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June 2, 2011 | Joint Committee on Finance | Paper #238

Transfer of Dairy 2020 Functions and Administration of Investment Tax Credits (Commerce/Agriculture, Trade, and Consumer Protection/Tourism/Revenue)

[LFB 2011-13 Budget Summary: Page 57, #11, Page 122, #9, Page 139, #13, Page 140, # 14]

CURRENT LAW

The Dairy 2020 Initiative consists of three components: (a) the Dairy 2020 Council comprised of dairy producers, industry representatives, legislators and public representatives; (b) the Dairy 2020 early planning grant program administered by the Wisconsin Entrepreneurs' Network, with funding from Commerce; and (c) the Milk Volume Production program administered by Commerce. The program is primarily funded through the federal Community Development Block Grant economic development program.

The refundable dairy manufacturing facility investment tax credit is equal to 10% of the amount paid in a tax year by a claimant for modernization or expansion related to the claimant's dairy manufacturing operation. The credit can also be claimed for eligible investments made by dairy cooperatives. The credit may be claimed by most taxpayers for tax years that begin after December 31, 2006, and before January 1, 2015, and, in the case of cooperatives, for tax years beginning after December 31, 2008, and before January 1, 2017. The total amounts of tax credits that can be claimed is limited to $700,000 annually for cooperative members, and $700,000 annually for other entities. The maximum aggregate amount of tax credits that a claimant can claim is $200,000 for C corporations and individuals, and $200,000 per facility for pass-through entities (partnerships, tax-option corporations, limited liability companies) and cooperatives. The bill would modify this provision to limit the $200,000 per facility aggregate credit claim amount to cooperatives. Commerce is required to certify taxpayers, allocate tax credits, and verify credit claims.

The refundable food processing plant and food warehouse investment tax credit equals 10% of the amount paid in the tax year by the claimant for food processing or food warehousing modernization or expansion. The credit can be claimed for tax years beginning after December 31, 2009, and before January 1, 2017. The total amount of tax credits that can be claimed is limited to $1,200,000 for fiscal year 2010-11, and $700,000 for subsequent fiscal years. The maximum aggregate amount of tax credits that can be claimed by a taxpayer is $200,000, and a credit cannot be claimed for expenses that were deducted as trade or business expenses. Commerce is required to certify taxpayers, allocate tax credits, and verify credit claims.

A refundable tax credit may be claimed equal to 10% of the amount the claimant paid in the tax year for meat processing modernization or expansion related to the claimant's meat processing operation. The tax credit can be claimed for tax years beginning after December 31, 2008 and before January 1, 2017. The maximum aggregate amount of meat processing facility investment tax credits that can be claimed by a claimant is $200,000, and a credit cannot be claimed for expenses that were deducted as trade or business expenses. The total amount of tax credits that can be claimed is $700,000. Commerce is required to certify taxpayers, allocate tax credits, and verify credit claims.

The refundable woody biomass harvesting and processing tax credit is equal to 10% of the amount the claimant pays in the tax year for equipment that is used primarily to harvest or process woody biomass that is used for fuel or as a component of fuel. The credit can be claimed for tax years beginning after December 31, 2009, and before January 1, 2016. The maximum aggregate amount of tax credits that can be claimed by a taxpayer is $100,000, and a credit cannot be claimed for expenses that are deducted as trade or business expenses. The total amount of tax credits that can be claimed by all taxpayers is limited to $900,000 for each state fiscal year. Commerce is required to certify taxpayers, allocate tax credits, and verify credit claims.

Provisions of 2005 Wisconsin Act 483 created both a film production services tax credit and a film production company investment tax credit. The film production services tax credit is refundable and equal to 25% of: (a) salaries, wages, and/or labor-related contract payments to all individuals, including actors, who are Wisconsin residents that work on an accredited production in Wisconsin; and (b) non-labor production expenses incurred in Wisconsin to produce an accredited production. The film production company investment tax credit is refundable and equal to 15% of: (a) the purchase price of depreciable, tangible personal property and items, property and goods, if the sale of such property and goods is sourced to Wisconsin; and (b) the amount expended to construct, rehabilitate, remodel, or repair real property. The maximum amount of film production tax credits that can be claimed in a fiscal year is $500,000. Commerce is required to accredit a production as eligible, determine the eligible amount of production expenditures, including resident salary and wages, and sales and use taxes, and certify film production company expenses for the purpose of claiming the film production tax credits.

