

To: Joint Committee on Finance
From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE**Weights and Measures Inspection Program -- Liquid Petroleum Gas (DATCP)**

[LFB Summary: Page 82, #11 as it relates to LPG]

CURRENT LAW

DATCP administers a weights and measures program that enforces state laws designed to ensure the accuracy of measuring devices and quantity declarations used in commercial transactions. The program protects consumers and businesses from misrepresentations and fraudulent practices through regular inspections of devices and commodities. As part of this general authority, the Department periodically inspects the accuracy of liquid petroleum gas (LPG) meters.

GOVERNOR

Annually, require that all sellers of liquified petroleum gas (LPG) (those who sell liquid petroleum gas or operate a meter that measures the amount of liquified petroleum gas that person delivers) have their meters tested for accuracy according to Department standards. Testing or service companies would be required to promptly provide a meter inspection report to the seller and file a copy of the inspection report with the Department within 30 days of the inspection. Both the meter testing and service companies and the person whose meters are inspected would be required to have on file at least three years of meter inspection reports and make them available to DATCP upon request. The Department would bill each meter testing and service company \$20, payable by April 1, for each meter that the company has filed an inspection report for during the preceding year.

The Department could promulgate rules on standards for the construction, installation, maintenance, inspection and testing of liquified petroleum gas meters. The Department would also have the specific authority to inspect or test any meter. The bill would also create the following fees associated with DATCP inspections:

- a. A seller would pay a \$150 fee if the seller's meter fails a Department inspection or test because the amount of gas delivered is less than the meter indicates;
- b. A seller would pay a \$150 fee if the seller's meter has not been inspected within 365 days of the Department's inspection (first applies to inspections or testing conducted one year after the effective date of the bill); and
- c. A seller would pay a \$250 reinspection fee if the Department reinspects a meter that has previously failed a Department inspection and the meter fails a reinspection because the amount of gas delivered is less than the meter indicates. However, if the reinspection is more than 180 days after the Department's initial inspection, the seller would be required to pay a \$150 fee.

It is estimated that the fees would produce \$30,200 in program revenue in 1997-99.

DISCUSSION POINTS

1. DATCP estimates that there are approximately 500 truck mounted LPG meters and 400 other LPG meters used in the state each year to measure the amount of LPG dispensed to consumers. Truck mounted meters are responsible for dispensing most of the LPG in the state. These meters are generally used to sell LPG to businesses, homes and mobile homes. Stationary meters are used to fill smaller tanks, such as those on motor homes and those used at campgrounds.

2. Chapter 98 of the statutes authorizes DATCP to license service companies that install, inspect, test and calibrate LPG meters and most measuring devices (such as fuel pumps and vehicle and other scales). LPG meters are not currently required to be tested annually. Service companies typically charge between \$75 and \$100 per inspection. In addition, DATCP randomly tests the measuring devices, including LPG meters, to ensure that the service companies are accurately calibrating and testing the devices.

3. DATCP has found that LPG meters are the least accurate devices that the Department tests. Over the last five years, DATCP has conducted approximately 300 tests annually on primarily truck mounted LPG meters and found that 61% have been in compliance (39% fail). Those meters found in noncompliance are evenly split in that one-half err in favor of, and one-half err against, the consumer.

4. Due to its volatile physical properties, LPG reacts differently depending on the air temperature which may account for some of the noncompliance among LPG meters. Therefore, even if LPG meters are tested annually, many of the meters could continue to misread the amount of gas delivered due to environmental factors largely beyond the control of the meter owner or a service company. However, while DATCP agrees that a 100% compliance rate will not be achieved, the Department indicates that increased testing and improved LPG meter servicing should improve the current compliance rate.

5. It is estimated that DATCP is currently dedicating .33 FTE and approximately \$26,400 to perform LPG inspections. The LPG program currently generates no revenue for the weights and measures program. The Governor's recommendation would generate approximately \$24,200 annually (approximately \$6,000 in 1997-98) to defray the costs of inspecting LPG meters. Revenues would be generated as follows: \$18,000 (\$4,500 in 1997-98) associated with approximately 900 annual service company inspections; \$5,000 (\$1,200 in 1997-98) associated with DATCP's initial inspections; and \$1,200 (\$300 in 1997-98) associated with DATCP reinspections.

6. The bill would require that LPG meters be tested annually by a service company, which could likely increase the compliance rate. Further, DATCP will continue to randomly inspect these devices to ensure that the service companies are properly certifying the meters. DATCP has indicated that as the compliance rate of LPG meters increases the level of inspections done by the Department will likely decrease.

7. Under the bill, if a seller's meter fails a Department inspection or test because the amount of gas delivered is less than the meter indicates, the seller is charged a \$150 inspection fee. The arguments for charging this fee are: (a) the \$150 fee would provide sellers of LPG with an incentive to contract with a reputable service company and would provide service companies with an incentive to provide quality work if they want to retain their customers; and (b) the seller has benefitted from delivering less LPG than the consumer paid for.

8. Some concerns have been raised about the fairness of providing DATCP with authority to potentially charge LPG sellers for inspections shortly after being inspected by the service company. If DATCP finds their LPG meter is dispensing less LPG than is being charged for, an LPG seller would likely face \$300 to \$350 in inspection costs within a one-year period associated with that meter, as follows: \$75 to \$100 (perhaps \$95 to \$120 under the bill) for an initial service company inspection; \$150 for the DATCP inspection; and \$75 to \$100 for a subsequent service company visit to re-calibrate the meter so that it is in compliance. DATCP contends these potential costs provide incentive for sellers to obtain accurate testing or seek a guarantee from a service company, which could, in turn, increase the quality of the service companies work and increase overall compliance. However, it could be argued that the proposed \$250 fee for a DATCP reinspection of a LPG meter found in noncompliance would also provide such incentives.

9. Further, the bill would allow DATCP the authority to assess the same fee to a seller whether the seller was inspected by DATCP two weeks or ten months after being inspected by a service company. This could occur despite the fact that a seller inspected by DATCP ten months after being inspected by the service company likely benefitted from a greater amount of sales revenues associated with overcharging for the amount of LPG delivered.

10. While assessing a \$150 fee for DATCP initial inspections where a meter errs in the favor of the seller may increase compliance more quickly, eliminating the initial DATCP inspection fee, while retaining the proposed \$250 reinspection fee, could alleviate the concerns surrounding the fee. This alternative would reduce estimated revenues by \$1,200 in 1997-98 and \$5,000 annually thereafter, and provide LPG sellers with an opportunity to comply with the Department's inspection before being assessed a fee by the Department for noncompliance. Revenues would be \$24,100 in 1997-99, rather than \$30,300 under the bill.

11. If no fees are charged for service company inspections or DATCP inspections, other fee payers would continue to subsidize the DATCP LPG inspections.

ALTERNATIVES TO BASE

1. Approve the Governor's recommendation, as reestimated, to require that LPG meters be tested annually and provide DATCP with the authority to assess the following fees: (a) \$20 per LPG meter inspected by weights and measures service companies; (b) \$150 for a DATCP inspection if the meter errs in favor of the seller or if the seller is operating a meter that has not been inspected within 365 days of the DATCP inspection; and (c) \$250 if a meter errs in favor of the seller during reinspection by DATCP.

Alternative 1	PR
1997-99 REVENUE (Change to Base)	\$30,200
[Change to Bill]	- \$18,200]

2. Approve the Governor's recommendation, except the provision that would allow DATCP the authority to assess a \$150 initial inspection fee for sellers to LPG whose meters deliver less gas than indicated (reduces Governor's recommendation as reestimated by \$1,200 in 1997-98 and \$5,000 in 1998-99).

