

March 2, 2000

**Senate Bill 358** (Clausing/Ott)

Animal Health Lab Transfer & Funding

**Summary of Bill -**

This bill transfers control of the Wisconsin Animal Health Lab from DATCP to a Veterinary Diagnostic Laboratory Board, which would be attached to the University of Wisconsin.

The Animal Health Lab is certified by the USDA, and is on probation with the American Association of Veterinary Laboratory Diagnosticians.

This bill gives the Lab about 18 new positions and associated funding. It will help them regain their accredited status with the Association.

**Staff Comments -**

Bipartisan bill. You are a co-author. Keeping the state lab accredited will help lower costs for Wisconsin agri-businesses, and ensure food and animal safety.

**Standing Committee Action -**

SB 358 was introduced on Feb. 1, 2000. It passed the Senate Committee on Agriculture & Environment 5-0 on Feb. 15<sup>th</sup>.

**Recommended JFC Action -**

Adopt SA 1 to SB 358  
Passage of SB 358 as amended

Prepared by: Barry



## Legislative Fiscal Bureau

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March 2, 2000

**TO:** Members  
Joint Committee on Finance

**FROM:** Bob Lang, Director

**SUBJECT:** Senate Bill 358: Animal Health Lab Transfer

Senate Bill 358 was introduced on February 1, 2000, and referred to the Senate Agriculture, Environmental Resources and Campaign Finance Reform Committee. The Committee recommended passage of the bill as amended on February 15, 2000, on a vote of 5 to 0. On July 1, 2000, SB 358 would transfer the Wisconsin Animal Health Laboratory (WAHL) along with related funding, positions and the incumbents from the Department of Agriculture, Trade and Consumer Protection (DATCP) Division of Animal Health to a Veterinary Diagnostic Laboratory Board attached to the University of Wisconsin System and would increase funding and staffing for the lab.

### BACKGROUND

Under current law, DATCP operates a central animal health laboratory in Madison and a regional facility in the city of Barron under the Department's Division of Animal Health. These laboratories provide animal health surveillance, diagnostic services and testing, including those tests required by federal and state laws for disease control and the interstate movement of animals. In 1999-00, the animal health labs are provided a total of \$4,670,500 and 62.5 positions (\$1,733,800 GPR with 25.5 positions and \$2,936,700 PR with 37.0 positions funded by lab user fees). This includes \$734,200 PR and 4.0 project positions authorized under s. 16.515 in July, 1999, for an increase in Johne's disease testing.

The WAHL is certified by the United States Department of Agriculture (USDA) to perform various tests required for animals and animal products to be sold nationally and internationally. Further, from 1971 to 1998, WAHL was fully accredited by the American Association of Veterinary Laboratory Diagnosticians (AAVLD), based on the lab meeting certain Association

standards. In October, 1998, the Association changed the status of the lab to provisional accreditation for one year. A provisionally accredited lab is one that does not meet the Association's guidelines but shows intent to do so. In October, 1999, DATCP presented proposed animal health lab changes to the AAVLD. After considering the proposed changes, the AAVLD extended the provisional accreditation through calendar year 2000, with the stipulation that specific progress be made toward meeting AAVLD criteria for full accreditation. The changes proposed by DATCP to the AAVLD are analogous to those contained in SB 358.

The AAVLD Accreditation Committee recommended several measures for WAHL to consider in order to regain full accreditation. It encouraged WAHL to be placed under the same administration as the UW School of Veterinary Medicine. The Committee also recommended a separate line item for lab funding with guaranteed financial support for the lab. Further, the Committee required the Madison facility to resume necropsy (animal autopsy) service. In a 1995 review of the lab, the Accreditation Committee also expressed concern about the lab's steady increase in user fees, noncompetitive salary structure and lack of technological advances.

## **SUMMARY OF BILL**

Senate Bill 358 would transfer the WAHL along with related funding, positions and the incumbents from DATCP's Division of Animal Health to a ten-member Veterinary Diagnostic Laboratory Board attached to the University of Wisconsin System for administrative purposes. The bill would allow the Veterinary Diagnostic Laboratory to spend \$10.3 million (\$5.2 million GPR and \$5.1 million PR) in 1999-01 versus a current law total of \$9.3 million (\$3.5 million GPR and \$5.8 million PR) and increase the number of lab employees by 18.0 to 80.5 (from 62.5 under current law). While SB 358 increases appropriation amounts, it also requires DATCP to lapse \$813,900 GPR and \$1,519,400 PR to the general fund on June 30, 2001. Thus, the net effect to the general fund is increased spending of \$200,000 GPR in 1999-01 while base funding beginning in 2001-03 would be increased by \$2,533,300 GPR annually.

