



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #238

### **Overpayment Liability (DCF -- Economic Support and Child Care)**

[LFB 2009-11 Budget Summary: Page 168, #23]

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#### **CURRENT LAW**

When the federal temporary assistance for needy families (TANF) program replaced the former aid to families with dependent children (AFDC) program in 1996, there was some confusion as to what states should do with the AFDC overpayment recoveries collected from AFDC recipients who had received more benefits than they were entitled to. The Administration for Children and Families (ACF), in the U.S. Department of Health and Human Services, issued conflicting guidance. One of the instructions from ACF suggested that states could retain the federal share of the AFDC overpayment recoveries and use the funds in their TANF programs. A subsequent program instruction rescinded that prior instruction and clearly indicated that states must pay the federal share of AFDC overpayment recoveries that the state failed to pay during that time period. Although the state appealed this decision, it was determined that the state owed \$10.7 million, plus an additional \$4.0 million in interest that continues to accrue.

#### **GOVERNOR**

Provide \$13,183,900 FED in 2009-10 to repay the federal government for previously failing to pay the federal share of AFDC overpayment recoveries.

In addition, create a sum sufficient GPR appropriation to pay any remaining liability to the federal government for AFDC overpayments liability. Repeal this appropriation on July 1, 2011. No funding has been allocated for this appropriation. At the time AB 75 was introduced, it was expected that the principal amount owed plus interest would be paid with TANF funds. If the amount allocated in the TANF program was insufficient to repay all of the interest accrued, this GPR sum sufficient appropriation would pay the remaining interest amount.

## MODIFICATION

Reduce funding in the TANF maintenance of effort appropriation by \$13,183,900 GPR on a one-time basis in 2010-11 and increase funding in the new sum sufficient GPR appropriation created to pay the AFDC overpayment liability by \$13,183,900 GPR in 2009-10.

**Explanation:** The Department of Children and Families has indicated that staff from ACF stated that the AFDC overpayment liability should be paid with state funds. To ensure that state funds are used to pay this liability, GPR should be reduced from the TANF maintenance of effort appropriation and placed in the sum sufficient appropriation created to pay the AFDC overpayment liability. However, due to receipt of TANF contingency funds in federal fiscal year (FFY) 2009, which requires that the state pay a 100% maintenance of effort level plus matching funds in FFY 2009 (October 1, 2008, through September 30, 2009), there will be some difficulty in meeting maintenance of effort requirements in 2009-10. That issue would not apply to 2010-11. Therefore, GPR funding could be reduced from the TANF maintenance of effort appropriation on a one-time basis in 2010-11 without jeopardizing maintenance of effort requirements, rather than reducing GPR in 2009-10. These GPR funds should be provided in the AFDC overpayment liability sum sufficient appropriation in 2009-10 to pay off the liability in the first year of the biennium.

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