Alternative 2	PR
1997-99 REVENUE (Change to Base)	\$24,100
[Change to Bill]	- \$24,300]

AGRICULTURE, TRADE AND CONSUMER PROTECTION

Liquid Petroleum Gas [Paper #172]

Motion:

Move the following:

1. Require DATCP to promulgate rules requiring that all owners of liquified petroleum gas (LPG) meters register their LPG meters. LPG meter owners would be required to submit a \$25 one-time registration fee. The registration fee would apply to each meter in operation to be paid within 60 days of the effective date of the rule and to each new meter within 60 days of being installed.
2. Annually (each calendar year) require each LPG meter to be tested by a licensed meter servicing company.
3. Within 30 days after testing the LPG meter, the testing company would be required to send the results to DATCP.
4. DATCP would be required to notify the owner if the meter has not been tested, at which time the meter owner would have 30 days to test their meter. If the meter owner fails to comply within 30 days of being notified the Department could assess the meter owner a fee of up to \$100 for each meter that remains untested.
5. If the LPG meter is not registered, allow DATCP to assess the meter owner a fee of up to \$250 per meter. The owner of the meter would have 30 days to comply and pay the fee, or the fee would be increased by \$10 per day thereafter until the meter is found in compliance.
6. If the service company does not report the test result on a meter to DATCP, the servicing company would be required to pay any fees related to that meter until the test is reported.

Note:

The motion would require registration fees on a one-time basis for both existing LPG meters and LPG meters to be installed in the future. Currently, an estimated 900 LPG meters exist in the state which would result in one-time revenues of \$22,500. Fee revenues associated with newly installed meters, unregistered or untested meters are unknown.

[Revenue Change to Base: \$22,500 PR]
[Revenue Change to Bill: -\$25,900 PR]

Start date Jan 1, 1998

Shibilski

MO# 450

BURKE	<input checked="" type="radio"/>	N	A
DECKER	<input checked="" type="radio"/>	N	A
GEORGE	<input type="radio"/>	N	<input checked="" type="radio"/>
JAUCH	<input checked="" type="radio"/>	N	A
WINEKE	<input checked="" type="radio"/>	N	A
SHIBILSKI	<input checked="" type="radio"/>	N	A
COWLES	<input checked="" type="radio"/>	N	A
PANZER	<input checked="" type="radio"/>	N	A
JENSEN	<input checked="" type="radio"/>	N	A
OURADA	<input checked="" type="radio"/>	N	A
HARSDORF	<input checked="" type="radio"/>	N	A
ALBERS	<input checked="" type="radio"/>	N	A
GARD	<input checked="" type="radio"/>	N	A
KAUFERT	<input checked="" type="radio"/>	N	A
LINTON	<input checked="" type="radio"/>	N	A
COGGS	<input checked="" type="radio"/>	N	A

AYE 15 NO 0 ABS 1

AGRICULTURE, TRADE AND CONSUMER PROTECTION

Weights and Measures

Motion:

Move to adopt the Governors recommendation to require that the annual motor vehicle scale license fee be increased from \$30 to \$60 during the 1997-99 biennium only.

Note:

The motion would modify the Governor's recommendation and provide a one-time increase in motor vehicle license scales from \$30 to \$60 in the biennium.

MO# 1027

BURKE	Y	(N)	A
DECKER	Y	(N)	A
GEORGE	Y	(N)	(A)
JAUCH	Y	(N)	A
WINEKE	Y	(N)	A
SHIBILSKI	(Y)	N	A
COWLES	(Y)	N	A
PANZER	(Y)	N	A
JENSEN	(Y)	N	A
OURADA	(Y)	N	A
HARSDORF	(Y)	N	A
1 ALBERS	(Y)	N	A
GARD	(Y)	N	A
KAUFERT	(Y)	N	A
2 LINTON	(Y)	N	A
COGGS	Y	(N)	A

AYE 10 NO 5 ABS 1

AGRICULTURE, TRADE AND CONSUMER PROTECTION

Weights and Measures Program

Motion:

Move to specify that municipalities contracting with DATCP to provide weights and measures services be allowed to charge businesses within their municipality to cover the ^{actual} costs of the DATCP inspections.

Wineke friendly

Note:

Under current law, any municipality with a population of 5,000 or more is required to establish a municipal department of weights and measures to enforce the weights and measures statutes. Municipalities can contract with the Department to conduct the inspection activities (93 cities are currently under contract with DATCP) and DATCP may assess the municipalities a fee for conducting the inspections. Current law does not specify whether municipalities may pass on costs to regulated businesses.

MO# 475

BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A
JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

AYE 15 NO 0 ABS 1

3. Maintain current law (no fees would be assessed for LPG meter inspections by service companies or DATCP).

<u>Alternative 3</u>	<u>PR</u>
1997-99 REVENUE (Change to Base)	\$0
[Change to Bill	- \$48,400]

Prepared by: Al Runde

MO# _____			
BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A
JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

AYE _____ NO _____ ABS _____

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Agricultural Investment Aids -- Sustainable Agriculture Grants (DATCP)

[LFB Summary: Page 84, Item #15]

CURRENT LAW

DATCP administers an agriculture development and diversification (ADD) grant program that provides grants to fund demonstration projects, feasibility analyses, and applied research toward new or alternative technologies and practices to stimulate agricultural development and economic activity. Base level funding is \$200,000 GPR annually.

DATCP also has authority to provide sustainable agriculture grants for demonstration projects designed to encourage the use of practices or systems that emphasize the use of renewable resources and minimize the need for energy inputs and other inputs from non-renewable sources. No funding is currently provided for the program.

GOVERNOR

Provide \$200,000 GPR annually for agricultural development and diversification and sustainable agriculture grants. The bill would double available funding from \$200,000 to \$400,000 annually for grants to farmers or other entrepreneurs to develop new agricultural crops and livestock products, value-added and other new uses for existing products and new business ventures. Grants for research or other activities to improve the state's agricultural industry are also provided. The program would be renamed the "agricultural investment aids program" and would be expanded to allow the Department to make grants to fund sustainable agriculture demonstration projects.

DISCUSSION POINTS

1. Under the bill, the agricultural investment aids program would consist of the current agricultural development and diversification (ADD) program and the sustainable agriculture grant program. However, the bill does not require that a specified amount be allocated to either program.

2. The ADD program, established in 1989, provides grants to fund demonstration projects, feasibility analyses, and applied research toward new or alternative technologies and practices to stimulate agricultural development and economic activity. Since the program began, approximately \$1.3 million in grants have been awarded to farmers, researchers and agribusinesses to fund a variety of development and diversification efforts (examples include feasibility studies on the marketability of specialty cheeses, shitake mushrooms and organic beef).

3. The ADD program grant applications have consistently exceeded the available level of funding (\$200,000 annually). Since 1989-90, the program has been able to fund 10% of the grants requested and 13% of the proposals submitted. The following table lists the program activity since 1989-90.

