



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #570

Transfer from the Recycling Fund to the General Fund (DNR-- Air, Waste, and Contaminated Land)

[LFB 2005-07 Budget Summary: Page 384, #10]

CURRENT LAW

The Legislature enacted 1989 Wisconsin Act 335 to provide a statewide regulatory and financial assistance program aimed at encouraging, and in some instances requiring, solid waste recycling and reduction. Most of the state's solid waste management, recycling regulation, financial assistance and technical assistance programs are administered by the Department of Natural Resources (DNR).

State recycling programs are funded from the segregated recycling fund. Revenues to the recycling fund are provided from the recycling surcharge and recycling tipping fee. The recycling surcharge is 3% of gross tax liability for corporations (including insurance companies and limited liability companies taxed as corporations) or 0.2% of net business income for sole proprietorships, partnerships, limited liability companies taxable as partnerships, and S corporations. There is a minimum payment of \$25 and a maximum payment of \$9,800. Farms and other businesses with less than \$4 million in gross receipts are excluded from paying the recycling surcharge. Noncorporate farms (sole proprietorships, partnerships, LLCs taxable as partnerships) that are subject to the recycling surcharge pay the \$25 minimum amount. Farms organized as regular C corporations and S corporations that are subject to the surcharge, determine surcharge payments the same as other C and S corporations. The Department of Revenue administers and collects the recycling surcharge.

A recycling tipping fee of \$3 per ton of solid waste, excluding high-volume industrial waste, is assessed on waste disposed of in Wisconsin landfills. Between January 1, 2000, and December 31, 2001, the recycling tipping fee was \$0.30 per ton. DNR collects the tipping fee on a quarterly basis.

Appropriations from the recycling fund were \$30,185,200 SEG in 2003-04 and are \$30,238,000 SEG in 2004-05. Over 85% of appropriated amounts are for two recycling grant programs for local governments that are administered by DNR for a total of \$26.4 million in each of 2003-04 and 2004-05. The municipal and county recycling grant program provides financial assistance to 1,014 responsible units of local government for eligible recycling expenses, and provided \$24.5 million to responsible units in each of 1999-00 through 2004-05. DNR also administers the recycling efficiency incentive grant program that provides financial assistance to responsible units of local government that apply and claim recycling efficiencies such as consolidation of two or more responsible units, or cooperative agreements for direct recycling services or shared private vendor services. The grant program provided \$1.9 million to responsible units in each of 2002-03 through 2004-05.

GOVERNOR

Transfer \$5,842,100 in 2005-06 and \$5,742,100 in 2006-07 from the recycling fund to the general fund. Appropriations from the recycling fund would total \$30,665,000 SEG in 2005-06 (\$3,054,600 for administration and \$27,610,400 for financial assistance) and \$30,668,900 SEG in 2006-07 (\$3,058,500 for administration and \$27,610,400 for financial assistance) with 27.4 positions. All of the recycling fund appropriations under AB 100 are shown in the attachment.

DISCUSSION POINTS

1. Table 1 shows the estimated balance of the recycling fund. Under the bill, the recycling fund is expected to have a June 30, 2007, unencumbered balance of \$21.1 million. Current law revenues from the recycling surcharge, recycling tipping fee and interest income should provide revenues of approximately \$42.6 million in 2005-06 and \$42.8 million in 2006-07. Expenditures would total approximately \$30.7 million annually and are displayed in the attachment. In addition, under the bill, the purpose of the DNR waste reduction and recycling demonstration grant program would be expanded, and approximately \$600,000 of the continuing balance of that appropriation may be spent in each year of the biennium (shown as an expenditure under "Reserves and Lapses" in Table 1). A separate budget paper discusses that provision.

TABLE 1**Recycling Fund Condition -- AB 100
(\$ Millions)**

	2003-04 <u>Actual</u>	2004-05 <u>Estimated</u>	2005-06 <u>Estimated</u>	2006-07 <u>Estimated</u>
Opening Balance -- July 1	\$3.6	\$12.1	\$10.4	\$15.9
Recycling Surcharge	25.5	11.8	18.8	18.8
Recycling Tipping Fee	19.9	23.5	23.6	23.8
Interest Income and Other	<u>0.1</u>	<u>0.2</u>	<u>0.2</u>	<u>0.2</u>
Total Revenue	45.6	35.5	42.6	42.8
Total Revenue Available	\$48.3	\$47.6	\$53.0	\$58.7
Expenditures				
Grants to Local Governments	\$26.4	\$26.4	\$26.4	\$26.4
Administration, other programs	3.4	3.8	4.3	4.3
Reserves and Lapses	<u>0.0</u>	<u>0.1</u>	<u>0.6</u>	<u>0.6</u>
Total Expenditures	29.7	30.3	31.3	31.3
Transfer to General Fund	<u>7.3</u>	<u>6.9</u>	<u>5.8</u>	<u>5.7</u>
Ending Cash Balance	12.1	10.4	15.9	21.7
Encumbrances and Continuing Balances	<u>1.7</u>	<u>1.7</u>	<u>1.1</u>	<u>0.6</u>
Closing Available Balance -- June 30	\$10.4	\$8.7	\$14.8	\$21.1

