

Environment and Economic Development

**AGRICULTURE, TRADE AND
CONSUMER PROTECTION**

1. BUY LOCAL, BUY WISCONSIN PROGRAM

Change to JFC Funding Positions		
GPR	\$381,800	1.00

Create a buy local grant program whereby DATCP would award grants to individuals and organizations to fund projects designed to increase the local sales of agricultural products grown within the state. Grants under the program would be permitted for the creation, promotion and support of regional food and cultural tourism trails, and for promoting the development of regional food systems (which could include the creation or expansion of food processing and distribution facilities, creating or supporting networks of producers, and strengthening connections between producers, retailers, institutions and consumers). Create a new, biennial GPR buy local grant appropriation in DATCP and provide expenditure authority of \$225,000 in 2007-08.

In addition, delete \$225,000 GPR from the Department of Commerce's Wisconsin development fund appropriation in 2007-08 (the appropriation would be left with \$7,873,400 GPR in 2007-08).

Require DATCP to promulgate administrative rules for the administration of the buy local program, but allow DATCP to promulgate an emergency rule for administration of the program without the finding of an emergency. Further, allow an emergency rule promulgated by DATCP for administration of the buy local program to remain in effect for 18 months after the effective date of the bill, or the effective date of the permanent rule, whichever is sooner (rather than the normal five to nine months allowed for emergency rules).

In addition, provide DATCP with \$42,700 GPR in 2007-08 and \$64,100 GPR in 2008-09 with 1.0 position for administration of the new buy local grant program and for agricultural product promotion. Further, provide an additional \$110,000 GPR in 2007-08 and \$165,000 GPR in 2008-09 for training, marketing, data tracking and information technology related to DATCP's buy local and agricultural promotion efforts.

2. COUNTY FAIR AIDS

Chg. to JFC	
GPR	\$100,000

Provide an additional \$50,000 GPR annually (for a total of \$400,000 GPR annually) for aids to county and district fairs.

In addition, modify the current county fair aid formula to provide each eligible fair up to 95% of the first \$8,000 in premiums actually paid (in all categories: junior, adult and senior), and 70% of all premiums in excess of \$8,000, with a maximum grant of \$10,000 per fair.

Under current law, DATCP may provide fair aids of up to 50% of junior premiums awarded, not to exceed \$10,000 per fair. Over the past few years, total eligible reimbursement claims have averaged between \$310,000 and \$320,000. Payments are prorated if funds are insufficient to pay all eligible reimbursements. Eligible premium costs for fair aids include those paid for livestock articles, for production, educational exhibits, agricultural implements and tools, domestic manufactures, and mechanical implements and productions.

COMMERCE

1. TRANSFER FROM THE PETROLEUM INSPECTION FUND TO THE GENERAL FUND

Chg. to JFC
GPR-REV \$14,576,500

Transfer \$14,576,500 in 2008-09 from the petroleum inspection fund to the general fund. The petroleum inspection fund primarily receives revenue from the 2¢ per gallon petroleum inspection fee that is assessed on all petroleum products that enter the state, including gasoline, diesel and heating oil. The first use of petroleum inspection fees is payment of debt service for revenue obligations that were issued to provide funds for the petroleum environmental cleanup fund award (PECFA) program. Remaining revenues are used for PECFA claims and several other programs.

2. WHEDA SURPLUS TRANSFER FOR GRANT TO OSHKOSH

Chg. to JFC
PR \$25,000

Increase the transfer from the Wisconsin Housing and Economic Development Authority (WHEDA) from its unencumbered reserves to Commerce for housing grants and loans by \$25,000 in 2007-08. Provide expenditure authority of \$25,000 PR in 2007-08, and specify that Commerce make a grant of \$25,000 to the City of Oshkosh for neighborhood improvement and stabilization. Commerce would enter into an agreement with the City of Oshkosh that specifies the uses for the grant proceeds and reporting and auditing requirements.