ADD Program Activity

Year	Funding		Grants	
	Requested	Approved	Proposals	Approved
1989-90	\$1,435,000	\$100,000	48	6
1990-91	1,700,000	200,000	69	11
1991-92	2,394,000	212,000	86	13
1992-93	2,405,800	200,000	92	12
1993-94	2,920,300	200,000	105	11
1994-95	2,289,800	200,000	83	10
1995-96	<u>2,481,800</u>	<u>200,000</u>	<u>93</u>	<u>12</u>
Total	\$13,336,900	\$1,312,000	576	75

4. While the bill would fund more grant requests, whether the increase is approved or not, funding would continue to be substantially lower than program demand. Further, DATCP indicates that approximately \$100,000 annually of the additional funding would likely be used to fund sustainable agriculture grants. However, it should be noted that unfunded grant proposals could be overstated in that applicants who do not receive funding in one year could reapply the next year. Therefore, some of the program demand could be cumulative.

5. The sustainable agriculture program was created in 1987 to provide grants for demonstration projects designed to encourage the use of practices or systems that emphasize the use of renewable resources and minimize the need for energy inputs and other inputs from non-renewable sources while maintaining profitability. The program has provided over \$2.9 million in grants for 182 projects.

6. In the past, the program was funded with federal oil overcharge funds. The program was eliminated in the 1995-97 budget, because the oil overcharge funds were no longer available and no alternative funding source was provided for the program. In its 1995-97 budget request, DATCP identified funding including \$198,000 in 1996-97 in unspent GPR funds from its soil and water resource management program to be used to provide sustainable agriculture grants. However, in his 1995-97 biennial budget recommendations the Governor deleted the GPR identified by DATCP. The Legislature adopted the Governor's recommendation and required DATCP to submit a funding report for the sustainable agriculture program to the standing committees on agriculture of each house of the Legislature by June 1, 1996.

7. In meeting the legislative requirement, DATCP established a 13-member advisory committee to develop a proposal for a funding source for the program. The Committee did not recommend a short-term funding source for 1996-97. However, based on the Committee's work, the DATCP Secretary recommended that long-term funding for the program come from: (a) GPR funding because the program would benefit all citizens of Wisconsin; or (b) the segregated agrichemical management fund, which has a substantial balance.

8. The funding report also indicated that other midwestern states (Illinois, Iowa and Minnesota) have sustainable agriculture grant programs that have provided \$150,000 to \$635,000 annually in grants.

9. While the current ADD program would appear to allow DATCP to fund sustainable agriculture projects, the bill would provide the Department specific authority to make grants from the agricultural investment aids appropriation.

ALTERNATIVES TO BASE

1. Provide \$200,000 annually in agriculture investment aids for agricultural development and diversification and sustainable agriculture grants from one of the following:

- a. \$200,000 GPR annually as recommended by the Governor.

<u>Alternative 1a</u>	<u>GPR</u>
1997-99 FUNDING (Change to Base)	\$400,000
[Change to Bill	\$0]

b. \$100,000 GPR annually for the ADD program and \$100,000 SEG annually from the agrichemical management fund for sustainable agriculture grants.

<u>Alternative 1b</u>	<u>GPR</u>	<u>SEG</u>	<u>TOTAL</u>
1997-99 FUNDING (Change to Base)	\$200,000	\$200,000	\$400,000
[Change to Bill]	- \$200,000	\$200,000	\$0

2. Provide \$100,000 annually in additional grant funding and do one of the following:

a. Provide DATCP specific authority to make grants to fund sustainable agriculture grants (grants could be made under funding provided to the ADD program); or

<u>Alternative 2a</u>	<u>GPR</u>
1997-99 FUNDING (Change to Base)	\$200,000
[Change to Bill]	- \$200,000

b. Prohibit DATCP from making sustainable agriculture grants;

<u>Alternative 2b</u>	<u>GPR</u>
1997-99 FUNDING (Change to Base)	\$200,000
[Change to Bill]	- \$200,000

c. Provide the funding from the agrichemical management fund for sustainable agriculture grants.

<u>Alternative 2c</u>	<u>GPR</u>	<u>SEG</u>	<u>Total</u>
1997-99 FUNDING (Change to Base)	\$0	\$200,000	\$200,000
[Change to Bill]	- \$400,000	\$200,000	- \$200,000

3. Maintain current law funding (\$200,000 annually) for the agricultural investment aids program and do one of the following:

a. Provide DATCP specific authority to make grants from existing funds to fund sustainable agriculture grants; or

b. Delete authority to make sustainable agriculture grants.

<u>Alternative 3</u>	<u>GPR</u>
1997-99 FUNDING (Change to Base)	\$0
[Change to Bill	- \$400,000]

Prepared by: Al Runde

MO# Alt 1 b

2 BURKE	(Y)	N	A
DECKER	(Y)	N	A
GEORGE	(Y)	N	(A)
JAUCH	(Y)	N	A
WINEKE	(Y)	N	A
SHIBILSKI	(Y)	N	A
COWLES	(Y)	N	A
PANZER	(Y)	N	A
JENSEN	(Y)	N	A
1 OURADA	(Y)	N	A
HARSDORF	(Y)	N	A
ALBERS	(Y)	N	A
GARD	(Y)	N	A
KAUFERT	(Y)	(N)	A
LINTON	(Y)	N	A
COGGS	(Y)	N	A

AYE 14 NO 1 ABS 1

1 Harsdorf
 2 Albers

100 SE6 / GPR to either program annually
 Agriculture diversity
 Sustainable agriculture grants

MO#			
BURKE	Y	(N)	A
DECKER	Y	(N)	A
GEORGE	Y	N	(A)
JAUCH	Y	(N)	A
WINEKE	Y	(N)	A
SHIBILSKI	Y	(N)	A
COWLES	(Y)	N	A
PANZER	(Y)	N	A
JENSEN	Y	(N)	A
OURADA	(Y)	N	A
HARSDORF	(Y)	N	A
ALBERS	(Y)	N	A
GARD	Y	(N)	A
KAUFERT	Y	(N)	A
LINTON	Y	(N)	A
COGGS	Y	(N)	A

AYE 5 NO 10 ABS 1

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

County and District Fair Aids (DATCP)

[Page 84, #16]

CURRENT LAW

DATCP provides county and district fair aids from two appropriations: a GPR sum sufficient appropriation capped at \$585,000 annually and a pari-mutuel supplemental aid appropriation capped at \$650,000 annually from which available program revenues reduce the GPR funding available on a dollar-for-dollar basis.

GOVERNOR

Reduce GPR funding for county and district fair aids by \$138,700 in 1997-98 to reflect available pari-mutuel racing revenues.

DISCUSSION POINTS

1. The Gaming Board receives certain pari-mutuel racing revenues that are appropriated for the Board's regulatory responsibilities relating to pari-mutuel racing and wagering. Primarily, this revenue is derived from: (a) fees charged for the supervision of racing; (b) fees charged for required licenses and related background investigations of license applicants; (c) a special program allocation of 0.75% of the total amount wagered on a race day; and (d) all winnings unclaimed within 90 days of the end of the race year.

2. At the end of a fiscal year, any available balance in the appropriation is transferred as follows: (a) \$650,000 annually to the Department of Agriculture, Trade and Consumer Protection (DATCP) to provide state aids to counties and agricultural societies, associations or boards and to incorporated dairy or livestock associations; and (b) \$50,000 annually to DATCP to provide aid to the Wisconsin livestock breeders association for the conduct of junior livestock shows and other livestock educational programs. Any remaining amount lapses to the state's general fund.

3. Under current revenue estimates, pari-mutuel racing revenue available for transfer to DATCP would total \$376,500 in 1997-98 and \$320,400 in 1998-99 above that anticipated in SB 77. It should be noted, however, that the estimate assumes that current levels of race performances and wagering would continue through the 1997-99 biennium. The closing of a racetrack or competition from other forms of gambling could affect net revenues and the amount available to DATCP would change accordingly.