Under the bill, on July 1, 2000, the authorized FTE positions for the UW System would be increased by 80.5 GPR positions for the veterinary diagnostic laboratory. Of those positions, 25.5 GPR positions and 37.0 PR positions in DATCP primarily related to WAHL would be transferred to the UW System and the funding source of the PR positions changed to GPR. The remaining 18.0 GPR positions would be newly created under the UW System.

The bill provides that incumbent employees holding the 62.5 positions in DATCP, primarily related to WAHL, would be transferred to the UW System and that the transfer would not affect the rights or status the incumbent employees had immediately before the transfer. In addition, no transferred employee who has attained permanent status would be required to serve a probationary period. Further, the bill provides that if a transferred employee held a classified service position at the WAHL on June 30, 2000, that position could not be designated as an unclassified service position without the consent of that employee. The Board would determine which positions it

desired to be outside of the classified service. UW estimates that approximately four new and 12 existing positions eventually would be converted to the unclassified service. It is expected that these positions include the lab directors, section chiefs, supervisors, veterinary specialists and an education information specialist.

The Veterinary Diagnostic Laboratory Board would consist of nine voting members as follows: (a) the DATCP secretary or designee; (b) the UW-Madison chancellor or designee; (c) the dean of the UW-Madison School of Veterinary Medicine or designee; (d) a veterinarian employed by the federal government, to serve at the pleasure of the Governor; (e) five other members representing persons served by the laboratory who are initially appointed by the Governor for terms expiring between May 1, 2002, and May 1, 2004, including at least one livestock producer, one representative of the animal agriculture industry and one practicing veterinarian who is a member of the Wisconsin Veterinary Medical Association; and (f) the director of the Veterinary Diagnostic Laboratory who would serve as a nonvoting member. Under Wisconsin statute s. 15.07, after the initial terms of the five at-large members expire, the members would be nominated by the Governor and with the advice and consent of the Senate, appointed to the Board for three-year terms. After consulting with the Veterinary Diagnostic Laboratory Board, the UW-Madison chancellor would appoint a laboratory director who has received the degree of doctor of veterinary medicine.

The Board would set policies for the operation of the laboratory. The Veterinary Diagnostic Laboratory would be required to: (a) provide testing and diagnostic services for all types of animals in the state, with emphasis on services for farm animals; (b) provide the diagnostic services necessary to meet the requirements for AAFLD accreditation; (c) provide the testing and diagnostic services required to fulfill DATCP's responsibilities related to disease control and animal health; (d) maintain a regional laboratory in the city of Barron; and (e) in cooperation with DATCP and the School of Veterinary Medicine, participate in research and provide field services, consultation services and education as determined to be appropriate by the Board.

The Veterinary Diagnostic Laboratory Board would develop the lab's biennial budget request and the UW System Board of Regents would be required to process and forward the lab's personnel and biennial budget request without change to DOA. SB 358 would allow DATCP to submit a proposal for the construction or expansion of a Veterinary Diagnostic Laboratory facility to the Building Commission at any time during the 1999-01 biennium, rather than at the time prescribed by the Commission. The bill also would allow DATCP to request that the Building Commission allocate funds for the planning of such a project. The bill does not enumerate funding for building a laboratory.

The Veterinary Diagnostic Laboratory Board would set fees for services provided by the lab. The Board would be required to charge fees unless the Board identified the services as necessary to protect human health and safety. However, from the date of the transfer to the day after publication of the 2001-03 biennial budget act or July 1, 2001, whichever is later, the Veterinary Diagnostic Laboratory would be allowed to charge the same fee for service that was charged the day before the transfer. The laboratory would not be allowed to charge a fee for any testing or diagnostic service

conducted for the DATCP Division of Animal Health or USDA Animal and Plant Health Inspection Service. These agencies currently are not charged; 3.0 federally funded persons would continue to work at the lab.