The electronic medical records tax credit equals 50% of the amount paid by a health care provider in a tax year for information technology hardware or software that is used to maintain medical records in an electronic form. Tax credits not entirely used to offset income and franchise taxes can be carried forward up to 15 years to offset future tax liabilities. The maximum total amount of electronic medical records tax credits that can be claimed in a tax year is $10 million. The electronic medical records tax credit can first be claimed for tax years beginning after December 31, 2011. Commerce is required to certify taxpayers, allocate tax credits, and verify credit claims.

In general, the Department of Revenue has the full power and authority to administer tax credit claims, and may take any action, conduct any proceeding, and proceed as authorized under state income and franchise tax laws. Income and franchise tax laws related to assessments, refunds, appeals, collection, interest and penalties, change of business or ownership, and timely claims apply to the tax credits.

GOVERNOR

Administration of the Dairy 2020 program and the dairy manufacturing facility investment tax credit would be transferred from Commerce to the Department of Agriculture, Trade, and Consumer Protection (DATCP). DATCP would be provided $69,900 GPR and 1.0 GPR economic development consultant position annually in DATCP's agricultural development operations appropriation [s. 20.115(3)(a)] to administer the programs.

The bill provides that the tangible personal property and records of Commerce primarily related to the functions of Commerce with respect to the dairy manufacturing facility investment tax credit, as determined by the Secretary of Administration, would become the tangible personal property and records of DATCP. All rules promulgated by Commerce that were in effect on the effective date of the bill related to the manufacturing facility investment tax credit would remain in effect until their specified expiration date or until amended or repealed by DATCP.

The bill would also transfer administration of the film production tax credits from Commerce to the Department of Tourism. The bill would provide Tourism with rule-making authority to administer the tax credit.

DISCUSSION POINTS

Dairy 2020

1. Dairy 2020 began in 1993 under existing general statutory authority to develop activities that would improve dairy farm profitability and dairy industry competitiveness. Originally, the policy initiative involved DATCP, the University of Wisconsin System, dairy producers and processors, and representatives from supporting industries. In August, 1994, the Department of Development (now the Department of Commerce) joined with UW System and DATCP as the lead agencies in the Dairy 2020 initiative. Commerce received funding beginning in the 1995-97 biennial budget for a Dairy 2020 director and related activities.

2. The Dairy 2020 initiative was established when the combination of national industry changes and declining measures of state industry performance caused concern for some in the dairy industry and state and local government that the industry was experiencing an economic decline. On the national level, the dairy industry was experiencing rapid adoption of lower-cost production and processing technologies, and reductions in federal dairy price supports. During that time, the state's share of total U.S. milk production declined from almost 18% in 1979 to 15% in 1994. The state's

share of national cheese production decreased from 38% in 1979 to 32% in 1994. The number of dairy cows had fallen 20% since the mid-1980's, and milk production per cow was below the national average. Finally, there were relatively few new entries into the dairy industry and the average age of dairy farm operators was over 50 and increasing.

3. The Dairy 2020 initiative focuses on improving: (a) dairy industry business climate; (b) business management skills of dairy business owners; and (c) infrastructure supporting the industry, such as highways and suppliers. Currently, the Dairy 2020 initiative promotes economic development of the dairy industry by providing financial assistance through: (a) the early planning grant [EPG] program; and, (b) the milk volume production [MVP] loan program. Dairy 2020 is guided by an advisory Dairy 2020 Council, consisting of 26 gubernatorial appointees including dairy farmers [12], industry representatives [6], state legislators [2], and representatives of educational institutions [6].

4. The 1997-99 biennial budget act created the statutory authority for Dairy 2020 EPGs. Specifically, the act established a grant program in Commerce, under the rural economic development program (RED), that provided grants to a person or business that proposes to start-up, modernize, or expand a dairy farm or other agricultural business in Wisconsin. In order to receive a grant, the person would have to own the dairy farm or other agricultural business. Grants could be made for professional or management services related to the start-up, modernization or expansion of dairy farms.

