



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #141

Grain Inspection Program (Agriculture, Trade and Consumer Protection)

[LFB 2013-15 Budget Summary: Page 58, #1 (part)]

CURRENT LAW

The United States Grain Standards Act requires grain being exported from the U.S. in most circumstances to undergo: (a) official weighing and inspection; and (b) for corn, testing for aflatoxin, a fungal toxin that can cause liver damage and that can accumulate through improper harvest, storage or processing, prior to shipment. Mandatory inspection and weighing services are done by the U.S. Department of Agriculture (USDA) Federal Grain Inspection Service (FGIS) at U.S. ports, unless FGIS has delegated this authority. In Wisconsin, the Department of Agriculture, Trade and Consumer Protection (DATCP) holds such authority to perform all grain inspections, but only for the Port of Superior. Under this authority, DATCP provides mandatory export inspection and weighing services for standardized grains and oilseeds. The Department also provides inspection services for non-export (domestic) shipments upon request. Federally trained and licensed state employees perform these functions under the direct supervision of a state program manager. An FGIS manager then provides general oversight and monitoring of the program.

Fees collected from grain shippers and handlers fund DATCP grain inspection operations. Rates are approved by the USDA, and are assessed on an hourly basis for grain inspection, weighing and commodity inspection, or, for certain services, on the basis of each truck, rail car, or sample inspected. For example, in Superior, typical DATCP fees are \$23.10 for each railcar inspected and \$12.10 for each truck inspected. DATCP remits to FGIS a portion of fee collections, currently 1.1¢ per metric ton inspected. Because fees are approved by USDA under delegated federal authority, the Legislature does not have a direct role in determining fee levels in Wisconsin. DATCP is authorized base-level expenditures of \$1,400,800 PR for grain inspection, with 21.0 positions.

GOVERNOR

Delete \$159,500 PR annually under standard budget adjustments. This includes: (a) -\$159,600 for full funding of salaries and fringe benefits for continuing positions; and (b) \$100 for full funding of lease costs and directed moves.

DISCUSSION POINTS

1. As of June 30, 2012, the grain inspection PR continuing appropriation carried an accumulated shortfall of \$981,200. Table 1 shows the estimated condition of the appropriation under the bill. Revenues to the appropriation have declined since 2010-11, when favorable conditions for U.S. grain exports in global markets led to increased shipping activity and revenues for the program. The subsequent 2011 and 2012 shipping years experienced substantial reductions in grain tonnages inspected, due in large part to early-season flood conditions in U.S. growing states in 2011 and widespread drought in 2012, each of which lowered annual grain production. Revenues for the 2013-15 biennium are the most recent DATCP estimates, and reflect an expectation of more favorable Upper Midwest growing conditions and global markets.

TABLE 1

DATCP Grain Inspection Appropriation Condition

	<u>Actual</u> <u>2010-11</u>	<u>Actual</u> <u>2011-12</u>	<u>Estimated</u> <u>2012-13</u>	<u>Bill</u> <u>2013-14</u>	<u>Bill</u> <u>2014-15</u>
Opening Balance	-\$658,500	-\$425,200	-\$981,200	-\$1,081,200	-\$972,500
Revenues	1,962,600	827,200	950,000	1,350,000	1,350,000
Expenditures	<u>-1,729,300</u>	<u>-1,383,200</u>	<u>-1,050,000</u>	<u>-1,241,300</u>	<u>-1,241,300</u>
Closing Balance	-\$425,200	-\$981,200	-\$1,081,200	-\$972,500	-\$863,800

2. DATCP previously held authority for all shipments for export or domestic commerce throughout the state, including Milwaukee and locations in La Crosse and Prairie du Chien. However, 2005 Act 25 eliminated \$3.3 million and 38.57 positions with the expectation that DATCP might relinquish all grain inspection authorities previously granted by USDA. The act also required DATCP and the Department of Administration (DOA) to report to the Joint Committee on Finance on a model of delivering grain services that would be financially viable and sustainable, with a system that would provide a flexible workforce to reflect seasonal changes in activity but also maintain state oversight of service quality and inspection certificates. DATCP in late 2005: (a) returned to the federal government the authority to conduct inspections of domestic shipments at non-export locations; and (b) closed all grain inspection offices in Milwaukee, La Crosse and Prairie du Chien, leaving only Superior under DATCP inspection services. Joint Finance subsequently reauthorized 21.0 positions for the Superior inspection program under a 14-day passive review. This is the current level of authorized positions, which includes 15.0 inspectors and 6.0 managerial or administrative positions.

3. The grain inspection program revenue account has been in deficit since the end of

the 2000-01 fiscal year. 2005 Act 25, in addition to relinquishing inspection ports and reducing positions to attempt to correct structural imbalances, created a requirement that DATCP annually transfer to the grain inspection appropriation the unencumbered balances in its GPR general operations for food safety, consumer protection, animal health, agricultural development, agricultural resource management and central administrative services. This provision was intended to recover the amount of the deficit that had accumulated to that point, recognizing that the federal government will not allow a fee structure that exceeds current operations to cover past deficiencies. The annual amounts transferred under this provision are included in Table 1 under revenues. DATCP's net operating revenues for each year in Table 2 exclude the effect of these GPR balance transfers. Since the transfers began in 2005-06, GPR transfers have totaled \$1,140,600 and have accounted for all but one yearly surplus.