SB 358 also transfers DATCP assets and liabilities and tangible personal property, including records, pending matters and contracts that are primarily related to the functions of the animal health laboratories, as determined by the Secretary of the Department of Administration, to the University of Wisconsin System on July 1, 2000. UW is required to carry out all obligations under any transferred contract, unless UW, under the particular contract, is allowed to modify or rescind the contract. Rules and orders that are primarily related to WAHL would remain in effect until they either expired or the Veterinary Diagnostic Laboratory Board took action on them.

Further, the bill retains the open records exemption for any information that identifies the owners of livestock herds infected, or suspected of being infected, with Johne's disease, except as determined necessary to protect the public health, safety or welfare.

#### **SENATE AMENDMENT 1**

Senate Amendment 1 to SB 358 would insert the words "including fish" in the list of lab requirements, such that the Veterinary Diagnostic Laboratory would be required to provide testing and diagnostic services for all types of animals, *including fish*, in the state, with emphasis on services for farm animals. SA 1 was adopted by the Senate Agriculture, Environmental Resources and Campaign Finance Reform Committee by a 5-0 vote.

Under current law, the State Laboratory of Hygiene is required to furnish complete laboratory services to DNR in the areas of water quality, air quality, public health and contagious diseases and under these requirements provides various fish tests for DNR. WAHL currently performs fish testing related to aquaculture. Neither SB 358 nor the specification in SA 1 to SB 358 would require any alteration of current practices in the testing of fish. SA 1 specifies that fish are included in the definition of animals.

#### **FISCAL EFFECT**

The bill transfers \$1,733,800 GPR and 25.5 related positions and \$2,903,700 PR to the Veterinary Diagnostic Laboratory Board on July 1, 2000. SB 358 would provide an additional \$2,533,300 GPR in the new, annual UW appropriation, to convert 37.0 PR positions (including four project positions converted to permanent) to GPR and further creates 18.0 new positions for a total of 80.5 GPR positions in 2000-01, as portrayed in Table 1. The bill provides an additional \$520,000 PR in spending authority in 1999-00 for lab equipment, supplies and services. Further, in directing that the balance of the DATCP annual PR appropriation account be transferred to the new PR continuing appropriation under UW, the bill would provide an additional \$272,200 (the estimated

PR account balance) in spending authority in 2000-01. The bill creates a second PR continuing appropriation in UW for lab fees currently collected from other state agencies (approximately \$37,000 in 1999).

**TABLE 1**

**2000-01 Animal Health Lab State Funding and Positions**

|           | <u>Current Law</u> | <u>SB 358</u>     | <u>Change</u>  | <u>Current Law</u> | <u>SB 358</u> | <u>Change</u> |
|-----------|--------------------|-------------------|----------------|--------------------|---------------|---------------|
| GPR       | \$1,733,800        | \$4,267,100       | \$2,533,300    | 25.50              | 80.50         | 55.00         |
| PR        | <u>2,903,700</u>   | <u>3,175,900</u>  | <u>272,200</u> | <u>37.00</u>       | <u>0.00</u>   | <u>-37.00</u> |
| Total     | \$4,637,500        | \$7,443,000       | \$2,805,500    | 62.50              | 80.50         | 18.00         |
| GPR Lapse |                    | -813,900          |                |                    |               |               |
| PR Lapse  |                    | <u>-1,519,400</u> |                |                    |               |               |
| Available |                    | \$5,109,700       |                |                    |               |               |

The bill would require DATCP to lapse \$813,900 GPR and \$1,519,400 PR to the general fund on June 30, 2001. Thus, the net effect to the general fund in 1999-01 is an increase of \$200,000 GPR while base funding beginning in the 2001-03 biennium would be increased by \$2,533,300 GPR annually, as shown in Table 1. The UW plans to use the additional \$200,000 in 2000-01 to hire three section chief veterinarians with Ph.D.s. The other 15 staff likely would not be hired until 2001-02, to allow the funding to lapse on a one-time basis. Beginning in 2001-02, base funding available for the lab would be increased by approximately 60% (including a 146% GPR increase). Additional staff are anticipated to include 10 microbiologists, two chemists, one necropsy technician, one customer service representative and one education information specialist. DATCP indicates that 13 of the additional staff would be used to decrease the testing and diagnostic workload of current staff and to provide more time for team and laboratory activities, professional development, quality assurance, supervision and training. The customer service representative would assist in handling customer inquiries regarding lab tests and samples. DATCP envisions that the education information specialist would coordinate and disseminate information between the lab, veterinarians and producers as well as coordinate activities with the UW veterinary school, the lab and DATCP.