5. Dairy 2020 Early Planning Grants are designed to encourage and stimulate the start up, modernization, and expansion of Wisconsin dairy farms. Under the program, the Wisconsin Entrepreneurs' Network (WEN) of the UW-System provides grants, with funding from Commerce, to help cover a portion of the cost of hiring a for-profit, in-state, independent third party to develop a comprehensive business plan.

Eligible applicants include existing and start-up Wisconsin dairy producers. Eligible project costs are limited to expenses associated with obtaining a business plan to assist the applicant in evaluating the start up, modernization, or expansion of a Wisconsin dairy farm. The Dairy 2020 EPG is 75% of eligible project costs up to a maximum of $3,000. Applicants are required to provide a cash match of at least 25% of the eligible project costs from non-state sources.

Eligible costs are limited to business planning activities. Ineligible: costs include: (a) costs of applying for Dairy 2020 assistance; (b) attorney fees associated with the creation of legal documents; (c) engineering services such as building design, farmstead layout, and manure storage; (d) retirement and investment planning; (d) tax planning and tax return preparation; (e) intergenerational transfer planning; (e) information system development or consulting; (f) loan generation/origination documentation; (g) chattel or real estate appraisal; (h) crop & nutrition consulting; (i) nutrient management planning; (j) herd health consulting; and (k) any costs incurred prior to the date the EPG application is approved by WEN. Applications for all Dairy 2020 EPG funding must be submitted electronically through the WEN website. In addition, professional services must be provided by for-profit, in-state, independent third parties listed in the WEN Private Sector Service Provider Directory.

6. Table 1 shows Dairy 2020 EPG awards for fiscal years 2001-02 through April 11, 2011. The table show that participation in the programs has declined substantially. In 2002, 70 grants totaling $206,000 were awarded. In 2010 both the number of grants (19) and the total amount of grants ($52,800) had declined to less that one-third of the 2002 figures. Typically, EPG awards are $3,000 for each grantee.

TABLE 1

Dairy 2020 Early Planning Grants
Fiscal Years 2001-02 Through 2010-11*

Fiscal Year	Number of Credits	Total Amount	Average Grant
2001-02	70	$206,200	$2,950
2002-03	54	156,000	2,990
2003-04	61	182,200	2,990
2004-05	41	123,000	3,000
2005-06	59	174,000	2,950
2006-07	44	130,500	2,970
2007-08	21	62,300	2,970
2008-09	20	60,000	3,000
2009-10	19	52,800	2,780
2010-11*	17	50,900	2,990

* Through April 11, 2011

7. Between 2002 and 2004, the College of Agricultural and Life Sciences, UW-Madison, and Cooperative Extension, UW-Extension published a series of leaflets with the common title, *Rethinking Dairyland*, which documented a declining trend in Wisconsin milk production between 1985 and 2001, state milk cow numbers had fallen from 1.9 million to 1.3 million, a loss of 38,000 per year. Milk production had stagnated to between 22 to 24 billion pounds. In 2001, production declined more than one billion pounds. Cheese producers were addressing the milk shortage by purchasing non-fat dry milk from western states. Over 14% of the milk protein used to make cheese was imported. Projecting cow numbers and yield per cow to 2015 showed state milk production about eight billion pounds less than in 2001.

8. The milk volume production loan program was established as part of the Build Wisconsin Initiative which included components intended to aggressively support the Wisconsin dairy industry. MVP was designed to provide qualifying dairy producers with financing that could fill an "equity gap" by providing equity financing with favorable terms to dairy businesses seeking to expand. Funding has been provided both through federal community development block grant -- economic development funds (CDBG-ED), and state RED funds. Federal program requirements limit CDBG funding to a minimum project size of $50,000. Federal requirements also limit where CDBG funds can be used to non-entitlement communities. Entitlement communities receive CDBG finds directly from the U.S. Department of Housing and Urban Development (HUD). Entitlement communities are generally cities with populations of at least 50,000 and urban counties (Milwaukee,

Dane, Waukesha)

9. As noted, the Milk Volume Production program is funded with CDBG-ED and RED monies, and is administered in conjunction with the Department's Dairy 2020 program activities. However, there are no state or federal statutory provisions that establish the MVP program, the MVP is a Commerce policy initiative.

