1997-98 SESSION COMMITTEE HEARING RECORDS

Committee Name:

Joint Committee on Finance (JC-Fi)

Sample:

Record of Comm. Proceedings … RCP
- 05hrAC-EdR_RCP_pt01a
- 05hrAC-EdR_RCP_pt01b
- 05hrAC-EdR_RCP_pt02

- Appointments … Appt
- **

- Clearinghouse Rules … CRule
- **

- Committee Hearings … CH
- **

- Committee Reports … CR
- **

- Executive Sessions … ES
- **

- Hearing Records … HR
- **

- Miscellaneous … Misc
- 97hrJC-Fi_Misc_pt90g_LFB

- Record of Comm. Proceedings … RCP
- **

To: Joint Committee on Finance

From: Bob Lang, Director
Legislative Fiscal Bureau

ISSUE

Safe Drinking Water Enforcement (Natural Resources -- Water Quality)

[LFB Summary: Page 441, #14]

CURRENT LAW

The federal Safe Drinking Water Act authorizes a state to have primary enforcement authority over drinking water matters if the state satisfies certain requirements. Wisconsin currently has primary enforcement authority. The federal Safe Drinking Water Act Amendments of 1996 require a state to have authority to impose administrative penalties for safe drinking water violations in order to maintain primary enforcement authority.

GOVERNOR

Authorize DNR to issue orders and assess penalties for violations of the safe drinking water program. Specify that if DNR determines that a civil forfeiture should be assessed, DNR would be required to issue an order to the person alleged to have committed the violation, specifying the amount of the forfeiture assessed, the violation and the rule alleged to have been violated and informing the licensee of the right to a hearing.

Specify that the amounts of the forfeiture would be: (a) for water systems that serve a population of more than 10,000, not less than $10 and not more than $1,000 each day of violation, up to $25,000 in one order; and (b) for water systems that serve a population of 10,000 or less, not less than $10 and not more than $500 each day of violation, up to $25,000 in one order. Require that DNR, when determining the amount of forfeiture that it assesses, must consider the following factors, as appropriate: (a) the gravity of the violation, including the probability of harm to persons served by the water system; (b) good faith exercised by the water

system owner or operator, including past or ongoing efforts to correct problems or achieve compliance with the safe drinking water program; (c) any previous violations committed by the owner or operator; (d) the financial benefit to the owner or operator of continuing the violation; and (e) any other relevant factors. If an order is suspended, stayed or enjoined, any forfeiture would not accrue.

Authorize any person who is assessed a forfeiture under the safe drinking water program to contest the assessment under existing procedures for a hearing. Require that all forfeitures be paid to DNR within 10 days after receipt of the order, or if the order is contested, within 10 days of the final decision in the case, unless the order is stayed by court order. The forfeitures would be given to the State Treasurer for deposit in the common school fund.

Authorize the Attorney General to collect any forfeiture that is not paid following the exhaustion of all administrative and judicial reviews. The only issue that could be contested in a collection action would be whether the forfeiture has been paid.

Specify that the penalties for any person who acts as a well driller or pump installer without the required permit or certificate of registration, or who violates other drinking water provisions, shall be not less than $10 and not more than $100 each day of violation (the same as current law) or not more than 30 days of imprisonment (currently, not less than 30 days), or both.

Specify that general statutory prohibitions against claims against governmental units or their officers, agents or employes would not apply to actions brought under these safe drinking water provisions.

DISCUSSION POINTS

1. The federal Safe Drinking Water Act Amendments of 1996 (SDWA) requires that states establish: (a) an administrative process for imposing penalties for violations of the SDWA; and (b) maximum penalties for systems serving a population of more than 10,000 that are not less than $1,000 per day of violation and for any other systems, that are adequate to ensure compliance, as determined by the state. The SDWA provides considerable flexibility to states to establish a process and penalties within these parameters.