Included in the transfer of staff from DATCP to UW are 4.0 PR project positions authorized under s. 16.515 in July, 1999, for an increase in Johne's disease testing. The increase in Johne's testing is derived from new administrative rules encouraging testing for better herd classifications. These positions would be funded by GPR at the UW and become permanent under the bill. While DATCP originally requested four permanent positions, DOA recommended and Joint Finance approved project positions so WAHL could further explore options for contracting with a private laboratory for Johne's testing. Funding for the positions is to come from increased demand for the tests. DATCP indicates that its regulatory responsibility in the Johne's program makes it

administratively difficult for a private lab to conduct the tests, since testing and records would need to be verified, certified and available to DATCP.

**TABLE 2**

**Annual GPR Required to Fund Salary and Fringe of 80.5 UW Positions**

|                             | <u>FTE</u>  | <u>Annual Cost</u> |
|-----------------------------|-------------|--------------------|
| Current DATCP GPR positions | 25.5        | \$1,425,000        |
| Current DATCP PR positions  | 37.0        | 1,329,600          |
| New UW Positions            | <u>18.0</u> | <u>954,900</u>     |
| Total                       | 80.5        | \$3,709,500        |
| Base GPR                    | <u>25.5</u> | <u>1,733,800</u>   |
| New GPR                     | 55.0        | \$1,975,700        |

DATCP proposes that GPR cover salaries and fringe benefits of both existing and new staff, with PR covering all supplies, services, permanent property and LTE costs. However, to accomplish this goal, the UW would require an additional \$2 million GPR annually rather than the \$2.5 million provided in the bill, as shown in Table 2. Providing UW with \$3,709,500 GPR in 2000-01 rather than the \$4,267,100 under the bill would accomplish the goal of providing GPR base funding for all staff at the Veterinary Diagnostic Laboratory. This would provide a one-time benefit to the general fund of \$357,600 in 2000-01 rather than spending \$200,000 under the bill. Alternatively, the required PR lapse to the general fund could be reduced to \$1,161,800, which would result in no net effect on the general fund in 2000-01, as shown in Table 3. Under this option, the lab would have an additional \$357,600 PR available for expenditure in 2000-01 or future years.

**TABLE 3**

**General Fund Effect of Bill**

| <u>SB 358</u>             | <u>2000-01</u>    | <u>2001-02 Ongoing</u> | <u>Modified 2000-01</u> | <u>Modified 2001-02 Ongoing</u> |
|---------------------------|-------------------|------------------------|-------------------------|---------------------------------|
| GPR Appropriated          | \$4,267,100       | \$4,267,100            | \$3,709,500             | \$3,709,500                     |
| Current Law GPR Funding   | -1,733,800        | -1,733,800             | -1,733,800              | -1,733,800                      |
| GPR Lapse to General Fund | -813,900          | 0                      | -813,900                | 0                               |
| PR Lapse to General Fund  | <u>-1,519,400</u> | <u>0</u>               | <u>-1,161,800</u>       | <u>0</u>                        |
| Net General Fund Effect   | \$200,000         | \$2,533,300            | \$0                     | \$1,975,700                     |

The bill also provides \$520,000 PR in 1999-00 for DATCP to upgrade or replace lab equipment prior to the transfer. Included is \$142,000 to replace laboratory information management computer and telephone systems. Additional equipment includes a jeep for plowing, walk-in coolers, a freezer, a dishwasher, and other lab equipment. Under SB 358, DATCP projects that with current fees and increased GPR and PR biennial expenditures of \$3.5 million over current levels, the PR account for the animal health lab would have a \$1.8 million balance on June 30, 2003 with revenues exceeding expenditures by \$1 million annually. This assumes annual fee revenues of \$3.1 million and expenditures of \$2.1 million. However, it is likely that the Veterinary Diagnostic Laboratory Board would choose to reduce certain lab fees for tests that DATCP believes are currently too high, including those for necropsies, salmonella cultures and whirling disease. Table 4 compares a sampling of Wisconsin fees from the state's highest volume tests in each section with those from surrounding states. Nearly 80% of Wisconsin tests are in serology, 15% virology, 5% bacteriology and less than 1% in pathology and chemistry. Fees listed in Table 4 account for 257,000 (17%) of the state's annual tests.