CDBG and RED funds are used to finance the equity gap for dairy producers that are undertaking capital improvements to modernize their operations and increase dairy herd size. CDBG funds are made to eligible local governments which use the funds for loans to local dairy producers. The loan term is seven years with a fixed interest rate of 2% for the life of the loan. Repayment is deferred for the first year followed by interest only payments in the second year. The loan is then amortized during years three through seven with equal monthly payments of principal and interest. Project costs are limited to the cost of acquiring dairy cows. The maximum award that can be made to an individual producer is $200,000 ($100,000 for RED financing), or $500 for each dairy cow added to the operation. Loans are generally awarded for purchases of between 40 and 400 cows, or $20,000 to $200,000.

The level of Commerce participation is based on a comprehensive evaluation of the project based on the following criteria: (a) financial management skills; (b) production management skills; (c) labor management experience; (d) environmental management skills; and (e) the ability to secure private sector financing necessary to make the project successful.

10. Table 2 shows MVP awards for calendar years 2007 through 2010. The table shows that the number and amount of MVP awards has declined each year from 2007 through 2010. Only four MVP loans were awarded in 2010.

TABLE 2

Milk Volume Production Loans
2007 through 2010

Year	Number of Loans	Total Amount	Average Loan
2007	18	$2,210,500	$122,800
2008	11	1,089,000	99,0000
2009	6	659,000	109,800
2010	4	435,500	108,900

11. As noted, Dairy 2020 Council members include industry representatives, representatives of educational institutions and legislators The Council meets quarterly and is responsible for the general operations of the initiative, including the composition of the initiative, communications with the dairy industry, developing initiative goals, and oversight of operations. The Dairy 2020 Council is not statutorily attached to Commerce, and should be able to continue its activities if initiative responsibilities are transferred to DATCP.

12. The bill would transfer administration of the Dairy 2020 program, including the

Dairy 2020 EPG grant and MVP loan programs, from Commerce to DATCP. The bill would also transfer administration of the Dairy Manufacturing Facility investment tax credit to DATCP. DATCP would be provided $64,900 GPR and 1.0 GPR economic development consultant position to administer the Dairy 2020 and tax credit programs. However, the bill would not provide funding for the Dairy 2020 EPG grants and MVP loans. In a March 31, letter to the Co-Chairs of the Joint Committee on Finance, the Secretary of Administration requested that a GPR appropriation with annual funding of $200,000 be created under DATCP, and that the GPR appropriation under the Wisconsin Economic Development Corporation be decreased by $200,000 annually, to reflect the transfer of the grant and loan programs from Commerce to DATCP.

13. Tables 1 and 2 show that the number and total amount of Dairy 2020 EPG and MVP awards have declined each year of the past two biennia. Given the amount of recent awards, the Department of Administration (DOA) indicates that the proposed appropriation and annual funding of $200,000 GPR should be sufficient for DATCP to award both Dairy 2020 EPGs and MVP loans.

14. The Dairy 2020 program in general, and the EPG and MVP financial assistance programs were initiated to address concerns about declining milk production in Wisconsin. Both are designed to assist dairy farmers in expanding their milk cow herds and milk production. However, trend projections of declining dairy industry production have not continued. The number of dairy cows increased from 1.235 million on January 1, 2005 to an estimated 1.265 million on December 31, 2010. Milk per cow increased from 18,500 pounds in 2005 to an estimated 20,635 pounds in 2010. Similarly, total milk production in the state increased from 22,866 million pounds in 2005 to an estimated 26,040 pounds in 2010, while total cheese production grew from 2.4 million pounds in 2005 to over 2.6 million pounds in 2009. DATCP indicates that the state's specialty cheese industry set production records in 2008. Dairy industry processors and producers reinvested approximately $1 billion to modernize processing operations and dairy farms between 2003 and 2005.

