



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #142

Agrichemical Funds Transfers (Agriculture, Trade and Consumer Protection)

[LFB 2009-11 Budget Summary: Page 88, #8]

CURRENT LAW

The agrichemical cleanup program (ACCP) primarily supports reimbursements of spills or discharges of fertilizers and non-household pesticides at commercial fertilizer blending facilities, commercial pesticide application businesses, and farm sites. The agrichemical management (ACM) fund supports DATCP administration of the agricultural chemical cleanup program, inspections and regulation of businesses that manufacture, store or sell feed, fertilizer and pesticide products, DATCP groundwater quality programs and other grants. The funds' revenue sources consist primarily of: (a) licensing and registration fees, such as fees on producers of fertilizers, commercial feed, pesticides, and soil and plant additives; and (b) tonnage fees on fertilizer and commercial feed.

GOVERNOR

Transfer to the state's general fund \$2.5 million in the 2009-11 biennium as follows: (a) \$500,000 in 2009-10 and \$1,000,000 in 2010-11 from the segregated agrichemical management (ACM) fund; and (b) \$500,000 in 2009-10 and in 2010-11 from the segregated agricultural chemical cleanup program (ACCP) fund.

DISCUSSION POINTS

1. In part, the administration intends for the transfers to offset refundable tax credits expected to be made in 2009-11 under the dairy cooperative manufacturing facility investment tax credit and the meat processing facility investment tax credit. These credits were signed into law in 2009 Act 2. The dairy investment tax credit allows members of dairy cooperatives or

unincorporated cooperative associations to claim up to 10% of the amount paid in a tax year by the cooperative for modernization or expansion of the cooperative's manufacturing operation. The meat processing tax credit also allows a 10% claim by partners, members of limited liability corporations and shareholders of tax-option corporations for amounts paid to modernize or expand an entity's meat processing operations. The maximum aggregate credit is \$200,000 per claimant under the meat processing facility credit, and \$200,000 per manufacturing facility. Tax credits are estimated to be \$2.3 million over the biennium. The refundable credits are paid from GPR sum-sufficient appropriations created under Act 2. These programs sunset January 1, 2017.

2. The ACM fund supports DATCP administration of the agricultural chemical cleanup program, inspections and regulation of businesses that manufacture, store or sell feed, fertilizer and pesticide products, DATCP groundwater quality programs and other grants. The ACM fund has the following revenue sources: (a) \$30 annual license fees for fertilizer manufacturers and distributors; (b) fertilizer fees of 30¢ per ton; (c) non-agricultural fertilizer permits of \$25; (d) \$25 annual licenses for soil and plant additive manufacturers and distributors; (e) \$100 one-time soil and plant additive permits for new products; (f) soil and plant additive fees of 25¢ per ton; (g) annual lime license fees of \$10; (h) \$25 annual licenses for commercial feed manufacturers and distributors; (i) commercial feed tonnage fees of 23¢ per ton; (j) restricted-use pesticide dealer licenses of \$60; (k) pesticide applicator licenses of \$40 for individuals and \$70 for businesses; (l) nonresident commercial applicator reciprocal certificate fees of \$75; (m) \$25 biennial veterinary clinic permits; and (n) household, non-household and industrial pesticide registration fees ranging from \$141 to over \$3,000, depending on the quantity sold. These fee levels are set in the statutes.

3. The ACCP fund supports reimbursements of spills or discharges of fertilizers and non-household pesticides at commercial fertilizer blending facilities, commercial pesticide application businesses and farm sites. Reimbursements may be provided within three years of a person applying for funds. The program requires a one-time deductible of \$3,000 for farms and small businesses and \$7,500 for larger commercial firms. DATCP may then reimburse up to 75% of costs, up to a total of \$400,000. Therefore, the most DATCP may pay per cleanup site is \$294,375. The ACCP also provides approximately \$250,000 annually for a portion of the costs of the University of Wisconsin–Extension discovery farms program, which research cost-effective methods for limiting nutrient runoff and nonpoint source water pollution from Wisconsin farms. Further, 2007 Act 20 authorized DATCP to make grants totaling up to \$250,000 annually from the ACCP fund for capital costs of projects that would prevent agrichemical pollution. Pollution prevention grants may be up to 50% of project costs, and total cleanup and pollution prevention grants may not exceed \$500,000 per site. DATCP is in the process of drafting administrative rules for this program.