TABLE 2

DATCP GPR Transfers to Grain Inspection

<u>Fiscal Year</u>	<u>Net Operating Revenues</u>	<u>GPR Transfer</u>	<u>Annual Surplus/Deficit</u>
2005-06	-\$63,000	\$150,100	\$87,100
2006-07	-45,400	155,400	110,000
2007-08	-23,000	489,100	466,100
2008-09	-302,400	304,000	1,600
2009-10	-138,800	6,900	-131,900
2010-11	177,600	100	177,700
2011-12	-591,100	35,000	-556,100

4. Most program revenue appropriations do not collect interest if they run a surplus, or pay interest if they run a deficit, as these amounts instead accrue to the state's general fund. However, in 1994, FGIS sent DATCP a letter informing it that: (a) 1993 amendments to the U.S. Grain Standards Act eliminated the authority for delegated states to use grain inspection revenues for the maintenance of other agricultural programs; (b) all revenues collected for performing official grain inspection and weighing services must be used to maintain those programs exclusively; and (c) DATCP was requested to make the necessary arrangements to implement this funding change starting in state fiscal year 1994-95. Since then, DATCP's grain inspection appropriation has collected or paid interest to the general fund when the account has a surplus or deficit. DATCP staff report the total interest charged to the account since 2002-03 through March, 2013, is \$106,700.

5. Much of the annual expenditures for the grain inspection program support employee salaries and fringe benefits; in 2011-12, total salary and fringe benefit costs were \$1.26 million of \$1.38 million in total expenditures for the program. As such, DATCP has taken several actions in recent years to limit staffing costs of the grain inspection program. DATCP has managed staff to minimize both overtime and unemployment costs. Previously, grain inspection employees were more commonly laid off during slow periods in the winter, while also having been paid overtime, or having accumulated compensatory time that later could be converted to a cash payout, during high-traffic shipping times. Currently, employees are encouraged to accumulate at least 200 hours per

year as compensatory time, which is redeemed during slow periods. This system has eliminated layoffs and unemployment costs for permanent employees, and average annual unemployment costs for limited-term employees (LTEs) have been \$4,000 since the 2007-08 fiscal year. As of April, 2013, the Department also has 7.0 positions vacant, with 3.0 having been vacant since at least April, 2012, and 2.0 having become vacant between June and October, 2012. DATCP reports it expects to fill perhaps 2.0 positions as shipping activity resumes in 2013, and perhaps more if inspection requests were to require additional staff.

6. Further, DATCP has undertaken steps to increase revenue streams of the program. USDA approved a fee increase for the program effective September 1, 2011, although fee levels were approved only to the extent they were necessary to cover current operating costs and not to resolve the accumulated deficit. DATCP also entered into an agreement in January, 2013, with USDA to receive the federal delegation for grain inspections in Duluth, Minnesota. USDA previously administered Duluth inspections, and DATCP estimates it did so at higher average costs to grain shippers than charged by DATCP for services at Superior. DATCP believes providing grain inspection services at a more competitive cost may encourage grain shippers to use DATCP services, other than those required by law, more regularly than Duluth shippers had used USDA-provided services. However, the Department currently has no projections of revenue or cost estimates of these additional responsibilities.

7. Despite attempting alternate management arrangements for the Superior and Duluth ports, program revenues are heavily dependent on international grain market conditions. For example, in 2010, a Russian embargo on grain exports following a drought increased demand for U.S. grain, which increased shipping activity and the resulting revenues at Superior. In the two subsequent years, world production and market conditions have not been favorable for Superior to handle significant exports. Also, DATCP reports the Superior port generally has experienced a long-term decline in grain tonnages, due in part to: (a) increased grain production throughout the world; and (b) increased shipping activity in U.S. coastal ports.

8. Unpredictability in shipping volumes leads to difficulty in determining long-term staffing needs for the program. DATCP contends the current permanent staff, as well as LTE staff, of which DATCP employed 19 in 2011-12, is a reasonable level needed to: (a) meet the program's seasonal staffing needs while minimizing overtime and layoffs; and (b) accommodate requests for inspections in a timely fashion, as federal law generally requires an initial request for grain inspection to be met by the service agency within six hours.

9. Under s. 16.513 (3) of the statutes, agencies and the Department of Administration must report to the Joint Committee on Finance, under a 14-day passive review process, on their plans to remediate program revenue or segregated fund appropriations that have insufficient moneys or accounts receivable to cover appropriation expenditures for the preceding fiscal year. In recent years, DATCP and DOA have routinely submitted plans identifying the GPR transfer, and, in two instances, the fee increase previously approved by USDA. Further, as passed by the Legislature, the 2011-13 budget bill included a requirement that DATCP report to Joint Finance, by January 1, 2012, on specific actions taken or planned to resolve the annual and accumulated deficits in the grain inspection appropriation. The requirement was item-vetoed by the Governor.