15. The 2009-11 budget provided Commerce with $50,000 to contract with a nationally recognized organization to conduct a national and international economic competitiveness study of the state's economy to be presented to the Joint Committee on Finance, Legislature, and Governor by January 1, 2011. Included in the study, was a ten state comparison of state economic development programs. The study found that Wisconsin had the lowest economic development operating budget and marketing budget among the ten states that were analyzed. In public testimony, the Secretary of Commerce indicated that the funding provided WEDC would allow the state to narrow the gap in per capita investment in economic development when compared to competitor states.

16. As noted, the administration has requested transferring $200,000 GPR annually from WEDC to DATCP to fund Dairy 2020 EPGs and MVP loans. However, it could be more effective, from an economic development perspective, to keep the funds in WEDC. Those supporting this view would note that industry statistics show that production and investment in the dairy industry have significantly improved since the Dairy 2020 EPG grant and MVP loan programs were established. Data from Table 1 shows that the number and aggregate amount of Dairy 2020 EPGs has declined, with less than 20 awards in fiscal year 2009-10. Data in table 2 show that participation in the MVP program decreasing annually, with only four awards in 2010. These data could be viewed as an indication that the financial support provided to the dairy industry through the Dairy

2020 EPG and MVP programs is no longer essential for the economic health of the dairy industry in Wisconsin. The Committee may wish to retain WEDC funding to be used by the Corporation to provide financial assistance for economic development projects, some of which would be assistance to businesses in rural areas.

17. The dairy industry generates $26.5 billion annually in sales and employs 146,000. Wisconsin has more than 12,000 dairy farms, which is more than any other state, and each milk cow is estimated to generate $20,000 in economic activity. Wisconsin also makes 26% of all the cheese (more than any other state or nation), and 45% of the specialty cheese in the U.S. The importance of the dairy industry to the state's economy has generated support for state economic development programs that target the industry. The Dairy 2020 EPG and MVP loans are designed to provide financial assistance to dairy farmers to invest in and modernize operations. Supporters of the programs view the financial assistance as a means to increase individual farm output and sales of dairy products.

18. DATCP administers parts of the Dairy Business Initiative (DBI) which was previously known as the Value-Added Dairy Initiative (VADI). DBI/VADI has been supported by federal funding and in-kind efforts of DATCP, Commerce, the University of Wisconsin Center for Dairy Profitability, the UW–Extension, the Wisconsin Technical Colleges, and dairy industry trade groups. DBI/VADI is broadly intended to help the state dairy industry modernize and expand operations, as well as develop supply and distribution chains to economically increase product offerings and market presence of Wisconsin dairy products. Dairy 2020, including the EPG grants and MVP loans, has generally constituted the Commerce contributions to DBI/VADI operations.

19. DBI/VADI includes the Grow Wisconsin Dairy Team, which includes a team of interagency members that coordinate and focus resources for dairy farm modernization, and for streamlining the supply chain. In addition, DBI/VADI includes the Dairy Business Innovation Center (DBIC) which provides technical assistance to new and emerging dairy businesses. Between 2004 and 2009, the Grow Wisconsin Dairy Team provided grants to 321 producers, processors, and local dairy groups. Technical assistance was provided to about 500 farms. Dairy 2020 EPGs and MVP loans are a source of funding for reinvestment under DBI/VADI. However, the primary source of financial assistance has been provided through earmarks of federal funds. DBI/VADI obtained $8.8 million in federal funds between 2004 and 2009. Federal funding is not expected to continue. From the view of dairy industry supporters, funding for Dairy 2020 grants and MVP loans should be provided, as it could be the primary source of financial assistance under DBI/VADI.

Transfer of Administration of Tax Credit Programs

20. Since the introduction of the budget, the Administration has indicated that administration of the food processing plant and food warehouse investment tax credit, the meat processing facility investment tax credit, and the woody biomass harvesting and processing tax credits should also be transferred to DATCP. In addition, responsibility for administering the certification, allocation, and verification functions of the electronic medical records tax credit should be transferred to the Department of Revenue. The bill would also transfer administration of the film production tax credits to the Department of Tourism.