4. The ACCP fund is supported by the following revenues: (a) a fertilizer tonnage surcharge of 44¢ per ton; (b) a registration surcharge of \$3.50 per product for non-household pesticides with Wisconsin sales of less than \$25,000, \$120 per product for non-household pesticides with Wisconsin sales from \$25,000 to \$74,999, or 0.75% of sales per product for non-household pesticides with Wisconsin sales greater than \$75,000; (c) a \$14 annual license surcharge for fertilizer manufacturers and distributors; (d) a \$28 annual surcharge for dealers of pesticides

whose use is restricted by the Federal Insecticide, Fungicide, and Rodenticide Act; (e) a \$38 annual surcharge for commercial application businesses; and (f) a \$14 annual surcharge for individual commercial applicators.

5. Tables 1 and 2 show the estimated condition of the ACM and ACCP funds under the bill. Although appropriated up to \$2.97 million annually, the ACCP fund condition reflects \$2,225,000 in annual expenditures for cleanup reimbursements and pollution prevention grants during the 2009-11 biennium. Reimbursements have averaged about \$2.1 million over the last three years, and are expected to be less than \$1.9 million in 2008-09. Amounts listed as transfers in 2009-10 and 2010-11 include the \$2.5 million recommended by the Governor, as well as an additional \$263,600 annually from the ACM fund related to 1% across-the-board reductions and other program reductions and \$32,500 annually from the ACCP fund in 1% reductions.

TABLE 1

ACM Fund Condition

	Actual <u>2007-08</u>	Estimated <u>2008-09</u>	AB 75 <u>2009-10</u>	AB 75 <u>2010-11</u>
Opening Balance	\$2,936,300	\$3,583,100	\$2,952,000	\$2,433,400
Revenue	<u>6,814,200</u>	<u>6,800,000</u>	<u>6,600,000</u>	<u>6,675,000</u>
Total Available	\$9,750,400	\$10,383,100	\$9,552,000	\$9,108,400
Expenditures	\$6,085,300	\$6,791,100	\$6,355,000	\$6,358,600
Transfers	82,000	640,000	763,600	1,263,600
Closing Balance	\$3,583,100	\$2,952,000	\$2,433,400	\$1,486,200

TABLE 2

ACCP Fund Condition

	Actual <u>2007-08</u>	Estimated <u>2008-09</u>	AB 75 <u>2009-10</u>	AB 75 <u>2010-11</u>
Opening Balance	\$4,251,300	\$4,407,200	\$3,327,200	\$3,115,800
Revenue	<u>3,234,000</u>	<u>2,795,000</u>	<u>2,795,000</u>	<u>2,795,000</u>
Total Available	\$7,485,300	\$7,202,200	\$6,122,200	\$5,910,800
Total Expenditures	\$2,437,100	\$2,150,000	\$2,473,900	\$2,473,900
Transfers	641,000	1,725,000	532,500	532,500
Closing Balance	\$4,407,200	\$3,327,200	\$3,115,800	\$2,904,400

6. Since 2003, DATCP has been required to adjust surcharge amounts as necessary in the ACCP fund in order to end each fiscal year with a balance of not more than \$2.5 million.

However, the ACCP fund had a June 30, 2008, balance of approximately \$4.4 million and is expected to have a June 30, 2009, balance of \$3.3 million. Although the fiscal year end fund balance has exceeded \$2.5 million since June 30, 2006, as of May 2009, DATCP had not begun the process to reduce fees. DATCP could revise fees by promulgating an administrative rule or creating an emergency rule without the finding of an emergency until a permanent rule is promulgated. The emergency rule procedure would require DATCP to first submit the proposed rule to the Joint Committee on Finance under a 14-day passive review. DATCP would be authorized to continue the emergency rule-making process if the Committee registers no formal objection.

7. DATCP indicates a fund balance up to \$2.5 million may be desirable in order to avoid potential cash flow problems during a fiscal year. This is because, while fertilizer fees are received in August, the majority of surcharge revenues, which relate to pesticide sales, are not received until January. Cleanup claims are paid quarterly, which generally occurs in September, December, March and June of each fiscal year. Therefore, if the opening fund balance is too low, revenues may be inadequate to meet the December claims payment. In this case some payments could need to be delayed until January. If a substantial delay were necessary, the program could incur additional interest charges, as DATCP administrative rules require claims to accrue interest between the time an application is received and paid.

8. Since the beginning of the 1999-2001 biennium, the ACM and ACCP funds have transferred approximately \$7.1 million to the general fund, including \$2.1 million estimated for the 2007-09 biennium. These transfers are shown in Table 3.

