06 and \$1,300,000 in 2006-07.

3. Table 1 summarizes the fund condition for appropriations supported by the crime laboratories and drug law enforcement surcharge and the DNA surcharge under the bill. The table also indicates the estimated year-end lapses to the general fund, based on the Governor's revenue increase projections under the bill.

TABLE 1
Crime Laboratories and Drug Law Enforcement Surcharge Balances
(Governor's Estimate Reflecting \$1 Surcharge Increase and New Funding Initiatives)

	<u>2004-05</u>	<u>2005-06</u>	<u>2006-07</u>
Opening Balance	\$242,700	\$654,800	\$0
Revenue			
Crime Laboratory Surcharge	\$6,712,300	\$7,011,400	\$8,370,100
\$250 DNA Surcharge	<u>1,537,800</u>	<u>1,537,800</u>	<u>1,537,800</u>
Total Revenue	\$8,250,100	\$8,549,200	\$9,907,900
Expenditures			
Drug Law Enforcement, Crime Laboratories, and Genetic Evidence Activities	\$6,766,600	\$7,167,300	\$7,167,300
DNA Analyst Initiative		188,100	205,500
Methamphetamine Initiative		196,300	20,600
Crime Laboratories and DNA analysis	648,900	674,400	674,400
DNA Evidence Activities	136,400	144,700	144,700
Compensation and Other Reserves	<u>286,100</u>	<u>286,100</u>	<u>286,100</u>
Total Expenditures	\$7,838,000	\$8,656,900	\$8,498,600
Closing Balance	\$654,800	\$547,100	\$1,409,300
Required Lapse	\$0	\$547,100	\$1,409,300

4. Under the Governor's revenue estimates and recommended expenditure levels, the data presented in Table 1 suggests that the provisions of the bill directing the lapse of unobligated balances in the crime laboratories surcharge accounts at the end of each fiscal year would result in general fund receipts of \$547,100 in 2005-06 and \$1,409,300 in 2006-07. These amounts represent an increase in revenues lapsed to the general fund of \$256,400 [\$147,100 in 2005-06 and \$109,300 in 2006-07], compared to the bill.

5. Of the lapse amounts identified in Table 1 for the 2006-07 fiscal year [\$1,409,300], \$1,046,300 of that amount is attributable to the impact of the \$1 increase in the amount of the crime laboratories surcharge. Based on this analysis, if the Committee were to opt to maintain the crime laboratories surcharge at its current law \$7 rate, there would still be sufficient revenues under the

Governor's estimates to fund all of the recommended new initiatives during the 2005-07 biennium.

However, estimated receipts to the general fund would be adversely affected by such an action. The deletion of \$1,046,300 from the appropriation's revenue stream in 2006-07 would decrease the directed lapse by a comparable amount [to \$547,100 in 2005-06 and \$363,000 in 2006-07]. Compared to the estimates in the bill, this would represent an adjustment of \$147,100 in 2005-06 and -\$937,000 in 2006-07.

6. Table 2 presents comparable information as in Table 1, but with the following adjustments. First, the crime laboratories surcharge revenues and the DNA surcharge revenues have been adjusted to reflect updated projections. These adjustments are based on: (a) a reestimate of 2004-05 base year revenues under the current law \$7 crime laboratories surcharge and the \$250 DNA surcharge; and (b) utilization of a 2.6% annual growth rate, rather than a 4.5% growth rate used in the bill, in the number of court actions to which the surcharges would apply. Second, no increase to the crime laboratories surcharge has been included, in order to assess whether the Governor's proposed funding initiatives could be supported under the revised revenue projections but without the surcharge increase.

TABLE 2

**Crime Laboratories and Drug Law Enforcement Surcharge Balances
(Revised Revenues, No Surcharge Increase and New Funding Initiatives)**

