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Authority to Lapse or Transfer Moneys to the General Fund (Budget Management and Compensation Reserves)

[LFB 2011-13 Budget Summary: Page 74, #2, Page 75, #3, and Page 76, #4]

CURRENT LAW

Under current law, moneys that remain unused at the end of the fiscal year or biennium lapse, or revert, back to the balance of the underlying fund or account for annual or biennial appropriations. In the case of continuing appropriations, moneys remain expendable until fully utilized, or repealed by subsequent action of the Legislature. Available balances of segregated (SEG) funds or program revenue (PR) accounts may be transferred to the general fund only by law.

One approach to using a portion of PR moneys to benefit the general fund, which has been used for many years for certain PR accounts, is to provide that 10% of the revenues that otherwise would be deposited in that account would, instead, be deposited into the general fund. Another approach that is used for selected PR appropriations is to specify that any balance in the PR appropriation at the end of a fiscal year is deposited into the general fund. These transfers are made each year and are an ongoing feature of the law governing those appropriations.

In recent years, two additional methods have been used to make one-time transfers of moneys to the general fund from SEG funds and PR accounts. First, budget legislation has directly transferred moneys from a SEG fund to the general fund. As an example, the provisions of 2005 Act 25, as vetoed, required that the transportation fund transfer $427 million to the general fund.

Second, budget legislation has authorized the Secretary of the Department of Administration (DOA) to lapse or transfer moneys from appropriations to executive branch state agencies to the general fund, other than sum sufficient appropriations and federal appropriations. These provisions generally specify that in no case could a lapse or transfer be made if it would violate a condition imposed by the federal government on the expenditure of moneys or if it would violate the federal or state constitution.

GOVERNOR

Require the Secretary of DOA to lapse $145 million during each of the 2011-13 and 2013-15 biennia from the unencumbered balances of GPR and PR appropriations to executive branch agencies, other than sum sufficient and federal appropriations. Before lapsing any moneys under this provision, the Secretary would have to develop a plan for lapsing moneys and submit this plan to the Joint Committee on Finance for approval under a 14-day passive review process.

In addition, require the Secretary of DOA to lapse to the general fund the amounts shown in Attachment 1 in each fiscal year of each of the 2011-13 and 2013-15 biennia ($45,334,230 annually) from the unencumbered balances of PR appropriations of the listed executive branch agencies and the courts.

Further, require the Secretary of DOA to lapse to the general fund the amounts shown in Attachment 2 in each fiscal year of each of the 2011-13 ($15,564,600 annually) and 2013-15 biennia ($1,645,000 annually) from the unencumbered balances of GPR and PR appropriations of the listed executive branch agencies and the courts. Specify that in submitting their agency budget requests for the 2013-15 biennial budget, each agency subject to this lapse provision would be required to adjust its base GPR appropriations to reflect any GPR lapses.

For all three of these lapse provisions, these lapses could not occur if the lapse would violate: (a) a condition imposed by the federal government; or (b) the federal or state constitution. In addition, specify that no lapse could be made from PR appropriations of the UW System.

DOA budget documents indicate that the PR lapses under the second and third lapse provisions are associated with: (a) employee compensation reductions; (b) eliminating long-term vacancies; (c) across-the-board reductions to non-salary and fringe benefits funding for most agencies; and (d) funding eliminated for the two percent wage increase for represented staff that was approved in June, 2009.

DISCUSSION POINTS

1. The state has made extensive use of lapse and transfer provisions to benefit the general fund in recent budgets. In the 2007-09 biennium, there were required lapses totaling $533.5 million, while in the 2009-11 biennium, the lapse and transfer requirements currently total $562.8 million. The following table shows the recent lapse and transfer enactments as well as the proposed lapse provisions under the Governor's budget recommendations.