2. While the federal government has not set a specific deadline for states to enact statutory changes to implement the federal changes, the federal changes are in effect now and the U.S. Environmental Protection Agency (EPA) expects states to enact needed changes within the next year or so. If Wisconsin does not enact statutory changes during the 1997-98 legislative session, EPA may review the state's status as having primacy in enforcing drinking water programs. A worst case scenario would be that EPA would determine Wisconsin to be out of compliance and to withhold the following federal funds: (a) a $41.5 million fiscal year 1997 safe

drinking water loan program federal capitalization grant; and (b) approximately $3.1 million in federal funds that support 34.5 DNR positions in the drinking water program.

3. The Municipal Environmental Group (MEG), an organization of 71 municipal water utilities providing service to 1.3 million people (approximately one-fourth of the state's population), raised concerns relating to the SB 77 provisions. MEG's main concerns are that the bill: (a) does not require DNR to provide notice to the utility before the Department would impose a penalty; (b) does not allow a municipality an opportunity to correct the violation before a penalty is imposed; and (c) does not allow a municipality to challenge a penalty directly through a contested case hearing or judicial review (the bill provides first for a less formal hearing).

4. DNR raised concerns that while a notice requirement is generally acceptable, it wants the authority to immediately impose penalties in emergency situations, (for example, drinking water contamination that is an imminent threat to life or health). It also argues that the federal law requires an administrative review procedure so the state could not enact a judicial review process as the first option for municipalities to object to a DNR penalty.

5. DNR and MEG recently agreed on several changes to the bill that would address the concerns of both entities. DNR and MEG believe that the suggested changes would improve DNR administration and municipal rights for notice, review and appeal. Their suggested changes include:

a. Specify that when DNR assesses forfeitures it do so for violations of rules adopted under the safe drinking water program (instead of just violations of the program).

b. Where the bill refers to orders issued to, or violations by a "person" or an "owner or operator," instead say "water system owner or operator."

c. In addition to the SB 77 requirement that the order would have to specify the violation, the rule alleged to have been violated and the amount of the forfeiture assessed, the order would have to inform the water system owner or operator of the right to contest the order (instead of the right to a hearing).

d. Add a requirement that DNR provide written notice of the alleged violation to the water system owner or operator at least 60 days before the final order is issued and the forfeiture is actually assessed. The notice would include an explanation of how the proposed forfeiture was determined and a proposed special order. DNR would be required to attempt to negotiate with the water system owner or operator after providing the written notice to attempt to remedy the alleged violation. If the alleged violation would be corrected or an acceptable compliance agreement is reached before the final order is issued, no forfeiture for the violation alleged in the proposed order may be assessed.

e. Specify that DNR could directly assess forfeitures in a special order without using the written notice and proposed special order requirements if the Department determines that the alleged violation either creates an acute risk to public health or safety, or is part of a documented pattern of noncompliance with one or more rules adopted under the safe drinking water program.

f. In addition to the SB 77 requirement that while an order issued is suspended, stayed or enjoined, any forfeiture would not accrue, also specify that while an order issued is contested, any forfeiture would not accrue.

g. Instead of allowing a person to contest the assessment of forfeiture, specify that a water system owner or operator may contest the assessment and also contest the issuance of the order. Authorize the water system owner or operator to choose whether to contest using the SB 77 administrative hearing procedure, or to proceed directly to a contested case hearing (under ch. 227 of the statutes). Specify that a water system owner or operator who timely requests a hearing under ch. 227 shall be entitled to a contested case hearing. (Chapter 227 contains criteria which must be met in order to be eligible for a contested case hearing. Although most or all municipalities would meet the criteria, the suggested change would guarantee that the municipality could have a contested case hearing.)

h. Require that forfeitures be paid to DNR within 60 days (instead of 10 under SB 77) after receipt of the order, and add that alternatively, the forfeitures shall be paid within a mutually agreed on schedule. The change to 60 days would reflect that the municipality would have 60 days to appeal the forfeiture, so the municipality would not have to pay the forfeitures during the period it is considering an appeal. The allowance of paying according to a mutually agreed on schedule would allow the possibility of installment payments or other arrangements to fit a municipality's budgeting or financing needs.

i. Specify that if the Attorney General brings an action to collect forfeitures, it must be under the safe drinking water program. Delete the SB 77 requirement that the only issue to be contested would be whether the forfeiture has been paid. This would allow the municipality to contest the issuance of the forfeiture.

