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Driver Improvement Surcharge Funding

STATE OF WISCONSIN



Legislative Audit Bureau ■

Driver Improvement Surcharge Funding

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Joe Chrisman
State Auditor

March 1, 2012

Senator Robert Cowles and
Representative Samantha Kerkman, Co-chairpersons
Joint Legislative Audit Committee
State Capitol
Madison, Wisconsin 53702

Dear Senator Cowles and Representative Kerkman:

We have completed our review of driver improvement surcharge funding, as requested by the Joint Legislative Audit Committee. When a court imposes a fine or forfeiture on an individual for operating a vehicle while intoxicated, statutes require that it also impose a \$365 driver improvement surcharge.

The county in which a surcharge is imposed retains 60.0 percent of the surcharge to help fund an intoxicated driver program that provides alcohol and drug abuse services to individuals convicted of offenses related to operating a vehicle while intoxicated. The county is statutorily required to transfer 40.0 percent of each imposed surcharge to the State.

Surcharge funds transferred to the State are distributed to five state agencies, which in fiscal year (FY) 2010-11 spent a total of \$4.5 million in surcharge funds on a variety of activities that supported local efforts to address alcohol and drug abuse issues. For example, surcharge funds were used to purchase breath alcohol testing instruments for local law enforcement agencies and provide free training on how to use them. In addition, the Department of Health Services awarded \$744,300 to 29 counties in calendar year 2011 as supplemental grants to help fund intoxicated driver programs. The other 43 counties did not request supplemental grants.

To help meet statutorily required budget reductions, we found that state agencies chose to lapse \$755,000 in surcharge funds to the General Fund in FY 2009-10 and \$120,000 in FY 2010-11.

We appreciate the cooperation extended to us by the five state agencies that spent surcharge funds.

Respectfully submitted,

Joe Chrisman
State Auditor

JC/DS/ss

Driver Improvement Surcharge Funding

When a court imposes a fine or forfeiture on an individual for offenses related to operating a vehicle while intoxicated, s. 346.655, Wis. Stats., requires that it also impose a driver improvement surcharge of \$365. Statutes have required the surcharge since 1981. Statutes currently stipulate that the county in which the surcharge was imposed retains 60.0 percent of the surcharge, which is used to help fund an intoxicated driver program that provides alcohol and drug abuse services to individuals convicted of offenses related to operating a vehicle while intoxicated. Statutes require counties to transfer 40.0 percent of each imposed surcharge to the State.

Counties transfer the State's portion of the surcharge to the Department of Administration (DOA), which is statutorily required to deposit the funds into an appropriation administered by the Department of Health Services (DHS). These funds are then distributed to other appropriations administered by DHS and the departments of Justice (DOJ), Public Instruction (DPI), and Transportation (DOT), as well as the University of Wisconsin (UW) System. These five agencies use the funds for a variety of activities that support local efforts to address alcohol and drug abuse issues. For example, DHS awards supplemental grants to help fund counties' intoxicated driver programs.

Concerns have been raised about the allocation of surcharge funds between the State and counties, as well as about how the State spends its portion of the funds. Therefore, at the request of the Joint Legislative Audit Committee, we:

- identified the statutorily required surcharge amount during each of the past 15 years, as well as the percentage that was transferred to the State and the percentage that was retained by counties;
- determined how the five state agencies spent surcharge funds from fiscal year (FY) 2007-08 through FY 2010-11;
- reviewed the methodology DHS used to award supplemental grants to counties to support their intoxicated driver programs; and
- contacted ten counties, including five that requested supplemental grants for calendar year 2011 (Dane, Kewaunee, Menominee, Waukesha, and Winnebago) and five that did not (Ashland, Chippewa, Eau Claire, Milwaukee, and Waupaca).

A determination of how often courts statewide imposed the surcharge in recent years or whether counties transferred the correct surcharge amounts to the State was outside the scope of this audit.

As shown in Table 1, the surcharge increased from \$300 in FY 1996-97 to \$365 in FY 2010-11. Because the percentage of the surcharge transferred to the State increased from 29.2 percent to 40.0 percent over this 15-year period, the amount of each imposed surcharge transferred to the State increased from \$88 to \$146, or by 65.9 percent. In contrast, the amount retained by counties increased from \$212 to \$219, or by 3.3 percent.