Recent Lapse and Transfer Provisions and Proposed Lapses Under Budget Bill (in Millions)

	2007-09	2009-11	2011-13	2013-15
2007 Act 20				
Agencies other than UW/WTCS	$200.0	$200.0	$0.0	$0.0
UW	25.0	0.0	0.0	0.0
WTCS	1.0	0.0	0.0	0.0
2007 Act 226	270.0	0.0	0.0	0.0
2009 Act 2	37.5	87.0	0.0	0.0
2009 Act 28	0.0	354.8	0.0	0.0
2011 Act 13	0.0	-79.0	0.0	0.0
2011 Senate Bill 27/ Assembly Bill 40				
Unspecified GPR and PR, excludes UW System PR	0.0	0.0	145.0	145.0
Specified Agencies' PR	0.0	0.0	90.7	90.7
Specified Agencies' GPR and PR	0.0	0.0	31.1	3.3
Totals	$533.5	$562.8	$266.8	$239.0

2. The lapse provisions proposed in the bill would represent a significant reduction in the use of this type of unspecified reduction compared to past budget acts. The unspecified reduction of $145 million would be approximately 25% of the amount of lapse and transfers required in the last two biennia.

3. The use of an unspecified lapse and transfer provision improves the balance in the general fund. One advantage to this approach is that the Governor and Legislature do not have to identify the specific programs that will lose funding. An argument in favor of this type of non-specific lapse provision is that the administration has a two-year period in which to work with executive branch state agencies to identify potential sources for these spending reductions.

4. One disadvantage to the use of an unspecified lapse and transfer provision is that the Legislature delegates authority over state spending to the Governor. Under past unspecified lapse and transfer provisions, executive branch agencies worked with the DOA to identify the source of the required lapse and transfer amounts without legislative oversight. Under those provisions, the Legislature delegated its oversight authority over appropriations to the Secretary of Administration. However, under the current budget proposal, the Secretary of Administration's plan for $145 million in required lapses would be subject to a 14-day passive review process by the Joint Finance Committee (JFC), so the budget proposal would retain oversight by JFC.

5. The use of unspecified reductions or lapse and transfer provisions that affect two

biennia into the future can reduce the amount of the out-year commitment (structural deficit) without having to make specific funding reductions. Under the Governor's budget proposal, the unspecified $145 million lapse provision would apply to both the 2011-13 and 2013-15 biennia. This approach can mask the magnitude of potential budget difficulties. The structural deficit for the 2013-15 would be reduced by $145 million under this proposal, but in practice, the starting point for the 2013-15 budget would include this reduction.

6. There have been several examples of this approach in recent years. In the 2003-05 budget (2003 Act 33), the Legislature specified that GPR state operations appropriations in the 2005-07 biennium could not exceed the level in the 2004-05 base year, less $100 million. This unspecified $100 million annual reduction reduced the reported out-year commitment for the 2005-07 biennium by $200 million. In the 2007-09 budget (2007 Act 20), a $200 million biennial lapse and transfer requirement applied to the 2007-09 and 2009-11 biennia, which had the effect of reducing the reported out-year commitment for the 2009-11 biennium by $200 million. In its agency budget request for the 2011-13 biennium, the Department of Administration included a provision requesting a $400 million annual lapse and transfer requirement, which had the effect of reducing the reported deficit in the November 19, 2010, agency request document by $800 million.

7. The Governor's budget recommendations would require lapses both in the 2011-13 and 2013-15 biennia for the specific GPR and PR lapses as well. For these specific PR lapses, one can argue that the underlying expenditure reductions would allow for the lapses imposed in the 2011-13 budget to continue. As a result, continuing the lapse provision into the 2013-15 biennium would allow the general fund to benefit from four years of these savings, rather than only two. However, as a matter of policy, it may be desirable to allow the PR accounts from which these moneys would be drawn to retain this cash in the 2013-15 biennium, so that it would be available to support the program purposes for which it was collected. Under this approach, the bill could be modified to eliminate the requirement for lapses from the specific program revenue appropriations in the 2013-15 biennium.