ALTERNATIVES TO BASE

1. Approve the Governor's recommendation to assess penalties for safe drinking water program violations, including: (a) establish penalty amounts; (b) direct DNR to consider specific factors when determining the amount of the penalty; (c) allow a person who is assessed a forfeiture to use existing procedures for a hearing; (d) authorize the Attorney General to collect forfeitures after other administrative and judicial reviews are exhausted; (e) establish penalties for well drillers or pump installers who act without the required permit or certificate of registration; and (f) specify that general prohibitions against claims against governmental units would not apply to actions brought under the safe drinking water provisions.

2. Modify the Governor's recommendation to include changes suggested by DNR and MEG, as described in discussion point 5.

3. Maintain current law.

Prepared by: Kendra Bonderud

MO# Alt. 2

2 BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A
JENSEN	Y	N	A
1 OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

AYE 16 NO 0 ABS 0

Senator Burke

NATURAL RESOURCES -- AIR, WASTE AND CONTAMINATED LAND

Brownfields Study

Motion:

Move to direct DNR to establish, in cooperation with the Departments of Commerce, Administration, Revenue, Transportation and Agriculture, Trade and Consumer Protection, a brownfields policy forum: (a) to study the means by which the state can increase the number of sites that are cleaned and returned to productive use; (b) to study the potential methods for long-term funding of the brownfields financial assistance programs; (c) to study optional methods to cleanup groundwater on a comprehensive (rather than property-specific) basis; (d) to study the effectiveness of existing legislation on brownfields redevelopment; and (e) to evaluate and identify additional legislative proposals to further the clean up and redevelopment of brownfields properties. Direct DNR to submit the report and any recommendations to the Joint Committee on Finance and the appropriate standing committees of the Legislature by December 1, 1997.

MO# 5009

1 BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
2 COWLES	Y	N	A
PANZER	Y	N	A
JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

AYE 16 NO 0 ABS 0

Motion #5009

Representative Linton

NATURAL RESOURCES -- AIR, WASTE AND CONTAMINATED LAND

Recycling Position

Motion:

Move to provide $32,400 SEG in 1997-98 and $43,300 SEG in 1998-99 from the recycling fund and create 1.0 SEG four-year project position to provide ongoing support for recycling education and promotion, the Council on Recycling and the Recycling Market Development Board.

Note:

The bill provides funding from the segregated recycling fund in DNR for 25.5 positions. In addition, 1.0 project position is funded until it terminates on October 1, 1997. Standard budget adjustments delete the position and associated funding of $32,400 SEG in 1997-98 and $43,300 SEG in 1998-99 under noncontinuing funding. The motion would create a project position for an additional four years (through September, 2001).

[Change to Base: $75,700 SEG and 1.0 SEG position]
[Change to Bill: $75,700 SEG and 1.0 SEG position]

MO# 3145

2 BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A
JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
1 LINTON	Y	N	A
COGGS	Y	N	A

Motion #3145 AYE 14 NO 2 ABS 0

Senator Burke

NATURAL RESOURCES -- AIR, WASTE AND CONTAMINATED LAND

Brownfields -- Requests for Technical Assistance [LFB Summary, Page 420, #12]

Motion:

Move to approve the Governor's recommendation as modified to specify that DNR would have the authority to "provide comments on" instead of "supervise" the planning and implementation of an environmental investigation or cleanup of a property.

Note:

Currently, DNR does not directly supervise investigations or cleanups performed by a responsible party. DNR may direct the responsible party to take necessary actions to restore the environment to the extent practicable. The motion would be consistent with current DNR practice.

MO# 3148

1 BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A
JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
2 COGGS	Y	N	A

AYE 16 NO 0 ABS 0

Motion #3148

Senator Panzer

NATURAL RESOURCES -- AIR, WASTE AND CONTAMINATED LAND

Brownfields -- Limiting Liability for Investigations of Contamination
[LFB Summary: Page 421, #14]

Motion:

Move to approve the Governor's recommendation as modified to specify that if the person who conducts the investigation physically causes a discharge or exacerbates an existing discharge, the limit on liability would not apply with respect to the portion of the property on which the person causes the discharge or exacerbates the existing discharge.