4. The pari-mutuel revenues transferred to DATCP offset the level of GPR funds for the county and district fair aids program on a dollar-for-dollar basis. Base level GPR funding is provided from a sum sufficient appropriation not to exceed \$585,000. Therefore, fair aids will be funded at no less than \$585,000 in each year, regardless of any fluctuations in pari-mutuel revenues.

MODIFICATION TO BASE

Reestimate GPR funding for county and district fair aids by deleting an additional \$376,500 in 1997-98 and \$320,400 in 1998-99 to reflect current estimates of pari-mutuel racing revenues for the 1997-99 biennium.

<u>Modification</u>	<u>GPR</u>
1997-99 FUNDING (Change to Base)	- \$835,600
[Change to Bill]	- \$696,900

MO# Modification

BURKE	<input checked="" type="radio"/>	N	A
DECKER	<input checked="" type="radio"/>	N	A
GEORGE	<input checked="" type="radio"/>	N	A
JAUCH	<input checked="" type="radio"/>	N	A
WINEKE	<input checked="" type="radio"/>	N	A
SHIBILSKI	<input checked="" type="radio"/>	N	A
COWLES	<input checked="" type="radio"/>	N	A
PANZER	<input checked="" type="radio"/>	N	A
JENSEN	<input checked="" type="radio"/>	N	A
2 OURADA	<input checked="" type="radio"/>	N	A
HARSDORF	<input checked="" type="radio"/>	N	A
ALBERS	<input checked="" type="radio"/>	N	A
GARD	<input checked="" type="radio"/>	N	A
KAUFERT	<input checked="" type="radio"/>	N	A
LINTON	<input checked="" type="radio"/>	N	A
COGGS	<input checked="" type="radio"/>	N	A

Prepared by: Al Runde and Art Zimmerman

AYE 15 NO 0 ABS 1

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Aids for Federal Dairy Policy Reform Activities (DATCP)

[LFB Summary: Page 85, Item #17]

GOVERNOR

Provide \$50,000 each year in a biennial appropriation to establish a grant program to provide assistance to the Department and organizations working to reform federal milk marketing orders for the benefit of state milk producers.

DISCUSSION POINTS

Federal Dairy Pricing Concerns

1. Wisconsin's Dairy industry contributes an estimated \$17 billion annually to the state's economy and accounts for an estimated 200,000 full and part-time jobs in the state.

2. It is believed that Wisconsin's dairy farmers, along with dairy farmers throughout the Midwest, are at a competitive disadvantage to other regions under the current federal milk marketing order system. The milk marketing order system sets forth milk marketing practices including the minimum prices that must be paid to producers. Milk prices vary by each order and generally rise depending on how far the milk production is from Eau Claire, Wisconsin. The current pricing order system is largely based on conditions that existed in the milk market in the 1960s.

3. The 1996 Farm Bill requires the U.S. Department of Agriculture (USDA) to consolidate the 30 federal milk marketing orders into 10 to 14 new orders and to establish milk

pricing rules. USDA is soliciting comments and ideas on potential changes to the current federal marketing orders and development of the new consolidated orders is likely to continue through at least December, 1998. The consolidation of the orders is required to be completed by April, 1999.

4. DATCP officials indicate that an indication of the potential impact that milk marketing order reform will have on the dairy industry is demonstrated by the fact that other regions of the country are already conducting analysis and sending officials to Washington to pursue their state's interests under the marketing order system. Wisconsin has also expended funds to send the Governor, DATCP Secretary and other agriculture officials to Washington to discuss dairy price reform.

5. In addition, the USDA Secretary recently decided to allow the formation of a Northeast Interstate Dairy Compact, whereby six northeast states are allowed to set minimum prices paid to producers for milk. DATCP and the state's dairy industry contend that the existence of the Northeast Compact could lead to higher prices received by dairy farmers in the Northeast compared to the prices received by Wisconsin farmers. Higher prices could lead to surplus production in that region which will likely lower milk prices in other regions including the midwest. In addition, surplus production could increase federal taxpayer funded purchases of excess production.

6. Other Wisconsin industries involved in interstate commerce that are concerned that federal rules or orders may put them at a disadvantage to their competitors in other states could also argue to use state tax dollars to advance their interests in Washington. On the other hand, due to the significance of the dairy industry in the state and the impending federal rule changes, the potential for improving the Wisconsin dairy industry's competitive position does exist.

Aid For Dairy Reform

7. DATCP indicates the \$50,000 provided each year under the bill would be the state's contribution to the Upper Midwest Dairy Coalition to assist their efforts to reform federal dairy policy and correct any inequities that exist under the current pricing system. The Coalition was established in 1995, for that purpose and has members that include dairy cooperatives, farm organizations, trade associations and state agencies. A Coalition official indicates that the state funding would be used to assist with the cost of economic and legal analyses which could be used to educate federal officials about the inequities in the federal pricing system.

8. The Upper Midwest Coalition generally consists of Wisconsin, Illinois, Iowa, Minnesota and North and South Dakota. DATCP and the Minnesota Department of Agriculture have provided the Coalition with funding in the past. Each state has provided approximately \$10,000 to assist with economic analyses conducted at the University of Wisconsin. A Coalition official indicates that the Coalition does not expect contributions from the remaining states

because the dairy industry is not as prevalent in those states and thus the overall economic impact of the federal pricing system is less.

9. Two bills being considered by the Minnesota Legislature would provide \$50,000 or \$90,000 annually toward the Coalition's efforts. To date, the Coalition has received approximately \$85,000 in member contributions for the current fiscal year. The Coalition's goal is to raise \$150,000 annually.

10. The \$50,000 in funding provided each year is provided on an on-going basis and therefore, would be part of the Department's base funding for the 1999-2001 biennium. However, since the federal marketing order reform is required to be completed by April, 1999, the Committee could provide the funding on a one-time basis. Under this alternative, the funding would not become part of the Department's base for the next biennium.

11. DATCP provided \$10,000 in 1995-96 from its marketing general operations appropriation (\$1,503,900 in base funding) for the Coalition's efforts. DATCP indicates funding will likely not be provided in 1996-97. Arguably, since DATCP used marketing funds in the past, DATCP could give federal dairy price reform priority use of these funds and fund the state's annual contribution to the Coalition from existing funding in this appropriation.

12. Further, DATCP administers an agriculture development and diversification (ADD) grant program that provides grants to fund demonstration projects, feasibility analyses, and applied research toward new or alternative technologies and practices to stimulate agricultural development and economic activity. The program is currently provided \$200,000 GPR annually for grants and the bill contains an additional \$200,000 GPR annually (\$400,000 total) for the program and would expand the program to fund sustainable agriculture grants.

13. DATCP's rule related to the ADD program (ATCP 161) states that DATCP can award ADD grants for purpose of improving the competitive position of the state's agriculture industry. The state's contribution to the Coalition would be an allowable purpose in that the Coalition's goal is to remove the inequities of the current federal dairy pricing system which would improve the industry's competitive position. Therefore, DATCP could provide the \$50,000 for dairy price reform activities in each year of the biennium either from the ADD program, the marketing appropriation or a combination of the two.

ALTERNATIVES TO BASE

1. Approve the Governor's recommendation to provide \$50,000 in each year in a biennial appropriation to establish a grant program to provide assistance to the Department and organizations working to reform federal policy, including federal milk marketing orders.