	<u>2004-05</u>	<u>2005-06</u>	<u>2006-07</u>
Opening Balance	\$242,700	\$610,200	\$0
Revenue			
Crime Laboratory Surcharge	\$6,339,500	\$6,504,000	\$6,672,800
\$250 DNA Surcharge	<u>1,866,000</u>	<u>1,914,400</u>	<u>1,964,100</u>
Total Revenue	\$8,205,500	\$8,418,400	\$8,636,900
Expenditures			
Drug Law Enforcement, Crime Laboratories, and Genetic Evidence Activities	\$6,766,600	\$7,167,300	\$7,167,300
DNA Analyst Initiative		188,100	205,500
Methamphetamine Initiative		196,300	20,600
Crime Laboratories and DNA analysis	648,900	674,400	674,400
DNA Evidence Activities	136,400	144,700	144,700
Compensation and Other Reserves	<u>286,100</u>	<u>286,100</u>	<u>286,100</u>
Total Expenditures	\$7,838,000	\$8,656,900	\$8,498,600
Closing Balance	\$610,200	\$371,700	\$138,300
Required Lapse	\$0	\$371,700	\$138,300

7. Table 2 shows that the Governor's initiatives could be funded from projected revenues under a current law \$7 crime laboratories surcharge. However, the lapse estimates under the bill from the DOJ appropriations funded from the crime laboratories and drug law enforcement surcharge and the DNA surcharge would be significantly affected. As shown in the table, the lapse to the general fund would be \$371,700 in 2005-06 and \$138,300 in 2006-07. These amounts represent a decrease in revenues lapsed to the general fund of \$1,190,000 [-\$28,300 in 2005-06 and -\$1,161,700 in 2006-07], compared to the bill.

8. Finally, Table 3 restates the data in Table 2, but with the \$1 crime laboratories surcharge increase included. This projection assumes a three-month delay in the implementation of the surcharge in 2005-06, but assumes that the revenue from the surcharge increase would be fully realized in 2006-07.

TABLE 3

**Crime Laboratories and Drug Law Enforcement Surcharge Balances
(Revised Revenues, \$1 Surcharge Increase and New Funding Initiatives)**

	<u>2004-05</u>	<u>2005-06</u>	<u>2006-07</u>
Opening Balance	\$242,700	\$610,200	\$0
Revenue			
Crime Laboratory Surcharge	\$6,339,500	\$7,200,900	\$7,626,000
\$250 DNA Surcharge	<u>1,866,000</u>	<u>1,914,400</u>	<u>1,964,100</u>
Total Revenue	\$8,205,500	\$9,115,300	\$9,590,100
Expenditures			
Drug Law Enforcement, Crime Laboratories, and Genetic Evidence Activities	\$6,766,600	\$7,167,300	\$7,167,300
DNA Analyst Initiative		188,100	205,500
Methamphetamine Initiative		196,300	20,600
Crime Laboratories and DNA analysis	648,900	674,400	674,400
DNA Evidence Activities	136,400	144,700	144,700
Compensation and Other Reserves	<u>286,100</u>	<u>286,100</u>	<u>286,100</u>
Total Expenditures	\$7,838,000	\$8,656,900	\$8,498,600
Closing Balance	\$610,200	\$1,068,600	\$1,091,500
Required Lapse	\$0	\$1,068,600	\$1,091,500

9. Table 3 shows that the Governor's initiatives could be funded from projected revenues under a crime laboratories surcharge increase to \$8 and that additional unobligated balances would be generated which would lapse to the general fund under the bill. As shown in the table, GPR-Earned receipts would be \$1,068,600 in 2005-06 and \$1,091,500 in 2006-07. These amounts represent an increase in revenues lapsed to the general fund of \$460,100 [\$668,600 in

2005-06 and -\$208,500 in 2006-07], compared to the bill.

10. DOJ staff have expressed the concern, however, that lapsing all unobligated year-end surcharge balances to the general fund could present a problem for the agency in those years where surcharge receipts might unexpectedly decline and there would be no available revenue balances to support the Department's ongoing expenditures. Such a situation could adversely affect the operations of the DNA databank, DNA evidence prosecution efforts, the crime laboratories, and drug law enforcement efforts.

11. The preceding analysis has shown that a crime laboratories surcharge increase above the current law \$7 level would not be required in order to fund ongoing expenditures supported by the surcharge, or to fund the Governor's new surcharge-supported initiatives. Effectively, increasing the surcharge and lapsing all unencumbered annual surcharge balances to the general fund constitutes an assessment imposed on individuals paying the surcharge for the benefit of the general fund. Consequently, some could question the appropriateness of increasing the surcharge for this purpose.