**TABLE 4**

**Area Animal Health Lab Fees**

|  |              | 1998     | 1999   | 1999   | 1999   | 1999   | 1998   |
|--|--------------|----------|--------|--------|--------|--------|--------|
|  | Section      | WI Tests | WI Fee | MN Fee | IA Fee | IL Fee | MI Fee |
| Mycobacterium paratuberculosis (Johne's) Elisa | Serology     | 70,064   | \$5.00 | \$6.00 | \$3.00 | \$5.00 | N.A.   |
| Brucella Abortus RAP, Batch 450                | Serology     | 37,169   | 1.00   | 0.00   | 1.00   | N.A.   | N.A.   |
| Equine Infectious Anemia                       | Serology     | 18,819   | 5.00   | 5.00   | 5.00   | 2.50   | 3.50   |
| Leptospirosis Microagglut. 6 Serovars, Batch   | Serology     | 17,779   | 4.50   | 6.00   | 2.50   | 2.00   | 8.00   |
| Mycoplasma synoviae Plate agglutination        | Serology     | 17,015   | 1.10   | 1.00   | 0.00   | 0.50   | 1.00   |
| Mycoplasma gallisepticum Plate agglutination   | Serology     | 15,861   | 1.10   | 1.00   | 0.00   | 0.50   | 1.00   |
| Bovine Viral Diarrhea Immunoperoxidase, PI     | Virology     | 38,741   | 5.00   | 5.00   | N.A.   | 5.00   | 5.50   |
| Pseudorabies, Private, Elisa/Idexx             | Virology     | 29,899   | 2.25   | 2.00   | 1.50   | 0.00   | N.A.   |
| Milk Culture                                   | Bacteriology | 10,251   | 4.00   | 4.50   | 5.00   | 5.00   | 7.00   |
| Selenium-Serum, Blood                          | Chemistry    | 1,326    | 8.00   | 16.00  | 12.00  | 10.00  | 13.00  |

Many view AAVLD accreditation as portraying a higher standard for work done by accredited laboratories. Thus, purchasers of animals and animal products may have a higher level of confidence in their purchases if an accredited lab tests the animal. If Wisconsin loses its accredited status, producers may prefer to have tests done at other accredited state labs. Like Wisconsin, other animal health labs charge more for out-of-state testing than in-state testing. For example, Illinois fees double for most out-of-state tests while Wisconsin generally charges 50% more for tests requested from outside the state. This could put Wisconsin producers at a competitive disadvantage in national or international markets. Further, DATCP believes that if fewer Wisconsin tests were done in state, it would become more difficult to maintain disease surveillance and it could delay the

response time for the Department to implement quarantines or other antidotes for emergency situations, further affecting producers and the public.

Of the 30 states that have accredited animal health laboratories, 20 of these are housed in universities with others attached to state departments related to animal health. All Midwestern states currently maintain accredited animal health laboratories. Table 5 provides a comparison between accredited labs in neighboring states. Although all surrounding states have accredited labs located in universities, Michigan also maintains a regulatory lab housed in the Agriculture Department and Illinois has three additional labs housed under its Department of Agriculture.

**TABLE 5**

**Regional Animal Diagnostic Laboratories**

| <u>State</u>      | <u>Housed</u>          | <u>Annual Tests</u> | <u>Annual Budget</u> | <u>% GPR</u> |
|-------------------|------------------------|---------------------|----------------------|--------------|
| Illinois          | University/Ag. Dept.   | 1,400,000           | \$5,500,000          | 75%          |
| Iowa              | University             | 1,500,000           | 6,000,000            | 55           |
| Michigan          | University/Ag. Dept.   | 1,300,000           | 7,050,000            | 32           |
| Minnesota         | University             | 1,400,000           | 4,300,000            | 50           |
| Wisconsin current | Agriculture Department | 1,600,000           | 4,700,000            | 37           |
| Wisconsin SB 358  | University             | 1,600,000           | 7,400,000            | 58*          |

\*While \$7.4 million would be available with current fees, it has been indicated that the lab may decrease fees and spend \$6.4 million annually (67% GPR).

Prepared by: David Schug