<u>Alternative 1</u>	<u>GPR</u>
1997-99 FUNDING (Change to Base)	\$100,000
[Change to Bill]	\$0

2. Provide \$50,000 GPR each year on a one-time basis.

<u>Alternative 2</u>	<u>GPR</u>
1997-99 FUNDING (Change to Base)	\$100,000
[Change to Bill]	\$0

3. Maintain current law. (DATCP could allocate resources for this purpose from existing program funds.)

<u>Alternative 3</u>	<u>GPR</u>
1997-99 FUNDING (Change to Base)	\$0
[Change to Bill]	-\$100,000

Prepared by: Al Runde

MO# Alt 3

1 BURKE	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
DECKER	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
GEORGE	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
JAUCH	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
WINEKE	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
SHIBILSKI	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
COWLES	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
PANZER	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
2 JENSEN	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
OURADA	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
HARSDORF	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
ALBERS	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
GARD	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
KAUFERT	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
LINTON	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
COGGS	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

AYE 8 NO 7 ABS 1

Exclude ADD and sustainable
 Ag grants as funding sources
 for lobbying purposes (\$50,000)

MO#

BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A
JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

AYE 7 NO 8 ABS 1

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

MO# *modifications*
a, b, c

ISSUE

Program Revenue Reestimates (DATCP)

A. ANIMAL HEALTH SERVICES

Governor

No provision.

BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A
JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

AYE 15 NO 0 ABS 1

Modification to Base

Delete \$100,000 PR annually in supplies and services to reflect a reestimate of available program revenues.

Explanation: The adjustment is necessary in order to hold expenditures within available revenues. Resulting expenditure authority of \$2,025,800 annually would be approximately 9% over current expenditure levels. (Further, if revenues exceed estimates in the future, additional expenditure authority could be sought under s. 16.515 of the statutes.)

Modification	PR
1997-99 FUNDING (Change to Base)	- \$200,000
[Change to Bill	- \$200,000]

B. DOG LICENSES, RABIES CONTROL AND RELATED SERVICES

Governor

No provision.

Modification to Base

Delete \$20,000 PR annually for supplies to reflect a reestimate of available program revenues.

Explanation: The adjustment is necessary to hold expenditures within estimated available revenues. Resulting expenditure authority of \$112,800 annually would be about 4% over current expenditure levels.

<u>Modification</u>	<u>PR</u>
1997-99 FUNDING (Change to Base)	- \$40,000
[Change to Bill	- \$40,000]

C. SALE OF ANIMAL HEALTH SUPPLIES

Governor

No provision.

Modification to Base

Delete \$34,000 PR annually for supplies to reflect a reestimate of available program revenues.

Explanation: The adjustment is necessary to hold expenditures within estimated available revenues. Resulting expenditure authority of \$30,000 annually would be consistent with recent expenditure levels. Sale of animal health vaccines, tags and other supplies are used to cover the costs of those supplies.

<u>Modification</u>	<u>PR</u>
1997-99 FUNDING (Change to Base)	- \$68,000
[Change to Bill	- \$68,000]

Prepared by: Al Runde

AGRICULTURE, TRADE AND CONSUMER PROTECTION

Soil and Water Resource Management

Motion:

Move to rename the activities referred to in the statutes as "soil" and water conservation activities to "land" and water conservation activities.

MO# 1561

2 BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A
JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

AYE 14 NO 1 ABS 1

AGRICULTURE, TRADE AND CONSUMER PROTECTION

Unfair Trade Practices

Motion:

Move to make the following changes to the unfair trade practices and unfair methods of competition statutes:

"Soda water beverage" means all beverages commonly known as soft drinks, including soda water, carbonated or uncarbonated or sweetened or flavored, and bases, fountain syrups, concentrates and powders intended to be reconstituted by wholesalers or retailers to produce soft drinks. It does not include strong spirituous, vinous, malt, ardent or intoxicating liquors. Soda water beverage does not include fruit juices, fruit juice-based beverages, mineral and sparkling waters, whether or not flavored or carbonated, teas and other beverages not typically classified as soft drinks.

"Retailer" means every person making sales of soda water beverages for consumption or use other than resale or further processing or manufacturing. In the case of a person making both sales at wholesale and retail, such term shall apply to only the retail portion of such sales. "Retailer" does not include the United States, the state, any municipality as defined in Wisconsin Statutes s. 345.05(1)(a), or any agency thereof, or any religious, charitable or educational organization or institution, but does include any other person engaged in the business of making retail sales wholly or in part for profit at an institution or facility operated by such an exempt party.

"Wholesaler" means every person making sales of soda water beverages for purposes of resale or further processing or manufacturing. In the case of a person making both sales at retail and wholesale, such term shall apply only to the wholesale portion of such business.

(1) No wholesaler shall discriminate in price, allowance, rebate, refund, commission or discount between retailers purchasing soda water beverages of like kind, quality or quantity where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly, or to injure, destroy or prevent competition by a person who is or in good faith intends to become a competitor, in the wholesaling of soda water beverages, unless such discrimination is:

a. Merely commensurate with a difference in the cost of manufacture, sale, or delivery resulting from differing methods or quantities of sale or delivery, or;

b. Made in good faith to meet or enable a wholesaler to meet the price or other terms of a competitor of either of them.

(2) No wholesaler of soda water beverages shall threaten any retailer with any discrimination prohibited under sub.(1) with the purpose or effect of changing or maintaining resale prices of the wholesaler.

(3) Nothing in this chapter shall be deemed to prohibit wholesalers of soda water beverages from selecting their own customers in bona fide transactions not in restraint of trade.

(4) The provisions of sub.(1) shall not be deemed to prohibit a wholesaler of soda water beverages from extending to its retailers different terms of credit in the ordinary course of business taking into consideration the financial condition of the individual retailer and other factors normally considered in establishing credit, or from offering or furnishing to its retailers different advertising, promotional or merchandising services, provided that such services shall not be intended or used to effect a discrimination in price, allowance, rebate, refund, commission or discount prohibited by said sub.(1).

In any investigation under this chapter, any wholesaler upon request of the department shall furnish to it price lists and such other information as directed concerning the terms of any agreement, transaction, or offer which may be the subject of any prohibition under this chapter.

Note:

Under ATCP 102, it is an unfair trade practice or method to discriminate in the prices at which soda water beverages are sold to customers by offering to sell such beverages to retailers at a discounted price or with rebates, commissions or other price or credit terms, where the effect of such discrimination may be to substantially lessen competition or may tend to create a monopoly.