2. During the last 15 years, the largest recycling program expenditure has been for the DNR municipal and county recycling grant program, which provides financial assistance to responsible units of local governments for a portion of eligible recycling expenses, and for the recycling efficiency incentive grant program. Approximately two-thirds of cumulative recycling fund expenditures have been for the municipal and county recycling grant program that began in 1990-91 and recycling efficiency incentive grant program that began in 2002-03. A responsible unit is the local unit of government responsible for implementing state-mandated recycling programs and can be the town, village, city, county, Indian Tribe or multiple-jurisdiction unit. A recycling efficiency incentive grant plus a municipal and county recycling grant may not exceed the net eligible recycling costs that the responsible unit incurred two years before the year for which the efficiency incentive grant is made.

3. The bill would continue base funding of \$24.5 million for municipal and county recycling grants and \$1.9 million for recycling efficiency incentive grants, for total state recycling grant funds available to local governments of \$26.4 million annually. Municipal and county recycling grants, in combination with recycling efficiency incentive grants, averaged 31.2% of the net eligible recycling costs of 1,007 responsible units of local government in 2003, 28.7% of the estimated net eligible costs of 1,014 responsible units in 2004, and 28.1% in 2005. Local

governments use the grants to implement "effective recycling programs" that include specific components, and to comply with the landfilling and incineration bans that prohibit certain recyclable materials from being landfilled (for example, newspapers, aluminum cans and glass containers). The remainder of local recycling programs costs are paid by the local government. Local governments indicate that the main local revenue sources for recycling programs are: (a) the state grant program; (b) local property tax revenues; and (c) in some communities, volume-based or other user fees. Local governments also may receive revenue from the sale of recyclable materials. The average municipal and county recycling grant as a percent of net eligible costs has decreased from almost 52% in 1992 to 28% in 2005. Table 2 shows the grant as a percent of net eligible costs from 1992 through 2005.

TABLE 2

**Municipal and County Recycling Grants and Recycling Efficiency Incentive Grants:
Eligible Cost, Grant Award and Award as Percent of Costs
(\$ Millions)**

<u>Year</u>	<u>Net Eligible Recycling Costs</u>	<u>Grant Award</u>	<u>Grant Award as Percent of Net Eligible Costs</u>
1992	\$35.6	\$18.5	52.0%
1993	48.5	23.7	48.9
1994	56.5	29.8	52.7
1995	61.0	29.1	47.7
1996	66.3	29.2	44.0
1997	68.8	29.2	42.4
1998	71.4	23.9	33.5
1999	73.3	24.1	32.9
2000	76.6	24.3	31.7
2001	84.1	24.3	28.9
2002	82.6	24.4	29.4
2003	84.4	26.3**	31.2
2004*	91.9	26.4**	28.7
2005*	93.9	26.4**	28.1

* Estimate.

**Includes \$1.9 million in recycling efficiency incentive grant funds that up to 110 responsible unit applicants received.

4. Recycling fund revenues have exceeded earlier projections for both the surcharge and the tipping fee. This has resulted in a growing recycling fund balance and annualized revenues that will exceed authorized expenditures by approximately \$11.6 million in 2006-07.

5. Some would argue that it is appropriate to transfer the \$11,584,200 to the general fund under the bill. Transfer of the monies to the general fund would be consistent with past budgetary actions to transfer available balances from certain segregated funds and program revenue

accounts to the general fund. A cumulative total of \$78 million will be transferred from the recycling fund through the end of 2004-05. Most recently, this has included \$22 million in 1999-01 biennium, \$9.1 million in the 2001-03 biennium, and \$16.2 million in the 2003-05 biennium (\$7,273,900 in 2003-04 and \$8,893,000 in 2004-05). In addition, \$1 million was transferred to the conservation fund for chronic wasting disease expenditures in the fall of 2002 under provisions of 2001 Act 108.