8. The Department of Administration has identified several corrective modifications that could be made to the specific PR lapse provision to better align the amount shown in the schedule to the funding reductions in the bill. Based on information from the agencies involved, this office has included three further adjustments to the DOA modifications. The net effect of these corrective DOA modifications would be to increase the amount of revenue (GPR-Earned) to the general fund by $840,600 annually, which is shown in Attachment 3. In order to address the possibility that some of these appropriations may not have sufficient revenues to support the required transfer amounts, the Committee could authorize the Secretary of Administration to adjust the lapse amounts between the agencies shown in Attachment 3, subject to approval under a 14-day passive review by the Committee.

9. If the Committee wishes to directly reduce GPR and PR appropriations, it could impose an annual approximate 3% across-the-board reduction on most GPR and PR state operations appropriations. Under this option, debt service, gift, and UW System and UW-Madison authority appropriations would be excluded from the reduction. For GPR appropriations, the general fund would benefit automatically from the reduction. However, for the general fund to benefit from any reductions to PR appropriations, a specific lapse provision would be needed showing the annual PR

lapse amount would be needed, similar to the specific PR lapse provisions under the bill. Under this approach, agency state operations appropriations would be reduced by $54 million GPR and $18.5 million PR annually.

10. A disadvantage to directly reducing appropriations is that there are a number of funding reductions already included in the bill. An additional 3% reduction could be difficult for state agencies to accommodate, as it would apply to agencies such as the Department of Corrections and the residential institutions at the Department of Health Services and the Department of Public Instruction. While it is possible to exclude activities such as these from the across-the-board reduction, it narrows the base subject to the reduction and results in a higher percentage being applied to the remaining agencies.

ALTERNATIVES

A. $145 Million GPR and PR Lapse Provision

1. Approve the Governor's recommendation.

2. Modify the Governor's recommendation to delete references to the $145 million lapse amount relating to the 2013-15 biennium. This would have the effect of increasing the out-year commitment (structural deficit) for the 2013-15 biennium by $145 million, but would avoid continued use of unspecified lapses in the future.

3. Delete the Governor's recommendation and, instead, reduce state agency GPR and PR state operations appropriations, excluding debt service, gifts, the UW System, and the UW-Madison authority, by approximately 3%. Reduce funding by $54,000,000 GPR and $18,500,000 PR annually and reduce GPR-Earned by $52,001,000 in 2011-12 and $55,999,000 in 2012-13.

ALT A3	**Change to Bill**	
	Revenue	Funding
GPR	- $108,000,000	- $108,000,000
PR		- 37,000,000
Total		- $145,000,000

4. Delete provision.

ALT A4	**Change to Bill**
	Revenue
GPR	- $145,000,000

B. Other Specific Lapse Provisions

1. Approve the Governor's recommendation.

2. Modify the Governor's recommendation by either a. or b., or both a. and b.

a. include the corrective modifications identified by DOA as shown in Attachment 3, which would increase revenue to the general fund by $840,600 GPR-Earned annually; and

ALT B2a	Change to Bill Revenue
GPR	$1,681,200

b. authorize the Secretary of Administration to adjust the lapse amounts between the agencies shown in Attachment 3, subject to approval of any adjustment under a 14-day passive review by the Committee.

3. Modify the Governor's recommendation to eliminate the PR lapses for the 2013-15 biennium. This alternative would allow the agency PR appropriations to retain these PR moneys so they would be available to support the program purposes for which they were collected in the 2013-15 biennium. This would have the effect of increasing the out-year commitment (structural deficit) for the 2013-15 biennium by $94 million, but would avoid continued use of PR moneys to support GPR spending in the future.