12. In addressing these issues, the Committee has several options relating to the amount of the crime laboratories surcharge and the resulting lapses to the general fund. First, the Committee could adopt the Governor's recommendation to increase the crime laboratories surcharge to \$8 and then lapse all unencumbered year-end balances. The lapse amounts would be reestimated at \$1,068,600 in 2005-06 and \$1,091,500 in 2006-07, and the estimates under the bill would be adjusted by \$668,600 in 2005-06 and -\$208,500 in 2006-07. The Committee could also choose to retain the crime laboratories surcharge at \$7 and then lapse all unencumbered year-end balances. This alternative would result in the lapse of \$371,700 in 2005-06 and \$138,300 in 2006-07, and the estimates under the bill would be adjusted by -\$28,300 in 2005-06 and -\$1,161,700 in 2006-07.

13. Second, the Committee could direct the lapse of all year-end unencumbered balances in excess of \$250,000 in the DOJ appropriation accounts supported by the crime laboratories and DNA surcharges. This would provide DOJ with some additional unreserved revenues in case of an unexpected decline in surcharge collections. Under an \$8 crime laboratories surcharge, the lapse amounts would be estimated at \$818,600 in 2005-06 and \$1,091,500 in 2006-07, and the estimates under the bill would be adjusted by \$418,600 in 2005-06 and -\$208,500 in 2006-07. Under the current law \$7 crime laboratories surcharge, the lapse amounts would be estimated at \$121,700 in 2005-06 and \$138,300 in 2006-07, and the estimates under the bill would be adjusted by -\$278,300 in 2005-06 and -\$1,161,700 in 2006-07.

14. Finally, if the Committee adopts the \$8 crime laboratories surcharge, as recommended by the Governor, but only wishes to lapse the \$400,000 in 2005-06 and \$1,300,000 in 2006-07 as recommended under the bill, it could adopt a nonstatutory provision establishing those lapse amounts during the 2005-07 biennium. This action would be revenue neutral with respect to the estimates under the bill but would have the effect of providing DOJ with an unreserved balance in the crime laboratories and DNA surcharge appropriation account of \$460,100 at the end of the fiscal biennium. All of the above alternative scenarios assume the Committee's approval of the Governor's DNA analyst and methamphetamine initiatives.

15. As a last series of policy decisions, if the Committee chooses to adopt the \$8 surcharge increase, it could make the increase temporary for the 2005-07 biennium only by repealing the increase effective July 1, 2007. The Committee would also have the option of making any of the lapses described in the above alternatives applicable to the 2005-07 biennium only. Thereafter, there would be no ongoing lapse from the appropriation accounts supported by the crime laboratories and DNA surcharges.

DNA Analysts Initiative

16. The bill would provide two additional DNA analysts each and associated funding to the Madison and the Milwaukee Crime Laboratories. The Department currently employs 25.0 DNA analysts. The new positions would be used to address existing DNA sample testing backlogs and to process additional DNA samples from criminal investigations to determine any matches to DNA profiles developed in the investigation or previously included in the state's DNA database. The bill would provide \$188,100 PR in 2005-06 and \$205,500 PR in 2006-07 to support the positions.

17. As of April 30, 2005, the Department had a backlog of 760 DNA cases. DOJ staff indicates that the current backlog typically results in an average seven-month turnaround time in processing a DNA case. In order to manage the backlog, the Department prioritizes cases that must be worked immediately, either due to court prosecution dates or due to the seriousness of the case. (Homicide and sexual assault cases are typically given priority.)

18. The use of DNA analysis has become an increasingly important forensic tool in criminal prosecutions, and the Department anticipates a growing number of DNA sample testing requests. The Department indicates that if these positions are not approved, the backlog of DNA cases will continue, and the Department will be unable to reduce the average processing time for its DNA caseload. The Committee could consider approving this initiative.

Methamphetamine Drug Initiatives

19. The bill would also provide funding to support two methamphetamine drug enforcement efforts: (a) \$97,300 PR in 2005-06 and \$20,600 PR in 2006-07 for the Department's Clandestine Laboratory Enforcement and Response (CLEAR) team; and (b) \$99,000 PR in 2005-06 to establish a Drug Endangered Children training program.