6. If the Committee chooses to approve the Governor's recommendation to transfer \$11,584,200 to the general fund, the Committee could consider several alternatives for utilizing the remaining estimated balance of \$21.1 million. All or part of the additional balance could be used to: (a) increase the transfer of the recycling fund balance to the general fund; (b) increase state recycling grants to local governments or other appropriations; (c) decrease the recycling surcharge; (d) decrease the recycling tipping fee; or (e) remain in the unappropriated recycling fund balance. A combination of these options could be implemented.

7. Additional transfers of all or a portion of the balance could be made to the general fund. For example, up to \$14 million in 2005-06 and \$7 million in 2006-07 could be transferred in addition to the amount in the bill (Alternative 2).

8. Local governments and recycling advocates argue that a recycling fund balance should be used to increase the local recycling grant appropriation, allowing state grants to pay for a larger percentage of local recycling expenditures. They argue that operation of local recycling programs is a partially unfunded mandate imposed by the state. Under this argument, the state should attempt to increase the percentage of local recycling program expenditures that it pays to a higher percentage than the 28 to 30% of the last few years.

9. The anticipated June 30, 2007, recycling fund balance could be appropriated to increase the total grants provided under the municipal and county recycling grant program as compared with current grant funding levels. For example, if the \$24.5 million annually provided under the bill for local recycling grants would be increased by \$10.5 million in each year, \$35.0 million would be appropriated in each of 2005-06 and 2006-07 for local recycling grants and \$1.9 million in base funding would continue for recycling efficiency incentive grants. (Alternative 3). This would provide \$36.9 million for local recycling programs, which represents a 40% increase from the \$26.4 million provided for grants in calendar years 2003 through 2005. If the level of recycling grants had been \$35.0 million in 2004-05, that amount, in combination with \$1.9 million in recycling efficiency incentive grants, would equal approximately 39.3% of total statewide net eligible recycling costs in 2005 instead of the estimated 28.1% under current funding levels. Under this alternative, recycling expenditures would increase from \$30.7 million to \$41.2 million in each year, and would still be less than the estimated \$43.0 million in revenue in 2006-07.

10. Some would argue that the surplus of annual revenues over annual expenditures shows that the state is collecting more revenue than is necessary for state commitments. The recycling surcharge or tipping fee could be decreased so that annual revenues deposited in the recycling fund would be closer to annual expenditures.

11. The June 30, 2007, recycling fund balance could be decreased by reducing the ongoing recycling fund revenue closer to the level of ongoing expenditures by reducing the surcharge. The recycling surcharge is 3% of gross tax liability for corporations (including insurance companies and limited liability companies taxed as corporations) or 0.2% of net business income for sole proprietorships, partnerships, limited liability companies taxable as partnerships, and S corporations. Since the recycling surcharge was imposed solely to fund state recycling programs, it could be argued that the current surcharge rate is higher than necessary. From this perspective, the surcharge rate could be lowered to a level where total ongoing recycling fund revenues were sufficient to fully fund state recycling programs. Therefore, the recycling surcharge rate could be reduced to 0.8% for corporations and 0.05% for sole proprietorships, partnerships, LLCs taxed as partnerships, and S corporations beginning in tax year 2006. Total recycling surcharge revenues would be decreased by an estimated \$5.5 million in 2005-06 and \$12.2 million in 2006-07 and annually thereafter. The estimated June 30, 2007, recycling fund balance would be \$3.4 million. (Alternative 4).

12. Another alternative for reducing ongoing recycling fund revenues would be to reduce the recycling tipping fee. For example, the \$3 per ton fee could be reduced by one-half to \$1.50 per ton for waste disposed on or after January 1, 2006, which would result in a decrease of \$2.7 million in recycling fund revenue in 2005-06 (from one quarter of the fee reduction) and \$12.2 million annually beginning in 2006-07. This assumes there would be a slight increase in solid waste tons landfilled after the fee decrease. The estimated June 30, 2007, recycling fund balance would be \$6.2 million. (Alternative 6).

13. A combination of a reduction of the surcharge and reduction of the tipping fee could be enacted to reduce the recycling fund balance. For example, the recycling surcharge could be decreased to 1.8% for corporations and 0.12% for sole proprietorships, partnerships, LLCs taxed as partnerships, and S corporations beginning with tax year 2006, reducing recycling surcharge revenues by \$2.8 million in 2005-06 and \$6.3 million in 2006-07 and annually thereafter. Concurrently, the recycling tipping fee rate of \$3 per ton fee could be reduced by 75¢ to \$2.25 per ton, for a revenue decrease of \$1.3 million in 2005-06 and \$6.1 million annually beginning in 2006-07. The estimated June 30, 2007, recycling fund balance would be \$4.6 million. (Alternative 5).