AGRICULTURE, TRADE AND CONSUMER PROTECTION

LFB Summary Items for Which No Issue Papers Have Been Prepared

<u>Item #</u>	<u>Title</u>
1	Standard Budget Adjustments
5	Division of Agricultural Resource Management
7	Wind Erosion Control Aids
10	Food Processing Reinspection Fees
11	Weights and Measures Program (except LP Gas)
12	Public Storage Warehouse Keepers
13	Grain Inspection Program
14	Vegetable Inspection Program
18	Stray Voltage Program
19	Farm Services Center Reorganization
20	Animal Disease Control
21	Computer Infrastructure
22	Information Technology Plan Implementation
23	Consolidation of Computer Staff
24	Laboratory Services -- Staff Reduction
25	Laboratory Services
26	Legal Services Consolidation
27	Court Ordered Restitution

MO# include all 18 items

BURKE	(Y)	N	A
DECKER	(Y)	N	A
GEORGE	(Y)	N	A
JAUCH	(Y)	N	(A)
WINEKE	(Y)	N	A
SHIBILSKI	(Y)	N	A
COWLES	(Y)	N	A
PANZER	(Y)	N	A
JENSEN	(Y)	N	A
OURADA	(Y)	N	A
HARSDORF	(Y)	N	A
ALBERS	(Y)	N	A
GARD	(Y)	N	A
KAUFERT	(Y)	N	A
LINTON	(Y)	N	A
COGGS	(Y)	N	A

AYE 15 NO 0 ABS 1

LFB Summary Items for Introduction as Separate Legislation

<u>Item #</u>	<u>Title</u>
28	Dairy Plant Records
29	Denial of Licenses for Failure to Pay Child Support and Tax Delinquency

Arts Board

(LFB Budget Summary Document: Page 90)

LFB Summary Item for Which an Issue Paper Has Been Prepared

<u>Item #</u>	<u>Title</u>
3	Funding Reduction (Paper #180)

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Funding Reduction (Arts Board)

[LFB Summary: Page 90, #3]

GOVERNOR

Reduce funding for the state aid for the arts appropriation by \$20,500 GPR annually. Require the Arts Board to submit a report to the Governor and the Joint Committee on Finance by October 1, 1997, concerning the agency's preference for allocating this reduction among the Board's sum certain GPR appropriations.

DISCUSSION POINTS

1. The Arts Board has four sum certain GPR appropriations among which it could allocate the \$20,500 annual funding reduction proposed in the bill. The following shows each of the appropriations and the 1996-97 base funding level:

General Program Operations	\$296,700
State Aid for the Arts	1,261,000
Challenge Grant Program	850,500
Wisconsin Regranting Program	<u>150,000</u>
Total	\$2,558,200

2. In addition to the \$20,500 annual reduction, the bill would reduce funding for the Board's challenge grant program from \$850,500 to \$819,800 annually. These reductions equal 2% of the agency's base, GPR budget.

3. Although the Governor's budget reduces the state aid for the arts appropriation by \$20,500 annually, it directs the Board to submit a report to the Governor and Joint Committee on Finance (JFC) by October 1, 1997, concerning the agency's preference for allocating this reduction among the Board's sum certain GPR appropriations. The bill is silent as to the approval of any appropriation adjustments. Presumably, JFC would need to meet under s. 13.10 of the statutes to consider any reallocation of the reduction. In addition to the Arts Board, four other agencies (Historical Society, Department of Justice, Department of Public Instruction and Public Defender Board) are required to identify their preference for allocating a portion of their base GPR reductions.

4. Arts Board staff indicate that the Board's recommendation would be that the entire reduction be taken from the state aid for the arts appropriation, which is where the reduction is currently made in the bill. In addition, in testimony on the bill, the Executive Secretary of the Board stated that the October 1, 1997 deadline for the required report would result in delaying grant payments to arts organizations, and expressed his preference for an earlier report date.

5. Given that the Board apparently does not intend to reallocate the reduction, the Committee could simply delete any reference to the allocation report for the Arts Board. The Board would always have the ability to approach JFC under s. 13.10 of the statutes to transfer monies between appropriations if its spending priorities change in the future.

6. Alternatively, the reporting requirement could be included in the budget, but modified to require approval of the report, and any related appropriation transfer, by JFC under a 14-day passive review process.

ALTERNATIVES TO BILL

1. Approve the Governor's recommendation.
2. Modify the Governor's recommendation by requiring that the Board's report on the proposed allocation of the reduction, and any related transfer among appropriations, be subject to the approval of the Joint Committee on Finance under a 14-day passive review process. In addition, change the date by which the report would have to be submitted to the Committee and the Governor from October 1, 1997, to September 1, 1997.
3. Delete the requirement that the Arts Board submit a report on its preferred allocation of the reduction. The reduction would have to be taken from the state aid for the arts appropriation.

Prepared by: Merry Larsen

paper 180
MO# Alt. 2

2	BURKE	(Y)	N	A
	DECKER	(Y)	N	A
	GEORGE	Y	(N)	A
	JAUCH	(Y)	N	A
	WINEKE	(Y)	N	A
	SHIBILSKI	(Y)	N	A
	COWLES	(Y)	N	A
	PANZER	(Y)	N	A
1	JENSEN	(Y)	N	A
	OURADA	(Y)	N	A
	HARSDORF	(Y)	N	A
	ALBERS	(Y)	N	A
	GARD	(Y)	N	A
	KAUFERT	(Y)	N	A
	LINTON	(Y)	N	A
	COGGS	(Y)	N	A

AYE 15 NO 1 ABS 0

ARTS BOARD

Endowment Fund

Motion:

Move to establish a segregated state endowment fund for the Arts Board. Provide that 20% of the GPR funding provided to the Arts Board for grant programs would be transferred to a newly created separate GPR appropriation. Specify that the funding from this appropriation would be transferred to the endowment fund on January 15 annually. Authorize the endowment fund to receive gifts and grants. Create a continuing segregated appropriation from the endowment fund with \$442,100 SEG annually that could be used to fund loans to any of the entities and for any of the purposes of the existing grant programs.

~~Direct that the Arts Board and the Department of Revenue conduct a study on non-resident entertainers and a proposal to utilize a portion of income taxes being collected on non-resident entertainers as additional revenue for the endowment fund. Specify that the report would be submitted to the Governor and the Legislature by May 31, 1998.~~

Note:

This motion would reallocate 20% of the GPR funding provided for grant programs under the Arts Board. Based on the funding provided in the bill, \$442,100 of annual funding from current Arts Board grant programs would be transferred to the endowment fund. The endowment fund could receive donations and would earn interest on any cash balances, as well as the loans it would be authorized to make. A segregated appropriation would be made from the endowment fund with \$442,100 SEG annually to fund these loans.

[Change to Bill: \$884,200 SEG]

ARTS BOARD

Percent-for-Art Program

Motion:

Move to modify the percent-for-art program to require that any funds allocated for a project which are not expended to purchase a work or works of art or to pay for the administrative costs of the program be returned to the appropriate fund.

Note:

Under the percent-for-art program, at least two-tenths of one percent of the cost of new state building projects exceeding \$250,000 must be used to purchase original works of art for display in or around the project and to pay for the program's administrative costs. Exempt from the program under current law are sheds, warehouses, highways, streets, buildings not open to the general public, game farms, fish hatcheries, nurseries and other production facilities operated by the Department of Natural Resources. After an architect is selected for the building project, the Arts Board is required to convene an advisory committee to recommend the selection of art work. The Board makes the final determination of the artist and the art work to be incorporated into the project.

This motion would require that any monies not expended on the acquisition of the art work or administration costs be returned to the appropriate fund.