20. Currently, the Department's Narcotics Bureau coordinates CLEAR team activities. Approximately 100 state and local officers are currently members of CLEAR and are trained to dismantle methamphetamine laboratories, collect evidence, and prepare these laboratory sites for outside contractors to dispose of hazardous chemicals. The CLEAR team is also involved in community education and prevention efforts.

21. Under the Governor's CLEAR team recommendation, the team would be provided the following funding: (a) \$10,300 PR in 2005-06 and \$20,600 PR in 2006-07 to support master lease payments to purchase six sets of updated air monitoring equipment estimated to cost \$90,000; (b) \$62,000 PR in 2005-06 to train and equip five Milwaukee police officers to be members of CLEAR; and (c) \$25,000 PR in 2005-06 to train and equip five Narcotics Bureau agents to process

methamphetamine laboratories in unventilated or confined spaces. The Department indicates that the new air monitoring equipment will put the Department in compliance with federal OSHA standards when processing methamphetamine laboratories in the field.

22. Under the Drug Endangered Children recommendation, funding would be provided for the following purposes: (a) \$35,000 PR for two, two-day training sessions for countywide or regional Drug Endangered Children teams; (b) \$20,000 PR for an advertising campaign for the program; (c) \$20,000 PR for urinalyses and physical examinations for 100 children removed from methamphetamine contaminated homes; (d) \$18,000 PR for two, one-day basic awareness training conferences for medical, law enforcement, child protection and other social service providers who work with children on a regular basis; and (e) \$6,000 PR to provide clothing and supplies to children removed from methamphetamine contaminated homes.

23. According to DOJ, the advertising campaign will target two groups. First, the campaign will target professionals who work with children, such as law enforcement, teachers, social workers and health care providers. The purpose of these efforts will be to train these professionals in the recognition of drug-endangered children. Second, the advertising campaign will target the general public to inform them of this new DOJ program and to encourage the reporting of cases of drug-endangered children to local authorities.

24. DOJ indicates that the number of methamphetamine laboratories identified and decommissioned by the Department's Narcotics Bureau has increased from eight in 1999, to 111 in 2003. The number of criminal cases related to methamphetamine in Wisconsin has increased from 16 in 1991 to a projected 584 in 2004. Given the growing significance of clandestine methamphetamine laboratories in certain parts of the state, the additional intervention and training would appear warranted. The Committee could consider approving the methamphetamine initiatives.

Separate Budgetary Tracking of the Narcotics Bureau

25. Under 2003 Wisconsin Act 33 (the 2003-05 biennial budget act), the Division of Narcotics and Dangerous Drugs under DOJ was eliminated as a cost-saving measure and re-created as the Narcotics Bureau under the Department's Division of Criminal Investigation. Under Act 33, however, the funding and position authority provided by the Legislature to the Narcotics Bureau continued to be separately tracked for budgetary purposes.

26. Under the provisions of AB 100, the Governor has approved a series of offsetting transfers within the same appropriation, which collectively would implement a budgetary restructuring of the agency. An aspect of this restructuring is that the funding and position authority provided by the Legislature to the Narcotics Bureau would no longer be separately identifiable for budgetary purposes.

27. In the past the Legislature has separately budgeted resources to the narcotics and drug-related function of DOJ. If the Committee believes it important that the Legislature continue to be assured that resources provided to the Narcotics Bureau to fight substance abuse, such as the

current methamphetamine initiatives, remain dedicated to this purpose, the Committee could direct that the funding and position authority budgeted to the Narcotics Bureau continue to be separately tracked for budgetary purposes.

ALTERNATIVES

A. Revenue Changes

1. Approve the Governor's recommendation to increase the crime laboratories and drug law enforcement surcharge from the current \$7 to \$8 and provide that all unencumbered balances in the DOJ appropriation accounts funded by the surcharge on June 30 of each fiscal year would lapse to the general fund. Reestimate these lapse amounts at \$1,068,600 in 2005-06 and \$1,091,500 in 2006-07 and adjust the lapse estimates under the bill by \$668,600 in 2005-06 and -\$208,500 in 2006-07.

<u>Alternative A1</u>	<u>GPR-REV</u>
2005-07 REVENUE (Change to Bill)	\$460,100

2. Modify the Governor's recommendation by retaining the crime laboratories and drug law enforcement surcharge at \$7 and provide that all unencumbered balances in the DOJ appropriation accounts funded by the surcharge on June 30 of each fiscal year would lapse to the general fund. Estimate these lapse amounts at \$371,700 in 2005-06 and \$138,300 in 2006-07, and adjust the lapse estimates under the bill by -\$28,300 in 2005-06 and -\$1,161,700 in 2006-07.