3. GRANT TO ALLIED PAINTERS UNION

Require Commerce to make grants of \$125,000 from the Wisconsin Development Fund in 2007-08 and 2008-09 to the Painters and Allied Trades District Council 7 of the AFL-CIO for training. Commerce would enter into an agreement with the Painters Council that specifies the uses for the grant proceeds and reporting and auditing requirements.

4. GRANT TO CHIPPEWA VALLEY TECHNICAL COLLEGE

Require the Department of Commerce to make a grant of \$160,000 during the 2007-09 biennium from the Wisconsin Development Fund to the NanoRite Facility at Chippewa Valley Technical College. Commerce would enter into an agreement with the Chippewa Valley Technical College that specifies the uses for the grant proceeds and reporting and auditing requirements.

5. GRANT FOR CORNERSTONE ICE ARENA

Require Commerce to make a grant of \$50,000 from the Wisconsin Development Fund in the 2007-09 biennium to the City of Green Bay for maintenance and construction of the Cornerstone Ice Arena. Commerce would enter into an agreement with the City of Green Bay that specifies the uses for the grant proceeds and reporting and auditing requirements.

6. GRANT FOR HOBBS ICE ARENA

Require Commerce to make a grant of \$50,000 from the Wisconsin Development Fund in the 2007-09 biennium to the City of Eau Claire for renovation of the Hobbs Ice Arena. Commerce would enter into an agreement with the City of Eau Claire that specifies the uses for the grant proceeds and reporting and auditing requirements.

NATURAL RESOURCES

1. COMPENSATION FOR REMEDIATION OF PCB CONTAMINATED SEDIMENT

	Chg. to JFC
SEG	\$6,000,000

Provide \$3,000,000 recycling fund SEG annually and create a program to reimburse certain responsible parties for the difference between the cost of transporting PCB contaminated sediment to an out-of-state hazardous waste disposal facility, and the cost of disposing of the PCB contaminated sediment in Wisconsin.

The Department of Natural Resources (DNR) would issue awards to eligible claimants for eligible reimbursement costs. An eligible claimant would be any person who is a responsible party under s. 292.11 (the state hazardous substances spills statute) or 42 U.S.C. sections 9601 et seq. for remediation of PCB contaminated sediment or has entered into a consent decree with DNR or the U.S. Environmental Protection Agency (EPA) to undertake the remediation of PCB contaminated sediment. PCB contaminated sediment would be defined as sediment dredged

from the beds or bank of navigable waters in Wisconsin, which contains polychlorinated biphenyls (PCBs) in a concentration of 50 parts per million or greater.

An applicant would submit a claim which contains all of the following: (a) test results which show that the sediment contains PCBs in a concentration of 50 parts per million or greater; (b) documentation establishing that the sediment was removed from navigable waters in Wisconsin as part of a remediation project being undertaken by the responsible party as part of a consent decree with DNR or EPA; (c) documentation showing that the PCB contaminated sediment was transported to and disposed at a licensed hazardous waste disposal facility outside Wisconsin and that disposal occurred on or after May 1, 2007; (d) documentation showing the disposal costs, including information related to the length and any other terms of any contract entered into by the applicant and disposal facility, and any other costs DNR determines to be reasonably necessary and attributable to the out of state disposal; and (e) an estimate of the cost associated with disposal of PCB contaminated sediment in a facility in Wisconsin that is approved for the disposal of PCB contaminated sediment. If there is no facility in Wisconsin meeting those requirements, the applicant would be required to estimate the disposal costs based on one of the following methods: (a) an estimate based on the costs of disposing of PCB contaminated sediment at facilities in other states, other than the facility that the applicant uses for disposal of the contaminated sediments, that are comparable to a facility that, if constructed in Wisconsin, would meet applicable federal and state requirements; or (b) an estimate based on the costs of constructing and operating a facility in Wisconsin that would meet the applicable state and federal requirements for a PCB waste disposal facility. Specify that if there is no facility in the state, and if DNR has accepted an estimate of an in state disposal cost based on the estimated costs of disposal from facilities in other states that would accept PCB contaminated sediment, within two years of the date of the application, the applicant may use that cost in its current application. The applicant would be required to include an explanation of the method used to estimate the cost of transporting the PCB contaminated sediment to a facility in Wisconsin.