Table 1

Allocation of the Driver Improvement Surcharge

Fiscal Year	Surcharge	Percentage Transferred to the State	Amount Transferred to the State	Percentage Retained by Counties	Amount Retained by Counties
1996-97	\$300	29.2%	\$ 88	70.8%	\$212
1997-98 to 1998-99	340	37.6	128	62.4	212
1999-2000 to 2000-01	345	38.5	133	61.5	212
2001-02 to 2006-07	355	38.5	137	61.5	218
2007-08 to 2010-11	365	40.0	146	60.0	219

As shown in Table 2, counties have annually transferred to the State more than \$4.3 million in surcharge funds since FY 2007-08.

Table 2

Driver Improvement Surcharge Funds Transferred to the State

Fiscal Year	Amount
2007-08	\$4,421,800
2008-09	4,635,500
2009-10	4,641,400
2010-11	4,341,600

State Agency Use of Driver Improvement Surcharge Funds

All surcharge funds that counties transfer to the State are initially deposited into an appropriation administered by DHS. Statutes require that 9.75 percent of the surcharge funds annually transferred to the State be appropriated to the Safe-Ride grant program, which is administered by DOT and provides rides home for patrons of drinking establishments. At DOA's direction, all of the remaining funds are distributed to program revenue appropriations administered by

five agencies, based on the amounts requested by the agencies and approved by the Legislature and Governor during the biennial budget process. The five agencies include:

- DHS, which awards supplemental grants to counties to help fund intoxicated driver programs;
- DOT, which purchases breath alcohol testing instruments, provides them at no cost to law enforcement agencies statewide, and trains law enforcement officials on their use;
- UW System, which funds the State Laboratory of Hygiene’s tests for alcohol and other drugs in blood samples taken from individuals suspected of operating a vehicle while intoxicated;
- DPI, which funds traffic safety education for teenagers and alcohol and traffic safety projects; and
- DOJ, which provides services to victims of crimes, including those related to operating a vehicle while intoxicated.

Table 3 shows the expenditure of surcharge funds by the five state agencies from FY 2007-08 through FY 2010-11. Total expenditures in a given fiscal year do not match the amount of surcharge funds transferred to the State in that year because agencies are not required to spend the funds in the year they were transferred. To help meet statutorily required budget reductions, DOT, UW System, and DPI chose to lapse a total of \$755,000 in surcharge funds to the General Fund in FY 2009-10. DOT chose to lapse \$120,000 to the General Fund in FY 2010-11.

Table 3

Driver Improvement Surcharge Expenditures, by State Agency¹

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	Percentage of Total in FY 2010-11
DHS	\$1,000,000	\$1,000,000	\$ 527,800	\$ 852,900	18.9%
DOT	1,642,900	1,631,600	1,642,100	1,832,800	40.6
UW System	1,629,200	1,653,000	1,668,100	1,571,100	34.8
DPI	211,500	250,100	263,400	201,400	4.5
DOJ	59,100	59,400	60,700	54,200	1.2
Total	\$4,542,700	\$4,594,100	\$4,162,100	\$4,512,400	100.0%

¹ Excludes \$755,000 in FY 2009-10 and \$120,000 in FY 2010-11 that state agencies chose to lapse to the General Fund to help meet statutorily required budget reductions.

In FY 2009-10, DHS spent \$987,800 on supplemental grants for counties, funded in part by \$527,800 in surcharge funds. DHS used a federal Social Services Block Grant program to help fund the supplemental grants for counties in that year because some surcharge funds initially appropriated to DHS were redistributed to the other agencies, which used these additional amounts for surcharge-related activities and to help meet statutorily required budget reductions.

Department of Health Services

As noted, counties use surcharge funds to operate intoxicated driver programs that provide alcohol and drug abuse treatment services. Counties we contacted indicated that funding is typically used for outpatient treatment, such as counseling and group therapy. The counties' programs are also funded by fees charged to participants based on their ability to pay for the services. A county may be awarded a supplemental grant from DHS to help fund its intoxicated driver program if the surcharge revenue the county retains, as well as revenue from participant fees and participants' insurance coverage, are insufficient to fully fund the costs of its program.

Because the amount of surcharge funding distributed to DHS in recent years was less than the total amount requested by counties, DHS awarded available funding to counties proportionally, based on each county's request. DHS did not use any surcharge funds for its own administrative costs.