Note:

The bill would specify that the limit on liability would not apply if the person who conducts an environmental investigation of property physically causes a discharge or exacerbates an existing discharge. The motion would narrow the exemption from the limit on liability to the portion of the property on which the person causes the discharge or exacerbates the existing discharge.

MO# 3144

BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A
JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

AYE 16 NO 0 ABS 0

Motion #3144

NATURAL RESOURCES

Air, Waste and Contaminated Land

LFB Summary Items for Which No Issue Papers Have Been Prepared

Item #	Title
2	Convert Remediation and Redevelopment and Waste Management Funding
3	Environmental Fund Restructuring
5	Environmental Repair Remediation Bonding
7	Eliminate Fees for Agricultural Clean Sweeps
8	Competitive Bidding Exemption for State-Funded Cleanup
9	Federal Funding Reductions
10	Land Recycling Loan Program Administration
12	Brownfields -- Requests for Technical Assistance
14	Brownfields -- Limiting Liability for Investigations of Contamination
16	Brownfields -- Lien Provisions
17	Brownfields -- Eligibility for Negotiation and Cost Recovery Program
20	Brownfields -- Cancellation of Delinquent Property Taxes
27	Environmental Enforcement Support

LFB Summary Items for Introduction as Separate Legis

include items as modified

MO# _____

Item #	Title
26	Dry Cleaning Contamination Study
31	Municipal Landfill Proof of Financial Responsibility
32	Metallic Mining Permit Requirements

2 BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A
1 JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

AYE 16 NO 0 ABS 0

Senator Decker

NATURAL RESOURCES -- AIR, WASTE AND CONTAMINATED LAND

Liability Limitation for Municipal Purchasers of Closed Landfills

Motion:

Move to provide a municipality with an exemption for liability from certain environmental laws if the municipality acquires property before, on or after the effective date of the budget bill, that contains a closed landfill, applies to DNR for the exemption, and meets specified requirements.

Direct DNR to approve the municipality's application for exemption from liability if all of the following apply: (a) the landfill is closed when the municipality acquires the property; (b) the closure is in compliance with all DNR rules at the time of the application; (c) the municipality did not own or have an ownership interest in the landfill during the time it was in operation; (d) the municipality enters into an agreement with DNR which establishes the requirements for the municipality to maintain the property; (e) DNR determines that an exemption from liability is in the public interest; (f) the landfill was privately owned before the municipality acquired the property; (g) the landfill contaminated groundwater; (h) a steering committee of local public and private representatives was formed to address the contamination in a cooperative effort with DNR which resulted in the landfill not being listed on the federal Superfund National Priority List; and (i) the remedial action included a DNR-approved recreational use and was completed by December 31, 1995.

Exempt a municipality that is approved by DNR under the criteria above from the following requirements, with respect to the release of a hazardous substance which occurred prior to the date of acquisition of the property: (a) minimum standards for operation, monitoring and maintenance of solid waste facilities; (b) standards of operation, monitoring and maintenance of metallic mining waste disposal facilities; (c) minimum standards for closing, long-term care and termination of solid waste disposal facilities or hazardous waste facilities; (d) standards for the reuse of foundry sand and other high-volume industrial waste; (e) long-term care and financial responsibility requirements for solid waste facilities; (f) requirements for transfer of responsibility for long-term care of a solid or hazardous waste facility with transfer of ownership of the property; (g) enforcement procedures for solid waste facilities licensed on or before January 1, 1977; (h) requirements to take corrective action to protect human health or the environment from any spill, leak or other release into the environment of a hazardous substance at a facility that stores, treats or disposes of hazardous waste; (i) orders by DNR to take action necessary to protect human health or the environment; (j) the requirement that a person who possesses, controls or causes a discharge of a hazardous substance shall take the actions necessary to restore the environment to the extent practicable; (k) the requirement that the person who possessed,

controlled or caused the discharge of a hazardous substance shall reimburse DNR for its costs of responding to the discharge; (l) the requirement that DNR may direct the person to take preventive measures and may specify necessary preventive measures by emergency or special order; and (m) the obligation to repay DNR for costs of responding to environmental pollution at the site.