When DNR receives a claim, the Department would notify the claimant if the claim is complete, or specify any additional information which the applicant must submit in order to complete the claim. If the claimant does not submit a complete claim, as determined by DNR, the Department may not proceed until it receives a complete claim.

Eligible reimbursement costs would include: (a) all costs associated with the transportation, permits, and disposal fees for the disposal of PCB contaminated sediment out of state, less such costs for the disposal of PCB contaminated sediment in Wisconsin; and (b) other costs that DNR determines to be reasonably necessary and attributable to the out of state disposal.

If DNR determines that a claimant submits a claim that meets all the requirements of the program, the Department would be required to issue an award in an amount equal to 95% of the amount by which the approved costs of disposal of the PCB contaminated sediment exceeds what the disposal costs would be for disposing of the PCB contaminated sediment in a facility

in Wisconsin, as determined under program provisions. The claimant would be required to pay five percent of the total eligible costs.

DNR would be required to pay each claim within 60 days after receiving a completed claim application. If the claims appropriation is insufficient to pay the claim, DNR would be required to conditionally approve the completed claim, and to pay the claim if and when appropriated funds become available for payment of the claim.

DNR would be required to deny a claim if any of the following apply: (a) the claim is not within the scope of the program; or (b) the claimant submits a fraudulent claim. DNR would also be required to deny reimbursement for any costs not submitted within two years of the date the costs were incurred for the disposal of the PCB contaminated sediment included in the claim.

The applicant would be authorized to seek review of a DNR decision related to an award as follows:

a. Within 30 days after DNR makes a decision of approval or denial of an award, the applicant would be authorized to submit a petition for reconsideration to the DNR Secretary. The DNR Secretary would be required to issue a decision on whether he or she will grant the petition within 20 days of receipt of the petition. If the Secretary grants the petition for reconsideration, he or she would meet with the applicant and DNR staff. The DNR Secretary would have to issue a decision on the reconsideration within 30 days of the meeting with the applicant and DNR staff. A request for reconsideration would not be considered a prerequisite to the other review under the program.

b. Within 30 days after DNR makes a decision of approval or denial of an award, or, if reconsideration is sought, within 30 days of the final decision on reconsideration, the applicant would be authorized to petition for a contested case hearing. A request for a contested case hearing would not be considered a prerequisite to other review under the program.

c. Within 30 days after DNR makes a decision of approval or denial of an award, or, if reconsideration is sought, within 30 days of the final decision on reconsideration, or, if a contested case hearing is sought, within 30 days of the final decision on the contested case, the applicant would be authorized to file a petition for judicial review of the award.

The existence of the relief under the program would not be a bar to any other statutory or common law remedy for a responsible party to recover costs of disposing of PCB contaminated sediment. A person would not be required to exhaust the remedy available under the program before commencing an action seeking any other statutory or common law remedy. The findings and conclusions under the program would not be admissible in any civil action.

A claim could be submitted for disposal of PCB contaminated sediments, for disposal that occurs on or after May 1, 2007.

DNR would be required to promulgate administrative rules that establish procedures for the submission, review and approval of claims under the program. DNR would be authorized to promulgate emergency rules for the program, without making a finding of emergency.