TABLE 3

Transfers from the ACM and ACCP Funds to the General Fund

<u>Fiscal Year</u>	<u>Amount</u>	<u>Source Fund</u>
1999-00	\$1,500,000	ACCP
	1,000,000	ACM
2000-01	500,000	ACCP
2002-03	200	ACM
2003-04	116,200	ACM
2004-05	1,900	ACM
2006-07	1,537,800	ACM
2007-08	266,000	ACCP
	82,000	ACM
2008-09*	640,000	ACM
	<u>1,500,000</u>	ACCP
Total	\$7,144,100	

* Estimated

9. It should be noted that the transfers would not create a structural imbalance in either fund. The total expenditures and transfers would decrease the year-end balances of each fund;

however, since the general fund transfers are specified as one-time, neither fund would have an ongoing structural problem. Rather, each would have a substantial balance on June 30, 2011.

10. One could argue the recommended transfers to the general fund are warranted in light of the estimated condition of the general fund. In addition to the transfers from the ACCP fund as recommended by the Governor, transferring additional funds from the ACCP fund could be considered. Additional transfer amounts could improve the condition of the general fund and also bring the ACCP fund balance below the \$2.5 million year-end limit specified in the statutes. The Committee could consider an additional transfer of \$750,000 in 2009-10 (Alternative 2), which would lower the fund balance to approximately \$2.2 million on June 30, 2011. Transferring an additional \$750,000 each year from the ACCP would leave a June 30, 2011, balance of \$1.4 million (Alternative 3), similar to the ACM balance.

11. On the other hand, payers of these fees oppose transfers from the funds and argue that the transfers improperly use fee revenues raised specifically to support agrichemical-related programs. The Committee could consider deleting the transfers (Alternative 4).

ACCP Cleanup Expenditure Reestimate

12. As noted above, DATCP would have greater expenditure authority for cleanup reimbursement grants under the bill than the Department is currently estimating would be spent in 2009-10 and 2010-11. Therefore, expenditures for the reimbursement appropriation could be adjusted to reflect current estimates.

13. Under the bill, \$2,970,000 annually would be appropriated for ACCP reimbursement grants. DATCP has estimated expenditures of \$2,175,000 in 2009-10 and \$2,025,000 in 2010-11, though claim levels can be difficult to predict. Total reimbursement grants have generally decreased in recent years, as is shown in Table 4. The average annual reimbursement over the past three years was approximately \$2.1 million.

TABLE 4

ACCP Reimbursements

	<u>2003-04</u>	<u>2004-05</u>	<u>2005-06</u>	<u>2006-07</u>	<u>2007-08</u>	<u>2008-09*</u>
Reimbursement Grants	\$2,600,100	2,522,500	2,114,100	2,086,200	2,187,100	1,870,000

* Estimated

14. ACCP reimbursement grants could be reestimated at \$2,225,000 SEG annually (Alternative 5). This total is reflected in Table 2, as is \$248,900 in authority for UW–Extension discovery farms expenditures. The reestimated reimbursement amount would be somewhat higher than DATCP’s estimated costs for the 2009-11 biennium to allow for reimbursement claims that could be higher than currently anticipated and the potential beginning of pollution prevention grants.

If ACCP reimbursements were lower than the budgeted amounts, these funds would remain in the ACCP fund balance.

ALTERNATIVES

1. Adopt the Governor’s recommendation for the following transfers to the general fund: (a) \$500,000 in 2009-10 and \$1,000,000 in 2010-11 from the ACM fund; and (b) \$500,000 in 2009-10 and in 2010-11 from the ACCP fund.

2. In addition to Alternative 1, transfer \$750,000 from the ACCP fund in 2009-10.

ALT 2	Change to Bill Revenue
GPR	\$750,000
SEG	<u>- \$750,000</u>
Total	\$0

3. In addition to Alternative 1, transfer \$750,000 from the ACCP fund in 2009-10 and in 2010-11.

ALT 3	Change to Bill Revenue
GPR	\$1,500,000
SEG	<u>- \$1,500,000</u>
Total	\$0

4. Delete the transfers recommended by the Governor.

ALT 4	Change to Bill Revenue
GPR	- \$2,500,000
SEG	<u>\$2,500,000</u>
Total	\$0

5. Reestimate expenditures for ACCP grants to \$2,225,000 SEG annually (a reduction of \$745,000 annually from the level in the bill).

ALT 5	Change to Bill Funding
SEG	- \$1,490,000

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