14. Some would argue that too large an amount of segregated recycling revenues have been transferred to non-recycling uses in recent years and that it should not continue. If the Governor's recommended transfer from the recycling fund to general fund is not approved, the general fund balance would decrease by \$11.6 million and the estimated June 30, 2007, recycling fund balance would increase from \$21.1 million to \$33.5 million.

15. If the transfer to the general fund is not approved, the Committee could consider increasing local recycling grants, decreasing the recycling surcharge, decreasing the recycling tipping fee, or doing a combination of two or three of these changes. It could be argued that it would be more appropriate to decrease the surcharge than the tipping fee because the landfill tipping fee provides a better incentive to recycle and reduce waste generation, than does the surcharge. Further, the recycling tipping fee might be viewed by some as a broader-based fee in that it is

assessed on all waste, except high-volume industrial waste, that is disposed of in Wisconsin, including waste generated out-of-state.

16. At the Committee's April 26, 2005, executive session on Natural Resources fish, wildlife and recreational issues, it was noted that Committee action would reduce the expected \$3.7 million shortfall in wildlife damage related programs under the bill to \$2.9 million, and that the Committee would seek to address this shortfall in the future through an alternative funding source. Given the available balance in the recycling fund, other expenditure increases could also be considered. For example in 2002-03, \$1 million recycling SEG was used on a one-time basis to address chronic wasting disease (CWD) management issues in the Wisconsin deer herd. DNR currently funds CWD through a combination of the wildlife damage surcharge (\$1.48 million annually), other hunting and fishing license fee revenues and federal funds, as available. DNR anticipates spending at least \$4.7 million each year on CWD in the 2005-07 biennium. Under the bill, the wildlife damage program would have revenues that total approximately \$3.7 million less than anticipated program demands (for CWD, venison donation processing and wildlife damage related programs currently funded by the \$1 surcharge--\$2 under the bill--on most hunting licenses and bonus deer permit revenues).

17. If the Committee approves the Governor's recommendation to transfer \$11,584,200 from the recycling fund to the general fund, and if the Committee chooses to transfer the remaining fund balance to the general fund (Alternative 2), it would mean that actions of the Governor and Legislature would have transferred a cumulative total of 28% of recycling fund revenues (\$57.3 million of \$204.6 million in revenues) in 2002-03 through 2006-07 either to the general fund or to purposes that were otherwise paid for by the conservation fund.

18. If the Committee wishes to transfer all available recycling fund balances on an ongoing basis, it may want to consider repealing the recycling fund, depositing the recycling surcharge and recycling tipping fee into the general fund, and converting all recycling fund appropriations to general fund appropriations (Alternative 8). It could be argued that if 28% of recycling fund revenues would be transferred to the general fund, the original purpose of the recycling fund as a separate segregated fund for recycling is no longer being met. In addition, the recycling surcharge is, essentially, an income tax and it is directly linked to the state individual and corporate income and franchise taxes that are deposited in the general fund. Further, under this alternative, all revenues in excess of expenditures would accrue to the benefit of the general fund on a permanent basis.

ALTERNATIVES

1. Approve the Governor's recommendation to transfer \$5,842,100 in 2005-06 and \$5,742,100 in 2006-07 from the recycling fund to the general fund.

2. Approve Alternative 1. Further, transfer an additional \$14,000,000 in 2005-06 and \$7,000,000 in 2006-07 from the recycling fund to the general fund.

<u>Alternative 2</u>	<u>GPR-REV</u>
2005-07 REVENUE (Change to Bill)	\$21,000,000

3. Approve Alternative 1. In addition, increase the amount provided for municipal and county recycling grants by \$10,500,000 in 2005-06 and \$10,500,000 in 2006-07 to provide a total of \$35.0 million annually for the municipal and county recycling grant program. (Base funding of \$1.9 million would continue for recycling efficiency incentive grants, for total funding of \$36.9 million annually for local recycling grants.)