It is probable that most of the expenditures under the program in the next few years would relate to the Fox River PCB cleanup project (although PCB removal projects on the Milwaukee and Sheboygan Rivers, and other Wisconsin waters may also qualify). In May, 2007, dredging began in an area below a dam at De Pere, and approximately 20,000 to 25,000 cubic yards of PCB contaminated sediment with concentrations of 50 parts per million or greater will be hauled to a federally-licensed landfill near Detroit, Michigan. DNR and paper company representatives anticipate that at least 200,000 cubic yards of PCB contaminated sediment with concentrations of 50 parts per million or greater will be removed as part of the Fox River remediation project during the next several years. In 2006, Georgia Pacific submitted an application for licensing a portion of its landfill near Green Bay to hold PCB contaminated sediment with concentrations of 50 parts per million or greater. Georgia Pacific withdrew its application in response to local opposition.

2. PREPARATION OF FISH BROUGHT IN BY CHARTER BOATS

Authorize a restaurant or temporary restaurant to prepare and serve fish that are taken from the wild to the person who caught the fish, and to his or her guests, without obtaining a permit from DNR if all of the following conditions are satisfied: (a) the fish are legally taken; (b) while the fish are at the restaurant and before the fish are prepared for eating, they are stored in a cooler, which may be a portable cooler, that does not contain any other food; (c) the area where the fish are prepared for eating is washed and sanitized before and after preparation of the fish; and (d) all items used to prepare and serve the fish are washed in a dishwasher after such use. Further, specify that a restaurant or temporary restaurant may make a profit from preparing and serving the fish.

Under current law, an innkeeper, manager, or steward of any restaurant, club, hotel, boarding house, tavern, logging camp or mining camp is prohibited from serving or selling game fish taken from inland waters to its guests or boarders unless authorized by DNR through a permit prepared and furnished by the Department. Further, if issued a permit to serve game fish by DNR, the fish must be obtained legally, profit may not be the primary purpose for serving the game fish and the restaurant must close to the general public while serving the game fish, must comply with certain food safety requirements, and must notify the patrons that the game fish are not from an approved source. In addition, with certain exceptions, no fish taken by hook and line from outlying waters (Great Lakes), except rough fish, may be sold, bartered, or traded in any manner. Exceptions include eggs taken from trout and salmon that are not farm-raised fish, which may be sold or purchased only if the eggs are first removed from the whole fish in the presence of the buyer.

Under this provision, a DNR permit would not be required if the fish is served to the person who caught it, a restaurant would not be required to close to the general public while serving the fish, and the restaurant could profit from preparing and serving the fish.

3. WILD RIVERS INTERPRETIVE CENTER

Chg. to JFC	
GPR	\$29,000

Provide an additional \$2,000 GPR in 2007-08 and \$27,000 GPR annually beginning in 2008-09 to the Florence Wild Rivers Interpretive Center for forestry education, tourism, and operational costs.

SSA 1 would provide one-time funding of \$25,000 GPR in 2007-08 to the Wild Rivers Interpretive Center. This provision would bring the total to \$27,000 GPR annually.

4. OSHKOSH AQUATIC INVASIVE SPECIES EARMARK

Direct DNR to provide \$25,000 in 2007-08 from the existing aquatic invasive species grants program to the City of Oshkosh for invasive species education, prevention, and control activities in Miller's Bay and the adjacent water area in Lake Winnebago. No local matching funds would be required. SSA 1 provides \$1.8 million annually from the water resources account for aquatic invasive species grants. This provision would earmark \$25,000 in 2007-08 for Oshkosh.

5. SUPERIOR HARBOR CORROSION STUDY

Direct DNR to provide \$100,000 in 2007-08 from the existing recreational boating grants appropriation to the City of Superior to complete a study of the corrosion of the dockwall in the Duluth/Superior Harbor. No matching funds would be required. Specify that this funding be provided before applying the percentages regarding Great Lakes and inland water projects. Recreational boating aids are funded at \$3.1 million annually from the water resources account (motorboat gas tax) of the conservation fund.

6. ATV LANDOWNER INCENTIVE PROGRAM

Chg. to JFC	
SEG	\$410,000
SEG-REV	\$190,000

Shift up to \$100,000 SEG from ATV local trail aids in 2007-08 for a landowner incentive program. In addition, increase the annual non-resident ATV trail pass from \$18 to \$35, effective July 1, 2008. Create a continuing appropriation into which all moneys received from the sale of annual nonresident ATV trail passes would be deposited.