21. For the dairy manufacturing facility, food processing plant and food warehouse, meat processing facility investment, and woody biomass harvesting and processing tax credits, Commerce is required to certify tax credit claimants, subject to the statewide limit on the total amount that can be claimed. In order to claim the tax credits, businesses must typically submit a completed application to Commerce after the end of the business' tax year in which the eligible investment occurred, and no later than February 15 of the subsequent tax year. The application must include a listing of eligible investment expenses. For the dairy manufacturing facility, meat processing facility, and food processing plant and food warehouse investment tax credits eligible expenses include: (a) building construction; (b) building additions; (c) upgrades to utilities; (d) intake and storage equipment.; (e) processing and manufacturing equipment; (f) packaging and handling equipment, including sealing, bagging, boxing, labeling, conveying, and product movement equipment; (g) warehouse equipment, including storage racks; (h) waste treatment and waste management equipment, including tanks, blowers, separators, dryers, digesters, and equipment that uses waste to produce energy, fuel, or industrial products; and (i) computer software and hardware used for managing the claimant's business operation, including software and hardware related to logistics, inventory management, and production plant controls. For the woody biomass tax credit, eligible investment expenses include amounts paid for equipment that is used primarily to harvest or process woody biomass that is used for fuel or a component of fuel.

In determining the allocation of tax credits Commerce is required to consider the following factors: (a) the jobs created by the project; (b) the salaries, wages, and other employee benefits of the jobs created by the project; (c) the impact of the project on the dairy industry in Wisconsin; (d) the extent to which the area served by the project is economically distressed; (e) the amount of new, eligible capital investment in the project; (f) the impact of the project on business in Wisconsin; and (g) any previous assistance from Commerce. Commerce may prorate some or all of credit allocations in order to broaden the potential for promoting economic development. Commerce is required to notify each applicant of the outcome of the application, and the Department of Revenue of every taxpayer that is certified for tax credits.

22. Table 3 shows the number, amount and average tax credit awards for the dairy manufacturing facility, food processing plant and food warehouse, and meat processing facility investment tax credits. Through April 2011, Commerce had not allocated any woody biomass harvesting and processing tax credits. Business dairy manufacturing facility investment tax credits ranged from $29 (for one of four facilities of the same company that received credits with a total allocation of $33,400) to $200,000 (claimed by five different firms), while credits claimed by cooperatives ranged from $36,000 to $153,000. The largest food processing plant and food warehouse investment credit was $59,800 (claimed by nine different companies) and the smallest was $240. Meat processing facility investment tax credits ranged from a high of $73,900 (four firms) to a low of $78.

TABLE 3

Dairy Manufacturing Facility, Food Processing Plant and Food Warehouse, and Meat Processing Facility Investment Tax Credits 2010

Tax Credit	Number of Credits	Total Amount	Average Credit
Dairy Manufacturing Facility			
Businesses	50*	$700,000	$14,000
Cooperatives	8**	700,000	87,500
Food Processing & Food Warehouse	43	1,200,000***	27,900
Meat Processing Facility	35	700,000	20,000

* The number includes credits for four different facilities of one business, and credits for eight different facilities of another business.

** Number includes credits for three different facilities each of two different co-operatives.

*** The credit maximum is $1,200,000 for fiscal year 2010-11, and $700,000 for subsequent fiscal years.

23. Under the bill, the film production tax credits would be transferred to the Department of Tourism for administration. A potential claimant is currently required to apply to Commerce to accredit a production as eligible, determine the eligible amount of production expenditures, including resident salary and wages and sales and use taxes, and certify film production company expenses for the purpose of claiming the film production tax credits. The application must include a fee equal to the lesser of 2% of the claimant's budgeted production expenditures or $5,000. A separate application must be submitted for each accredited production and production company.

In determining whether to accredit a production or to approve expenditures Commerce must consider if: (a) the production would not occur and/or the production company would not be established in Wisconsin without the film production tax credits; (b) the production and/or production company would enhance economic development in the state; (c) the production and/or production company would enhance the film, video, or electronic game industry in the state; and (d) the production would not hurt the reputation of the state of Wisconsin.