<u>Alternative 3</u>	<u>SEG</u>
2005-07 FUNDING (Change to Bill)	\$21,000,000

4. Approve Alternative 1. In addition, decrease, beginning with tax year 2006, the recycling surcharge to 0.8% of gross tax liability for corporations and 0.05% of net income for proprietorships, partnerships, LLC's taxed as partnerships and S corporations. (Recycling fund revenues would decrease by approximately \$5.5 million in 2005-06 and \$12.2 million in 2006-07.)

<u>Alternative 4</u>	<u>SEG-REV</u>
2005-07 REVENUE (Change to Bill)	- \$17,700,000

5. Approve Alternative 1. In addition: (a) decrease beginning with tax year 2006, the recycling surcharge to 1.8% of gross tax liability for corporations and 0.12% of net income for sole proprietorships, partnerships, LLCs taxed as partnerships, and S Corporations (recycling fund revenues from the surcharge would decrease by approximately \$2.8 million in 2005-06 and \$6.3 million in 2006-07); and (b) decrease the recycling tipping fee for waste disposed of in Wisconsin landfills on or after January 1, 2006, from \$3, by 75¢, to \$2.25 per ton. (Recycling fund revenues from tipping fees would decrease by approximately \$1.3 million in 2005-06 and \$6.1 million in 2006-07.)

<u>Alternative 5</u>	<u>SEG-REV</u>
2005-07 REVENUE (Change to Bill)	- \$16,500,000

6. Approve Alternative 1. In addition, decrease the recycling tipping fee for waste disposed of in Wisconsin landfills on or after January 1, 2006, from \$3, by \$1.50, to \$1.50 per ton. (Recycling fund revenues would decrease by approximately \$2.7 million in 2005-06 and \$12.2 million in 2006-07.)

<u>Alternative 6</u>	<u>SEG-REV</u>
2005-07 REVENUE (Change to Bill)	- \$14,900,000

7. In addition to any of the above alternatives, convert all recycling fund appropriations to GPR. (Under the bill, this would be \$30,665,000 in 2005-06 and \$30,668,900 in 2006-07 with 27.4 positions annually). Repeal the recycling fund. Deposit the existing recycling surcharge and recycling tipping fee into the general fund instead of the recycling fund. (Note that the fiscal effect below reflects the change to AB 100, but would have to be adjusted to reflect any other Committee actions).

<u>Alternative 7</u>	<u>GPR-REV</u>	<u>GPR</u>	<u>SEG-REV</u>	<u>SEG</u>	<u>TOTAL</u>
2005-07 REVENUE (Change to Bill)	\$61,333,900		- \$61,333,900		\$0
2005-07 FUNDING (Change to Bill)		\$61,333,900		- \$61,333,900	\$0
2006-07 POSITIONS (Change to Bill)		27.40		- 27.40	0.00

8. Maintain current law.

<u>Alternative 8</u>	<u>GPR-REV</u>
2005-07 REVENUE (Change to Bill)	- \$11,584,200

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Attachment

ATTACHMENT

Appropriations Funded From the Segregated Recycling Fund Under AB 100

	<u>2005-06</u>	<u>2006-07</u>	<u>Authorized Positions 2006-07</u>
Administrative Appropriations			
<i>Natural Resources</i>			
370 (2)(hq) Recycling administration	\$1,174,200	\$1,174,200	13.0
(3)(mr) Recycling enforcement and research	243,900	247,800	2.4
(8)(iw) Statewide recycling administration	205,700	205,700	0.5
(9)(is) Statewide recycling administration	428,600	428,600	4.0
<i>Corrections</i>			
410 (1)(qm) Computer recycling	289,300	289,300	2.0
<i>Revenue</i>			
566 (1)(q) Recycling fees administration	218,200	218,200	1.0
<i>University of Wisconsin System</i>			
285 (1)(tb) Extension recycling education	339,600	339,600	4.0
(1)(tm) Solid waste research and experiments	<u>155,100</u>	<u>155,100</u>	<u>0.5</u>
Subtotal	\$3,054,600	\$3,058,500	27.4
Financial Assistance Appropriations			
<i>Agriculture, Trade and Consumer Protection</i>			
115 (7)(va) Clean sweep grants	710,400	710,400	
<i>Natural Resources</i>			
370 (6)(br) Waste reduction and recycling demonstration grants	500,000	500,000	
(6)(bq) Municipal and county recycling grants	24,500,000	24,500,000	
(6)(bv) Recycling efficiency incentive grants	<u>1,900,000</u>	<u>1,900,000</u>	
Subtotal	\$27,610,400	\$27,610,400	
TOTAL RECYCLING FUND APPROPRIATIONS	\$30,665,000	\$30,668,900	