4. Delete provision.

ALT B4	Change to Bill Revenue
GPR	- $121,797,600

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Attachment

ATTACHMENT 1

Specific Annual PR Lapse Amounts in Bill

Agency	2011-13 Biennium	2013-15 Biennium
Administration	$7,461,200	$7,461,200
Aging and Long-Term Care	103,700	103,700
Agriculture, Trade and Consumer Protection	1,566,600	1,566,600
Child Abuse and Neglect Prevention	369,600	369,600
Children and Families	578,000	578,000
Corrections	765,800	765,800
Courts	638,200	638,200
District Attorneys	40,800	40,800
Educational Communications Board	281,300	281,300
Employment Relations Commission	41,000	41,000
Financial Institutions	1,417,500	1,417,500
Government Accountability Board	38,600	38,600
Health Services	13,510,200	13,510,200
Insurance	1,337,700	1,337,700
Justice	1,990,000	1,990,000
Military Affairs	569,800	569,800
Natural Resources	2,800,500	2,800,500
Office of State Employment Relations	692,600	692,600
Public Defender Board	117,800	117,800
Public Instruction	2,366,120	2,366,120
Public Service Commission	91,200	91,200
Regulation and Licensing (Safety and Professional Services)	3,252,300	3,252,300
Revenue	1,107,800	1,107,800
Secretary of State	50,600	50,600
State Fair Park	20,000	20,000
Tourism	3,600	3,600
Wisconsin Technical College System	1,142,910	1,142,910
Workforce Development	2,978,800	2,978,800
Total	$45,334,230	$45,334,230

ATTACHMENT 2

Specified Annual GPR and PR Lapse Amounts in Bill

Agency	2011-13 Biennium	2013-15 Biennium
Administration	$291,600	$236,800
Aging and Long-Term Care	26,300	15,000
Agriculture, Trade and Consumer Protection	273,800	130,300
Children and Families	178,200	14,200
Corrections	8,701,100	133,400
District Attorneys	513,900	2,500
Educational Communications Board	20,400	0
Financial Institutions	120,000	120,000
Government Accountability Board	11,600	1,600
Health Services	1,937,000	99,300
Higher Educational Aids Board	6,700	0
Historical Society	89,500	11,900
Insurance	129,200	129,200
Justice	454,600	55,400
Military Affairs	84,500	31,700
Natural Resources	427,900	207,500
Office of State Employment Relations	1,100	1,100
Public Defender Board	632,600	900
Public Instruction	291,700	74,000
Regulation and Licensing (Safety and Professional Services)	268,500	268,500
Revenue	928,800	80,500
Secretary of State	600	600
Tourism	12,600	0
Transportation	14,400	14,400
Wisconsin Technical College System	23,200	8,000
Workforce Development	124,800	8,200
Total	$15,564,600	$1,645,000

ATTACHMENT 3

Adjusted Specific PR Lapse Amounts
(Revisions to Amounts Shown in Attachment 1)

Agencies	Budget Bill Annual Amount	Revised Annual Amount	Difference
Administration	$7,461,200	$7,461,200	$0
Aging and Long-Term Care	103,700	103,700	0
Agriculture, Trade and Consumer Protection	1,566,600	1,461,100	-105,500
Child Abuse and Neglect Prevention	369,600	228,400	-141,200
Children and Families	578,000	578,000	0
Corrections	765,800	765,800	0
Courts	638,200	638,200	0
District Attorneys	40,800	40,800	0
Educational Communications Board	281,300	13,700	-267,600
Employment Relations Commission	41,000	41,000	0
Financial Institutions	1,417,500	1,417,500	0
Government Accountability Board	38,600	38,600	0
Health Services	13,510,200	13,510,200	0
Historical Society	0	272,700	272,700
Insurance	1,337,700	1,337,700	0
Justice	1,990,000	1,984,900	-5,100
Military Affairs	569,800	569,800	0
Natural Resources	2,800,500	2,800,500	0
Office of State Employment Relations	692,600	692,600	0
Public Defender	117,800	117,800	0
Public Instruction	2,366,120	2,359,200	-6,920
Public Service Commission	91,200	91,200	0
Regulation and Licensing (Safety and Professional Services)	3,252,300	5,290,700	2,038,400
Revenue	1,107,800	1,107,800	0
Secretary of State	50,600	50,600	0
State Fair Park	20,000	0	-20,000
Tourism	3,600	3,600	0
Transportation	0	160,900	160,900
Wisconsin Technical College System	1,142,910	57,100	-1,085,810
Workforce Development	2,978,800	2,979,500	700
Totals	$45,334,230	$46,174,800	$840,570