Potential claimants of film production services tax credits are required to submit: (a) list and description of the production expenditures incurred during the year; (b) a list of the salaries and wages that were paid and the corresponding services; (c) attestation that the employees who received the salary or wages met the state residency requirement at the time wages were paid; (d) an itemized list of the sales or use taxes paid corresponding to an itemized list of purchased tangible personal property and taxable services that were used directly in producing the accredited production, including all stages from the final script stage to the distribution of the finished production; (e) demonstration that the claimant either owns the copyright in the accredited production or has contracted directly with the copyright owner or a person acting on the owner's behalf; (f) a viable plan for commercial distribution of the finished production; and (g) any subsequent clarification requested by the Department. Based on this information Commerce determines: (a) the production expenditures incurred during the tax year; (b) the salary or wages that were paid during the tax year by the claimant to employees who rendered services in the state to produce an accredited production, and who were residents of Wisconsin; and (c) the eligible sales or use taxes paid during the tax year.

Commerce staff reviews applications for accreditation, determination, and certification of eligible expenses. After review, Commerce will either approve or deny the application. If approved, the applicant will receive an offer letter that details the terms and conditions for receiving tax credits. Claimants must submit a final accounting of expenditures to Commerce. Commerce staff audit the information for accuracy before verifying the expenses for the purpose of claiming the tax credit. Commerce must notify DOR of accredited productions and the amount of production and/or production company investment expenditures.

24. Commerce has certified $437,400 in film production tax credits for fiscal year 2010-11 to date. A total of $130,600 in credit claims have been verified. Of the total, $134,400 of certified credits were for film production company investment tax credits.

25. The administration has requested that allocation, certification and verification functions for the electronic medical records tax credit be performed by the Department of Revenue (DOR). The electronic medical records tax credit equals 50% of the amount paid by a health care provider in a tax year for information technology hardware or software that is used to maintain medical records in an electronic form. Tax credits not entirely used to offset income and franchise taxes can be carried forward up to 15 years to offset future tax liabilities. The maximum total amount of electronic medical records tax credits that can be claimed in a tax year is $10 million, and is allocated to claimants by the Department of Commerce.

Commerce is required to implement a program to certify health care providers as eligible to claim the electronic medical records tax credit. After certifying health care providers as eligible, Commerce is required to allocate tax credits to individual claimants, subject to the annual total credit limit of $10 million. Commerce must inform DOR of every health care provider that is certified, and of the amount of tax credits allocated to each provider. Commerce must also, in consultation with DOR, promulgate rules to administer the certification and tax credit allocation process. The electronic medical records tax credit can first be claimed for tax years beginning after December 31, 2011.

26. The administration indicates that it recommended transferring responsibility for certification, allocation and verification of certain tax credits because the credits did not fit the economic development focus of WEDC. The dairy manufacturing facility investment, food processing plant and food warehouse investment, and meat processing facility investment tax credits and the woody biomass harvesting and processing tax credits are being moved because they are more closely aligned with DATCP's responsibilities related to promoting and supporting businesses in the agriculture sector of the state's economy. The bill would provide the Department with a position to administer the tax credits. Similarly, transferring administration of the film tax credits is viewed as conforming more with Tourism's activities in promoting the state. The Deputy Secretary has indicated that restoring the film tax credits is a tourism industry priority. Successful

projects filmed in the state typically have a tourism impact.

27. The federal Health Information Technology (HIT) for economic Development and Clinical Health Act (HITECH) of 2009 charged the Office of the National Coordinator for Health Information Technology (HIT) with building an interoperable, private, and secure nationwide health information system and supporting widespread, meaningful use of the information. The bill also established federal incentive payments to eligible health professionals and hospitals under Medicare and Medicaid. In order to qualify, programs are required to use certified electronic health records (EHR) systems. The administration indicates that administration of the electronic medical records tax credit should be transferred to DOR to ensure that the tax credits are awarded for EHR systems that would meet federal certification standards. The transfer addresses a concern that the current statutory provisions are not specific enough to ensure only qualified EHR systems would receive tax credits. More specific provisions could be included in administrative rules. DOR could be viewed as most appropriately promulgating the necessary rules.