DNR would award incentive grants to private landowners who permit public all-terrain vehicle corridors on their lands. Specify that, under the ATV landowner incentive program, a

landowner may apply for an annual incentive payment at the following rates based on the number of days the trail was open for public use during the previous fiscal year:

- a. \$25 for each mile that was open for public use for 60 to 179 days;
- b. \$75 for each mile that was open for public use at least 180 days but less than 270 days;
- c. \$100 for each mile that was open for public use for 270 days or more;

Specify that an application for a landowner incentive payment is not considered complete until the forester or another employee of each county in which the public ATV corridor is located measures the length of the corridor for the purpose of calculating the payment. Further, specify that a landowner shall receive an additional payment of 10%, if the landowner enters into at least a five-year agreement with a county to allow a public ATV corridor on the property. Also, specify that, if the total amount of incentive payments in a given fiscal year exceeds the amount available, DNR would prorate the payments.

In addition, specify that payments made to landowners under the landowner incentive programs would not be included as income under the state individual income and corporate income and franchise tax.

The provision would increase the fees for an annual non-resident ATV trail pass from \$18 to \$35. As the fee for a two-year registration would remain \$30, it could be expected that some non-residents may purchase a two-year ATV registration rather than an annual non-resident trail pass. However, in order to register an ATV in Wisconsin, a non-resident would be required to pay sales tax on the value of the vehicle or present proof that he or she had paid the sales tax on the vehicle. Therefore, it is not expected that a substantial number of non-resident ATV users would purchase a two-year registration rather than an annual non-resident trail pass. However, to the extent that some users switched from a trail pass to a registration, the amount of the motor fuel tax transfer to the ATV account would be increased due to the increased registrations. Further, the annual trail pass fee would almost double. This would likely result in some reduction in sales. While the precise effects of these factors on annual trail pass sales is not known, for the purposes of this estimate, a 5% reduction in sales is assumed.

The annual non-resident ATV trail pass currently generates revenues of approximately \$220,000 per year. Approximately \$410,000 would be available for the ATV landowner incentive program in 2008-09 (\$190,000 in new revenue from the increased trail use fee and \$220,000 of revenue currently available for general ATV account appropriation).

7. LIGHTWEIGHT UTILITY VEHICLES PILOT PROGRAM

Provide \$10,000 SEG in 2007-08 from the ATV account of the conservation fund. DNR would provide grants (not to exceed \$2,000 per

	Chg. to JFC
SEG	\$10,000

county) to Florence, Forest, Sawyer, Marinette and Washburn counties and to municipalities (a city, village, or town) within those counties for a pilot program to investigate the effects of using lightweight utility vehicles on trails and roadways that are currently authorized to be used by all-terrain vehicles. Direct DNR to administer the pilot program in consultation with DOT. Lightweight utility vehicles would not be subject to ATV registration requirements under the pilot program. Specify that the pilot program would sunset on September 30, 2009.

Define a "lightweight utility vehicle" to mean an engine-driven device having a gross weight of more than 700 pounds but not more than 1,999 pounds that is designed to travel on 4 or more low-pressure tires, is equipped with a cargo area, and is used primarily off a highway. Further, specify that a low-pressure tire is a tire that is designed to be mounted on a rim with a maximum diameter of 14 inches and to be inflated with an operating pressure not to exceed 20 pounds per square inch as recommended by the manufacturer. In addition, specify that the definition of a lightweight utility vehicle does not include golf carts or low-speed vehicles. Define "golf cart" to mean a vehicle whose speed attainable in one mile does not exceed 20 miles per hour on a paved, level surface, and is designed and intended to convey one or more persons and equipment to play the game of golf in an area designated as a golf course. Define "low-speed vehicle" as a motor vehicle that is four-wheeled, whose speed attainable in one mile is more than 20 miles per hour and not more than 25 miles per hour on a paved level surface, and whose gross vehicle weight is less than 3,000 pounds.