<u>Alternative A2</u>	<u>GPR-REV</u>
2005-07 REVENUE (Change to Bill)	- \$1,190,000

3. Modify the Governor's recommendation by increasing the crime laboratories and drug law enforcement surcharge from the current \$7 to \$8 and provide that all unencumbered balances in excess of \$250,000 in the DOJ appropriation accounts funded by the surcharge on June 30 of each fiscal year would lapse to the general fund. Estimate these lapse amounts at \$818,600 in 2005-06 and \$1,091,500 in 2006-07, and adjust the lapse estimates under the bill by \$418,600 in 2005-06 and -\$208,500 in 2006-07.

<u>Alternative A3</u>	<u>GPR-REV</u>
2005-07 REVENUE (Change to Bill)	\$210,100

4. Modify the Governor's recommendation by retaining the crime laboratories and drug law enforcement surcharge at \$7 and provide that all unencumbered balances in excess of \$250,000 in the DOJ appropriation accounts funded by the surcharge on June 30 of each fiscal year would lapse to the general fund. Estimate these lapse amounts at \$121,700 in 2005-06 and \$138,300 in

2006-07, and adjust the lapse estimates under the bill by -\$278,300 in 2005-06 and -\$1,161,700 in 2006-07.

<u>Alternative A4</u>	<u>GPR-REV</u>
2005-07 REVENUE (Change to Bill)	- \$1,440,000

5. Modify the Governor's recommendation by increasing the crime laboratories and drug law enforcement surcharge from the current \$7 to \$8 and include a nonstatutory provision directing that \$400,000 in 2005-06 and \$1,300,000 in 2006-07 in the unencumbered balances in the DOJ appropriation accounts funded by the surcharge on June 30 of each fiscal year would lapse to the general fund.

6. Delete provision.

<u>Alternative A6</u>	<u>GPR-REV</u>
2005-07 REVENUE (Change to Bill)	- \$1,700,000

The Committee may consider the following alternative if it adopts Alternative A1, A3, or A5, which increase the crime laboratories surcharge to \$8.

7. Reduce the crime laboratories and drug law enforcement surcharge from \$8 to \$7, effective July 1, 2007.

The Committee may consider the following alternative if it adopts Alternatives A1 through A5, which direct lapses of the unencumbered balances in the DOJ appropriation accounts funded by the surcharges.

8. Provide that the lapse requirement would apply only to the 2005-07 fiscal biennium.

B. DNA Analysts Initiative

1. Approve the Governor's recommendation to provide \$188,100 PR in 2005-06 and \$205,500 PR in 2006-07 in crime laboratories and drug law enforcement surcharge funding and 4.0 PR positions annually to provide the Madison and Milwaukee Crime Laboratories with two additional DNA analysts each.

2. Delete provision. *[If the Committee deletes this provision after adopting an Alternative A1 through A4, the amounts lapsed to the general fund and the associated GPR-Earned collections would be increased by a corresponding amount.]*

<u>Alternative B2</u>	<u>PR</u>
2005-07 FUNDING (Change to Bill)	- \$393,600

C. Methamphetamine Drug Initiatives

1. Approve the Governor's recommendation to provide \$196,300 PR in 2005-06 and \$20,600 PR in 2006-07 in crime laboratories and drug law enforcement surcharge funding to support two methamphetamine drug enforcement efforts.

2. Delete provision. *[If the Committee deletes this provision after adopting an Alternative A1 through A4, the amounts lapsed to the general fund and the associated GPR-Earned collections would be increased by a corresponding amount.]*

Alternative C2	PR
2005-07 FUNDING (Change to Bill)	- \$216,900

D. Separate Budgetary Tracking of the Narcotics Bureau

1. Approve a series of offsetting transfers within the same appropriation, which collectively would implement a budgetary restructuring of the agency.

2. Modify Alternative D1 by directing that funding and position authority provided to DOJ's Narcotics Bureau continue to be separately tracked for budgetary purposes.

Prepared by: Paul Onsager