28. Currently, Commerce uses economic development criteria, such as jobs created, investments made, and location in distressed areas to certify and allocate the investment tax credit programs that are being transferred. The credits were enacted by the Legislature to provide financial support for specific state industries. As a result, the tax credits could be viewed as economic development programs. A rationale for creating WEDC was to provide more flexibility to the state in providing assistance to business projects that create jobs and expand investment in the state. From this view, the transfers would eliminate some of the economic development tools available to WEDC. Moreover, the certification, allocation and verification process involves thorough review of applications, investments and related activities. None of the agencies that would be responsible for administering the tax credits currently have staff that are experienced in these activities. An additional administrative position would be created at DATCP, while the administration has indicated the intent to employ most of Commerce economic development staff at WEDC. It could be argued, that retaining administrative responsibility for the tax credits at WEDC would provide the Corporation with programs that would contribute to state economic development, and that such programs would be administered more efficiently by WEDC staff.

29. Commerce workload data indicate that 0.5 position may be sufficient to administer the dairy manufacturing facility investment, food processing plant and food warehouse investment, and meat processing facility investment and the woody biomass harvesting and processing tax credits programs. If the Committee chooses to deny funding to DATCP for Dairy 2020 EPGs and MVP loans, but transfer tax credit program administrative responsibilities, position authority could be reduced by 0.5 GPR and funding could be reduced by $32,500 GPR. The deleted annual funding of $32,400 GPR could be added to the WEDC GPR appropriation.

ALTERNATIVES

1. Modify the Governor's request to transfer from the Department of Commerce to the Department of Agriculture, Trade and Consumer Protection administration of the following programs: (a) Dairy 2020, including the Dairy 2020 early planning grant (EPG) and Milk Volume Production (MVP) loan financial assistance programs; and (b) certification, allocation and

verification of the dairy manufacturing facility investment tax credit, food processing plant and food warehouse investment tax credit, meat processing facility investment tax credit, and woody biomass harvesting and processing tax credit. Provide $64,900 GPR annually with 1.0 economic development consultant position in DATCP for administration of the programs (same as the bill). In addition, provide $200,000 GPR annually from the Wisconsin Economic Development Corporation (WEDC) in a newly created, annual appropriation in DATCP to fund Dairy 2020 EPGs and MVP loans. Require all records and tangible personal property related to certification of tax credit claimants to be transferred from Commerce to DATCP. Specify all Commerce administrative rules in effect for administration of the tax credit programs remain in effect until any designated expiration date, or until the rules are modified or repealed by DATCP.

ALT 1	**Change to Bill**		
	Funding DATCP	Funding WEDC	Net
GPR	$400,000	- $400,000	**$0**

2. Transfer to DATCP administration of the certification, allocation and verification of the dairy manufacturing facility investment tax credit, food processing plant and food warehouse investment tax credit, meat processing facility investment tax credit, and woody biomass harvesting and processing tax credit programs. Require all records and tangible personal property related to certification of prospective tax credit claimants to be transferred from Commerce to DATCP. Specify all Commerce administrative rules in effect for administration of the tax credit remain in effect until any designated expiration date, or until the rules are modified or repealed by DATCP. Further, provide one of the following for an economic development consultant in DATCP for administration of the tax credit programs. (No Dairy 2020 early planning grant or MVP loan funds would be provided to DATCP.)

a. $64,900 GPR annually for 1.0 position (same as the bill).

b. $32,400 GPR annually with a 0.5 position. Further provide an additional $32,500 GPR annually to WEDC.

ALT 2b	**DATCP Change to Bill**		**WEDC Change to Bill**		**Net Change to Bill**	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	- $65,000	- 0.50	$65,000	0.00	$0	- 0.50

3. Delete the Governor's recommendation to transfer administration of the film production tax credits from Commerce to the Department of Tourism. Instead, transfer administrative responsibilities from Commerce to WEDC.

4. Transfer administrative responsibilities for the electronic medical records tax credit from Commerce to the Department of Revenue. Provide DOR with rule making authority to administer the credit.

5. Consolidate administration of tax credit programs at WEDC. Transfer certification for the dairy manufacturing facility program from DATCP and the film tax credit from Tourism to WEDC. Transfer $64,900 GPR annually from DATCP to WEDC and delete 1.0 GPR DATCP position.

ALT 5	**DATCP Change to Bill**		**WEDC Change to Bill**		**Net Change to Bill**	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	- $129,800	- 1.0	$129,800	0.00	$0	- 1.0

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