Specify that the identified counties and municipalities within the identified counties are eligible to participate in the pilot program and the governing body of each county or municipality may elect to participate in the pilot program by adopting a resolution to that effect. In addition, specify that the governing body of each county or municipality may withdraw from the pilot program prior to the end of the pilot program by adopting a resolution to that effect. Further, specify that the counties and municipalities in the pilot program may designate any of the following:

- a. all-terrain vehicle routes and trails within their respective jurisdictions that may be used by operators of lightweight utility vehicles.
- b. all-terrain vehicle routes and trails within their respective jurisdictions upon which lightweight utility vehicle use is prohibited.

In addition, specify that the operation of a lightweight utility vehicle as authorized under the pilot program is subject to the same uniform traffic citations as all-terrain vehicles are subject to under current law. Further, specify that the operator of a lightweight utility vehicle must possess a valid motor vehicle operator's license and that any trail fees imposed on all-terrain vehicle use by a county or municipalities also apply to operation of a lightweight utility vehicle.

Require DNR, in consultation with the counties and municipalities, to evaluate the effect of using lightweight utility vehicles on roadways and on all-terrain vehicle routes and trails upon conclusion of the pilot program. Direct the Department to submit a report describing the

results of this evaluation to the appropriate standing committees of the legislature by January 1, 2010.

8. NORTHERN HIGHLAND-AMERICAN LEGION STATE FOREST ATV TRAILS

	Chg. to JFC
SEG	\$400,000

Provide \$400,000 SEG in 2007-08 from the ATV account of the conservation fund for development of ATV trails in the Northern Highland-American Legion State Forest. Specify that Natural Resources Board approval is required before funding may be allocated.

SSA 1 would provide \$104,100 in 2007-08 and \$80,000 in 2008-09 from the ATV account of the conservation fund for a sustainable all-terrain vehicle trails system in northern state forests. This provision would provide an additional \$400,000 in 2007-08 for a total of \$504,100 in 2007-08 and \$80,000 in 2008-09 for northern state forest ATV trails.

9. WILDLIFE DAMAGE REESTIMATES

	Chg. to JFC
SEG	\$2,839,600

Provide \$15,000 annually for estimated venison processing donations. Further, provide \$1,322,300 in 2007-08 and \$1,487,300 in 2008-09 to reflect anticipated agricultural wildlife damage claims and abatement costs (approximately \$3.5 million in 2007-08 and \$3.7 million in 2008-09). The amounts would update the continuing appropriation amounts to reflect anticipated activity for the 2007-09 biennium.

10. CHIPPEWA FALLS MUNICIPAL FLOOD CONTROL GRANT

Direct DNR to provide the City of Chippewa Falls with a grant of up to \$200,000 from the municipal flood control grant program, but not to exceed 70% of the cost to purchase land along Highway 29. Exempt the city from the eligibility requirements of the program and the typical application scoring process. The earmarked funding would be for the purchase of land near Bridge and River Streets that is part of a plan to reinvigorate the Highway 29 gateway to the city's downtown.

PUBLIC SERVICE COMMISSION

1. SUNSET DATE FOR WIRELESS 911 GRANTS

Delete the provision recommended by the Governor and approved by the Joint Committee on Finance that would prohibit the Public Service Commission from encumbering or expending money for grants or supplemental grants to wireless providers and local governments or for the Commission's administrative costs related to those grants, after April 1, 2009. Delay the current law provisions for two years that establish sunset dates for wireless providers to impose monthly surcharges and for the Commission to make grants or supplemental grants to wireless providers and local governments or for the Commission's administrative costs related to those grants. Authorize wireless providers and local governments to apply to the Commission through June 30, 2008, with estimates and supporting documentation of costs eligible for reimbursement under current law provisions. This provision would delay the sunset of the surcharge and extend the grant program for two years.