[Change to Bill: None]

MO# 415

NO! ~~Such amendment to move any \$ left over to the endowment fund.~~

BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A
JENSEN	Y	N	A
ZOURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

Motion #415

AYE 11 NO 5 ABS _____

ARTS BOARD

LFB Summary Items for Which No Issue Papers Have Been Prepared

<u>Item #</u>	<u>Title</u>
1	Standard Budget Adjustments
2	Arts Challenge Initiative Grants
4	Program Revenue Reestimate
5	Small Agency Infrastructure Support

Board of Commissioners of Public Lands

(LFB Budget Summary Document: Page 92)

LFB Summary Items for Which Issue Papers Have Been Prepared

Item #

Title

- Division of Trust Lands and Investments -- Treatment of Unencumbered Year-End Operating Balances (Paper #185)
- Division of Trust Lands and Investments -- Apportionment of Revenues for the Sale of Sunken Logs (Paper #186)

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Division of Trust Lands and Investments -- Treatment of Unencumbered Year-End Operating Balances (Board of Commissioners of Public Lands)

[LFB Summary: Page 561, #10]

CURRENT LAW

At the end of each fiscal year, an amount is to be lapsed to the general fund from the Division of Trust lands and Investment's PR-funded general program operations account to reimburse the state for the indirect costs of administrative, budgeting and personnel services provided to the Division. Thereafter, any remaining unencumbered balances would normally revert to the underlying program revenue accounts for the Division. Division operations are currently funded from earnings credited primarily to the Common School Fund, and in lesser amounts to the Normal School Fund, the University Fund and the Agricultural College Fund.

GOVERNOR

Clarify that, at the end of each fiscal year, after first lapsing the required indirect cost reimbursement amounts to the general fund, any unencumbered balances remaining in the Division's annual program revenue general program operations appropriation would be transferred to the balances of the trust funds in proportion to the gross receipts collected for each fund during the year.

DISCUSSION POINTS

1. A review of accounting practices governing the treatment of the Division's unencumbered year-end balances has determined that these monies are currently being returned to the balances of the trust funds in proportion to the gross receipts collected for each fund during the year. The proposed modification, in effect, would serve to conform the statutes to the current year-end accounting practices being followed.

2. However, as part of this review, it has been determined that the statutory annual lapse to the general fund to reimburse the state for its costs of administrative and related services provided to the Division has not actually been made in recent years. The existing reimbursement provision stipulates that at the end of each fiscal year DOA shall apply its federal indirect cost reimbursement rate to the Division's total salary costs. The amounts generated as a result of this calculation are then to be lapsed to the general fund.

3. This required annual reimbursement mechanism was originally proposed by the Governor during the 1991-92 fiscal year and was enacted as part of 1991 Wisconsin Act 269 (the 1991-93 budget adjustment act). During the 1991-93 biennium, the relevant federal reimbursement rate during each fiscal year was 9.7%, and as a result, the Division lapsed \$25,100 to the general fund in both 1991-92 and in 1992-93. During the 1993-95 biennium, the relevant federal reimbursement rate during each fiscal year was 6.0%, and during the current biennium, the relevant federal reimbursement rate during each fiscal year is 6.4%. However, there has been no actual lapse to the general fund in any fiscal year after 1992-93.

4. Based upon the total salary expenditures in the Division from 1993-94 through the 1995-96 fiscal years, the total amount of foregone lapses to the general fund are computed as follows:

**Division of Trust Lands and Investments
Lapses Foregone (1993-94 through 1995-96)**

<u>Fiscal Year</u>	<u>Salary Expenditures</u>	<u>Reimbursement Rate</u>	<u>Calculated Lapse Amount</u>
1993-94	\$148,105	6.0%	\$8,886
1994-95	263,535	6.0	15,812
1995-96	370,459	6.4	23,709

The total amount of lapses due from the Division for these three fiscal years is \$48,407.

5. For the 1996-97 fiscal year, the Division's budgeted permanent position salary level is \$336,200, which would result in an estimated required lapse to the general fund of \$21,517,

based on the current DOA federal reimbursement rate of 6.4%. It is expected that the required lapse for 1996-97 will be billed by DOA.

6. With respect to the prior years' lapses which were never made to the general fund, DOA indicates that it currently has the authority to recoup these amounts; however, the Division has insufficient available expenditure authority for it to make these payments to the general fund. Accordingly, the Committee may wish to provide \$48,400 PR of additional expenditure authority to the Division's general program operations appropriation in 1997-98 and include language requiring the transfer of this amount to the general fund no later than 30 days after the general effective date of the budget act. This would result in increased GPR-Earned collections of \$48,400 in 1997-98.

7. Further, the Committee may wish to consider providing for a different, more generalized reimbursement mechanism for the Division that is less cumbersome to administer than the existing procedure which applies a varying percentage rate only to the agency's salary expenditure amounts. Currently, the two most common mechanisms under which program revenue funded agencies are required to deposit a portion of their revenues to the general fund for overhead costs are as follows:

- The Commissioner of Insurance, the Public Service Commission, the Department of Regulation and Licensing, and the Ethics Board are annually required to deposit 10% of their program revenue receipts to the general fund.

- The Department of Financial Institutions, the Office of Credit Unions and the Office of the Secretary of State are required to lapse to the general fund any year-end balances in their program revenue appropriations in excess of 10% of the prior year's expenditures.

8. In basic concept, the Division's existing reimbursement mechanism is analogous in approach to that currently used for the Commissioner of Insurance, the Public Service Commission, the Department of Regulation and Licensing, and the Ethics Board. Further, the Division's historic reimbursement rate since 1991-92 has ranged from 6.0% to 9.7% (but was only applicable to salary expenditures). Accordingly, the Committee could adopt the same requirement that the Division annually deposit 10% of its program revenue receipts to the general fund. Under this approach, GPR-Earned collections of \$125,300 in 1997-98 and \$91,000 in 1998-99 would be estimated, based on the agency's proposed budget.

9. If the Committee chooses not to modify the current reimbursement mechanism, GPR-Earned collections from the current lapse requirement should be estimated at \$22,600 annually, based on budgeted salary amounts and the current DOA federal indirect cost reimbursement rate.

ALTERNATIVES TO BILL

1. Approve the Governor's recommendation.
2. Modify the Governor's recommendation by providing \$48,400 PR in 1997-98 of additional expenditure authority to the Division of Trust Lands and Investments' general program operations appropriation to enable it to reimburse the general fund for required lapses which were not made from 1993-94 through 1995-96. Include nonstatutory language requiring the transfer of this amount to the general fund no later than 30 days after the general effective date of the budget act and estimate GPR-Earned amounts of \$48,400 in 1997-98.

<u>Alternative 2</u>	<u>GPR</u>	<u>PR</u>
1997-99 REVENUE (Change to Bill)	\$48,400	
1997-99 FUNDING (Change to Bill)		\$48,400

3. *In addition to Alternative 2*, modify the Governor's recommendation by repealing the current required general fund reimbursement mechanism for the Division and providing instead that the amounts in the agency's appropriation schedule would constitute 90% of the funds deducted from the gross receipts of trust fund investments and the remaining 10% would be credited to the general fund. Estimate additional GPR-Earned collections under this revised reimbursement mechanism of \$125,300 in 1997-98 and \$91,000 in 1998-99.

<u>Alternative 3</u>	<u>GPR</u>
1997-99 REVENUE (Change to Bill)	\$216,300

4. *In addition to Alternative 2*, maintain the current law reimbursement mechanism but estimate additional GPR-Earned collections under the existing mechanism of \$22,600 annually.

<u>Alternative 4</u>	<u>GPR</u>
1997-99 REVENUE (Change to Bill)	\$45,200

Prepared by: Tony Mason

MO# A1+2+3

BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A
JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

AYE 13 NO 2 ABS 1

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Division of Trust Lands and Investments -- Apportionment of Revenues from the Sale of Sunken Logs (Board of Commissioners of Public Lands)

[LFB Summary: Page 562, #12]

CURRENT LAW

Applicants who are residents of the state may obtain a permit from the Board of Commissioners of Public Lands to raise logs from submerged lands owned by the state. Permits cost \$50, are valid for a period of one year from the date of issuance and give the permit holder exclusive rights to the submerged logs within the boundaries covered by the permit. The Board receives, on behalf of the state, 30% of the appraised market value of the recovered logs upon their sale. However, the Board may authorize an offset of up to 100% of the state's share of the market value of the logs raised if the permit holder agrees to undertake projects that would do at least two of the following: (1) increase tourism revenues in the state; (2) increase employment in the state; or (3) contribute to increased economic development and activity in the state. All monies received by the Board from the issuance of permits or the sales of submerged logs are deposited to the Common School Fund.