Table 4 shows the number of counties to which DHS awarded supplemental grants for calendar years 2008 through 2011. In 2011, DHS awarded 29 counties 22.8 percent of the \$3.3 million the counties had requested. The appendix lists the amount each county requested and was awarded for 2011. We contacted five counties in order to determine why they had not requested a supplemental grant in 2011, but none responded.

Table 4

Supplemental Grants DHS Awarded to Counties for Intoxicated Driver Programs

Calendar Year	Number of Counties	Amount Requested	Amount Awarded	Amount Awarded as a Percentage of Amount Requested
2008	31	\$3,217,300	\$1,000,000	31.1%
2009	34	3,043,900	990,000	32.5
2010	32	3,276,100	844,900	25.8
2011	29	3,258,200	744,300	22.8

Although most counties have not requested supplemental grants in recent years, some counties indicated to us that their supplemental grants did not fully fund the costs of their intoxicated driver programs. For example, Dane County estimated that it would have needed an additional \$104,400 to fund program costs but was awarded a supplemental grant from DHS of only \$23,800 in 2011.

Counties indicated that local property tax revenue helps pay for intoxicated driver program costs in excess of surcharge funds, supplemental grants, and other revenue. For example, Winnebago County estimated that 45 percent of its behavioral health services, including services provided by its intoxicated driver program, are funded by local property taxes. In 2011, it requested a \$200,800 supplemental grant from DHS but was awarded only \$45,900.

Department of Transportation

DOT receives surcharge funds through three state appropriations that fund:

- the purchase of breath alcohol testing instruments that are provided at no cost to state and local law enforcement agencies, which use the instruments to measure the blood alcohol level of individuals suspected of operating a vehicle while intoxicated;
- chemical testing, training, and related services that are provided by 13 staff who certify breath alcohol testing instruments, provide free training to state and local law enforcement officials, and complete other related duties; and
- the Safe-Ride grant program, which in FY 2010-11 funded 65,042 rides home for patrons of drinking establishments. Because the Tavern League of Wisconsin requests reimbursement on behalf of all of its members, information was not readily available on the number or location of the drinking establishments that requested reimbursement.

Table 5 shows DOT's expenditures of surcharge funds from FY 2007-08 through FY 2010-11. Although the Safe-Ride grant program is appropriated 9.75 percent of the surcharge funding transferred to the State, DOT indicated that the program has not always spent all of these funds. As a result, DOT chose to lapse \$511,000 in surcharge funding for the Safe-Ride program to the General Fund in FY 2009-10 and \$120,000 in FY 2010-11 to help meet statutorily required budget reductions. In FY 2009-10, DOT also lapsed \$109,900 in other surcharge funding that it had received for chemical testing, training, and related services.

Table 5

DOT Expenditures of Driver Improvement Surcharge Funds

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11
Breath Alcohol Testing Instruments	\$ 232,600	\$ 281,100	\$ 281,100	\$ 264,000
Chemical Testing, Training, and Services				
Salaries	667,000	624,000	589,600	681,000
Fringe Benefits	268,600	264,000	275,900	299,200
Travel and Training	113,900	91,600	76,200	35,500
Supplies	81,700	72,600	51,000	42,300
Other ¹	115,400	133,600	111,800	112,600
Subtotal	1,246,600	1,185,800	1,104,500	1,170,600
Safe-Ride Grant Program				
Aids to Tavern League of Wisconsin Members	163,700	164,700	256,500	398,200
Total	\$1,642,900	\$1,631,600	\$1,642,100	\$1,832,800

¹ Includes reimbursements to hospitals that draw blood from individuals suspected of operating a vehicle while intoxicated.

University of Wisconsin System

Table 6 shows the State Laboratory of Hygiene's expenditures of surcharge funds from FY 2007-08 through FY 2010-11. The State Laboratory of Hygiene, which is part of UW-Madison, used the surcharge funds for costs related to 16 staff in its toxicology unit. These staff tested for alcohol and other drug levels in blood samples taken from individuals suspected of operating a vehicle while intoxicated. They also provided expert testimony in court cases involving the blood samples they analyzed.