10. It is likely the accumulated deficit in the grain inspection program may only be resolved through containment of staffing costs and continued transfers of funds, including DATCP's year-end unencumbered operations GPR. The Committee could consider reducing authorized positions for the grain inspection program by 3.0 positions, which is the number of positions vacant for one year or longer [Alternative 1a]. Associated funding reductions for salaries and fringe benefits would be \$119,700 PR annually. Such an alternative would retain 4.0 vacant positions, which one could argue would allow DATCP to: (a) fill 2.0 positions as planned for the beginning of the 2013 shipping season, and (b) leave available 2.0 other positions that may need to be filled in the future to meet program demands, particularly if substantial demand were realized in Duluth.

11. The Committee also could consider deleting 5.0 positions that have been vacant for approximately six months or more [Alternative 1b]. Expenditure authority for associated salary and fringe benefits costs would be reduced by \$209,600 annually. Such an alternative would retain 2.0 vacant positions, which is approximately the number of positions DATCP reports it expects to hire in the near term. The Department would be able to request restoration of additional positions under s. 16.505 of the statutes if program activity merited additional staffing and if revenues were expected to support such additions.

12. As the transfers of unencumbered operations GPR are expected to be modest for future biennia, a substantial deficit is expected to continue indefinitely. In order to resolve this long-term problem, it may be appropriate to consider transfers from other funds or appropriations to reduce or eliminate the accumulated shortfall. The Committee could consider requiring: (a) DATCP to transfer, by December 31, 2013, an amount from unencumbered program revenue appropriations and unencumbered segregated funds sufficient to eliminate the accumulated shortfall in the grain inspection appropriation as of June 30, 2013; and (b) DATCP to submit, by November 15, 2013, under a 14-day passive review process, a plan detailing the transfers proposed. The plan would be implemented unless the Committee chose to meet to formally review the proposal [Alternative 2]. This would eliminate the current outstanding liability of the general fund, as well as eliminate interest payments to the general fund required under federal provisions. The Department had total net program revenue balances of approximately \$9.4 million on June 30, 2012, excluding the grain inspection appropriation and certain other appropriations with revenues that would be restricted from transferring for other purposes, in addition to total balances of approximately \$4.5 million in the agrichemical management and agricultural chemical cleanup program fund. Once the large accumulated deficit was resolved, it is more likely operating revenues and the GPR appropriation transfers could maintain the program in balance. On the other hand, one could argue the transfer of other funds would be inappropriate, as it could reduce balances of funds already paid by certain entities, which are intended to be held for programs related to a specific industry or activity. Also, because DATCP would be subject to GPR and PR lapses totaling approximately \$1.7 million annually under the bill, it could be argued these PR funds could be disproportionately impacted by additional transfer requirements.

13. The Committee could also consider changing the grain inspection appropriation from continuing to annual [Alternative 3]. As a continuing appropriation, DATCP is authorized to expend all monies received for that purpose. Expenditure figures for the grain inspection program

under the state appropriations schedule are the best estimates of expenditures for the biennium, and DATCP, with the approval of DOA, may change the budgeted amount without any legislative action. On the other hand, under an annual appropriation, DATCP could only expend the amount appropriated under Chapter 20 of the statutes in a given year. Additional expenditures would require the approval of the Legislature in a bill, or by the Joint Committee on Finance under a 14-day passive review request from DATCP and DOA. Converting the grain inspection appropriation to annual would allow the Legislature to maintain greater oversight than the continuing appropriation under current law. This alternative could be adopted in addition to any of the other measures described above. However, DATCP also has argued the appropriation functions best as a continuing appropriation, due to the unpredictability and variability in grain shipping and inspection.

14. The Committee could consider taking no action [Alternative 4]. This would retain the standard budget adjustments of -\$159,500 PR annually, and the grain inspection program would be budgeted \$1,241,300 PR each year in 2013-15 with 21.0 positions. The sizeable program deficit would remain unresolved.

ALTERNATIVES

1. Delete funding and positions as follows from the DATCP grain inspection program revenue appropriation:

a. \$119,700 PR each year with 3.0 positions; or

ALT 1a	Change to Bill	
	Funding	Positions
PR	- \$239,400	- 3.00

b. \$209,600 PR each year with 5.0 positions.

ALT 1b	Change to Bill	
	Funding	Positions
PR	- \$419,200	- 5.00

2. Require DATCP to do one or both of the following:

a. Transfer by December 31, 2013, from the unencumbered balances of program revenue appropriations and segregated funds, an amount sufficient to eliminate the accumulated deficit in the grain inspection appropriation as of June 30, 2013.

b. Require the Department to submit, by November 15, 2013, a plan to the Joint Committee on Finance for approval under the 14-day passive review procedure specifying the transfers proposed.

3. Change the grain inspection appropriation from continuing to annual.
4. Take no action.

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