GOVERNOR

Provide that the amount of revenues receivable by the state be reduced from 30% of the appraised market value of the logs upon their sale to 20%. Repeal the current authority of the Board to authorize an offset of up to 100% of the state's share of the sale proceeds if the permit holder undertakes specified economic development or tourism-related projects.

DISCUSSION POINTS

1. The current procedures governing the raising and sale of sunken logs were established by 1991 Wisconsin Act 206. The logs in question rest primarily at the bottom of Chequamegon Bay and are the remnants of massive logging operations in the last century. These operations floated large amounts of virgin timber across Lake Superior to lumber mills in the Ashland area. During this process, some of the logs became waterlogged and sank to the bottom of the Bay where they have remained almost perfectly preserved.

2. From 1992 through 1996, the amount of log-raising activity was negligible and very little in permit fees and sale proceeds flowed to the state. A small number of permits were issued, primarily to one operator, for the purpose of testing various log-raising techniques.

3. During this period, a large number of logs were identified on the floor of Chequamegon Bay, and at least one operator has begun renovating a sawmill in the Ashland area in anticipation of starting up large-scale commercial processing of submerged logs. Further, recent national publicity on the existence of the sunken logs has prompted both an increase in enquiries from commercial interests and a sharp rise in the number of permits requested.

4. The state's current authority to receive 30% of the appraised market value of the recovered logs is similar to that authority under which the state receives a percentage of the proceeds (as determined by competitive bids) from the sale of timber from lands held by the Board of Commissioners of Public Lands. The total amounts of permit fees and sale proceeds received by the state since the enactment of 1991 Wisconsin Act 206 are listed below:

Sunken Log Permit Fee and Sales Revenues (1992-93 through 1996-97)

<u>Fiscal Year</u>	<u>Permits Issued</u>	<u>Permit Revenues</u>	<u>Sale Proceeds</u>
1992-93	3	\$150	\$200
1993-94	10	500	2,267
1994-95	8	400	1,776
1995-96	7	350	1,051
1996-97 ^a	<u>190</u>	<u>9,500</u>	<u>3,000</u>
Totals	218	\$10,900	\$8,294

^aThrough March 31, 1997

5. In its budget submittal, the Board requested that its authority to offset up to 100% of the state's share of the appraised market value of recovered submerged logs be repealed. The Board made two arguments in support of its request: (a) returning less than 30% of the market

value of the raised logs to the state reduces the amount of revenues that would otherwise accrue to the Common School Fund; and (b) the existing language allowing a permit holder to return less than 30% of the market value of the raised logs if those revenues are used for statutorily specified purposes is "sufficiently vague and can be so broadly construed that the Board cannot accurately measure against any verifiable criteria whether or not a permittee's activities demonstrate a potential for increased tourism, increased employment, and contributions to economic development and activity." Further, the Board indicated that as a result, it felt that "virtually any project could be represented to the Board as qualifying for the maximum offset of 100% [of the state's 30% share]."

6. The Governor's budget would repeal the offset language and would also reduce the current 30% state share to 20%. The apparent rationale for reducing from 30% to 20% the Common School Fund's share of the market value of recovered sunken logs is that the reduced rate will serve to stimulate commercial interest in raising the logs. Presumably, it is felt that the Common School Fund would ultimately benefit more at the reduced rate than under current law, since additional permits would likely result and sale revenues then would increase as more commercial interests became involved.

7. It is not clear that the current 30% rate actually represents a disincentive to commercial interest in raising sunken logs. As the above table highlights, permit activity under current law requirements has increased markedly in 1996-97 with at least four different companies now involved. Further, sales proceeds (from the summer of 1996) have also increased and presumably will increase further this fiscal year, once open water returns to Chequamegon Bay.

8. The Division of Trust Lands and Investments indicates that, to date, it has had only one instance where a permit holder sought an offset reduction due to undertaking specified economic development or tourism-related projects. But the Division is concerned that it will have additional requests and indicates that it has little expertise to monitor and ensure that the funds are being properly held in escrow by the permit holder and are actually being used appropriately for at least two of the required statutory purposes [increasing tourism revenues in the state; increasing employment in the state; or contributing to increased economic development and activity in the state].

9. It could be argued that although the Division may not have the staff or expertise to monitor many of the specifics of the offset process, the day-to-day monitoring of compliance may not necessarily be required. The Division would have some capability to monitor compliance on a retrospective basis if a permit holder were required to submit sufficient evidence that he or she had actually complied with all offset requirements as a condition of any subsequent permit renewal.

10. If the Committee believes that retention of the current optional offset provision is desirable as a matter of public policy and is more important than enhancing revenues for the

Common School Fund, it could delete the proposed repeal of the provision. However, if the Committee believes that the optional offset provision is too cumbersome to administer and that all revenues (at either the current 30% level or the recommended reduced level of 20%) should accrue to the Common School Fund, it could approve the Governor's recommendation and repeal the provision.

ALTERNATIVES TO BILL

1. Approve the Governor's recommendation.
2. Modify the Governor's recommendation by retaining the state's share of revenues received from the sale of logs recovered from state-owned submerged lands at 30% of their appraised market value.
3. Modify the Governor's recommendation by deleting the proposed repeal of the current authority of the Board of Commissioners of Public Lands to authorize an offset of up to 100% of the state's share of the sale proceeds if the permit holder undertakes specified economic development or tourism-related projects.
4. Maintain current law.

MO# _____

Prepared by: Tony Mason

BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A
JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

AYE _____ NO _____ ABS _____

BOARD OF COMMISSIONERS OF PUBLIC LANDS

LFB Summary Items for Which No Issue Papers Have Been Prepared

<u>Item #</u>	<u>Title</u>
1	Transfer of the Division of Trust Lands and Investments from the Office of the State Treasurer
-	Division of Trust Lands and Investments -- Information Technology Initiatives (LFB Summary Item #7 listed Under State Treasurer)
-	Division of Trust Lands and Investments -- Additional Clerical Staff (LFB Summary Item #8 listed under State Treasurer)
-	Division of Trust Lands and Investments -- Land Management Activities (LFB Summary Item #9 listed under State Treasurer)
-	Division of Trust Lands and Investments -- Administrative Attachment to DOA (LFB Summary Item #13 listed under State Treasurer)

LFB Summary Item for Introduction as Separate Legislation

<u>Item #</u>	<u>Title</u>
-	Division of Trust Lands and Investments -- Denial and Suspension of Permits for Delinquent Child Support (LFB Summary Item #11 listed under State Treasurer)

Board of Commissioners of Public Lands

(LFB Budget Summary Document: Page 92)

LFB Summary Items for Which Issue Papers Have Been Prepared

Item #

Title

- Division of Trust Lands and Investments -- Treatment of Unencumbered Year-End Operating Balances (Paper #185)

- Division of Trust Lands and Investments -- Apportionment of Revenues for the Sale of Sunken Logs (Paper #186)