The State Laboratory of Hygiene estimated that it tested 22,400 blood samples for the presence of alcohol in 2010, including 3,300 that were also tested for the presence of other drugs. One test determines the presence and level of alcohol, while multiple tests are needed to determine the presence and level of other drugs. The State Laboratory of Hygiene indicated that the number of blood samples tested for the presence of drugs other than alcohol increased 19.5 percent from 2008 through 2010, and that the time needed to receive and finalize these drug tests increased considerably.

Table 6

State Laboratory of Hygiene Expenditures of Driver Improvement Surcharge Funds

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11
Salaries	\$ 847,500	\$ 901,900	\$ 887,100	\$ 874,800
Fringe Benefits	389,700	426,200	444,200	463,800
Travel and Training	30,900	30,200	31,800	32,900
Supplies	237,800	235,000	277,500	186,600
Other ¹	123,300	59,700	27,500	13,000
Total	\$1,629,200	\$1,653,000	\$1,668,100	\$1,571,100

¹ Includes printing and other administrative and operating costs.

Department of Public Instruction

Table 7 shows DPI's expenditures of surcharge funds from FY 2007-08 through FY 2010-11. These funds paid for an alcohol and traffic safety education consultant who provided driver safety educators with technical assistance, such as workshops that the driver safety educators needed to renew their licenses. Driver safety educators provided traffic safety training to individuals under the age of 18 who were eligible to receive a driver's license. DPI also distributed surcharge funds to school districts and Cooperative Education Service Agencies (CESAs), which used the funds to award grants to schools and groups that completed alcohol and traffic safety projects.

Table 7

DPI Expenditures of Driver Improvement Surcharge Funds

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11
Salaries	\$ 94,800	\$ 98,400	\$100,200	\$ 96,200
Fringe Benefits	36,700	38,700	40,800	41,400
Travel and Training	2,500	6,200	700	400
Supplies	37,600	29,900	28,400	16,500
Aids to School Districts and CESAs	13,600	63,100	72,100	31,900
Other ¹	26,300	13,800	21,200	15,000
Total	\$211,500	\$250,100	\$263,400	\$201,400

¹ Includes costs related to workshops and materials for driver safety educators.

Department of Justice

Table 8 shows DOJ's expenditures of driver improvement surcharge funds from FY 2007-08 through FY 2010-11. DOJ used the surcharge funds for costs related to one staff member who administered payments from its Crime Victim Compensation Fund, which provides compensation for deaths, injuries, and damages caused by crimes, including those related to operating a vehicle while intoxicated.

Table 8

DOJ Expenditures of Driver Improvement Surcharge Funds

	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11
Salaries	\$32,000	\$31,300	\$32,400	\$28,000
Fringe Benefits	20,400	21,400	22,700	23,900
Travel and Training	100	-	-	-
Other ¹	6,600	6,700	5,600	2,300
Total	\$59,100	\$59,400	\$60,700	\$54,200

¹ Includes lease and insurance payments for DOJ office space and membership in the National Association of Crime Victims Compensation Boards.

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Appendix

**Supplemental Grants DHS Awarded for
Intoxicated Driver Programs, by County**
Calendar Year 2011

County	Amount Requested	Amount Awarded	Percentage of Total Awarded
Clark	\$ 50,800	\$ 11,600	1.5%
Crawford	37,500	8,600	1.1
Dane	104,400	23,800	3.2
Door	42,100	9,600	1.3
Dunn	98,400	22,500	3.0
Forest, Oneida, Vilas ¹	217,600	49,700	6.7
Kewaunee	175,500	40,100	5.4
La Crosse	158,200	36,100	4.8
Lafayette	25,000	5,700	0.8
Langlade, Lincoln, Marathon ¹	348,300	79,600	10.7
Marinette	280,700	64,100	8.6
Marquette	54,400	12,400	1.7
Menominee	18,300	4,200	0.6
Monroe	75,400	17,200	2.3
Outagamie	33,400	7,600	1.0
Pierce	101,600	23,200	3.1
Polk	197,700	45,200	6.1
Portage	60,600	13,800	1.8
Richland	67,700	15,500	2.1
Shawano	27,300	6,200	0.8
St. Croix	103,200	23,600	3.2
Waukesha	442,500	101,100	13.6
Waushara	128,900	29,500	4.0
Winnebago	200,800	45,900	6.2
Wood	207,900	47,500	6.4
Total	\$3,258,200	\$744,300	100.0%

¹ Some counties jointly applied for a supplemental grant.