Specify that the exemption from liability would not apply to hazardous substances for which the municipality is responsible as a generator or transporter and which were disposed in the landfill during the time that the landfill was in operation. Use the same definitions of generator and transporter as are included in the local government negotiation and cost recovery program. (Generator would mean a person who, by contract, agreement or otherwise, either arranges or arranged for disposal or treatment, or arranges or arranged with a transporter for transport for disposal or treatment, of a hazardous substance owned or possessed by the person, if the disposal or treatment is done by another person at a site or facility owned and operated by another person and the site or facility contains the hazardous substance. Transporter would mean a person who accepts or accepted a hazardous substance for transport to a site or facility.)

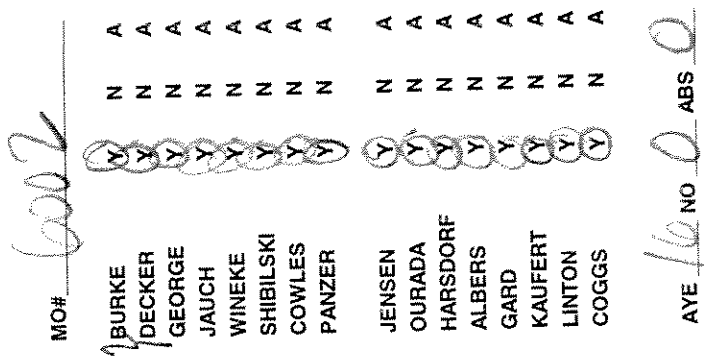
Require that a municipality that receives DNR approval of an exemption from liability shall: (a) obtain prior approval from DNR for any proposed uses of the property, for any physical disturbance of the soil and for any construction on the property; and (b) allow access to the property by any person who, in connection with the closed landfill, is required to conduct monitoring, to operate and maintain equipment or to undertake remedial action.

Note:

Currently, a person who possesses, controls or causes the discharge of a hazardous substance is required to take the actions necessary to restore the environment to the extent practicable. Owners of solid waste facilities (landfills) are required to follow specific requirements for operation, closure and long-term care of the facility. The motion would exempt municipalities that acquire closed landfills from liability for the release of a hazardous substance which occurred prior to the date of acquisition of the property, if the municipality and landfill meet certain requirements.

DNR indicates that it is probable that the Holtz-Krause Landfill in Marathon County is the only landfill in Wisconsin that would meet the criteria in the motion.

Motion #6002



Representative Kaufert

NATURAL RESOURCES -- AIR, WASTE AND CONTAMINATED LAND

Dry Cleaner Environmental Response Fund

Motion:

Move to create a Dry Cleaner Environmental Response Fund and Dry Cleaner Environmental Response Program, to be administered by the Department of Natural Resources, to provide financial assistance for investigation and remedial action of contamination at current and former dry cleaning facilities as follows:

1. Revenue. Create a segregated dry cleaner response fund. Provide for the following revenues to be deposited in the fund, effective on the effective date of the biennial budget act: (a) an annual dry cleaning facility license fee of 1.8% of the previous year's gross receipts from dry cleaning; (b) a dry cleaning solvents fee imposed on persons who sell a dry cleaning solvent to a dry cleaning facility equal to $5.00 per gallon of perchloroethylene sold and $0.75 per gallon of hydrocarbon-based solvent sold; (c) an inventory fee imposed on each dry cleaning facility equal to $5.00 per gallon of perchloroethylene and $0.75 per gallon of hydrocarbon-based solvent in the inventory of dry cleaning facilities on the effective date of the bill; (d) a penalty of $5 for each day that the person operates without a dry cleaning facility license; (e) payments by closed facilities equal to the average license fee paid and the average solvent fees paid by operating dry cleaning facilities in that year; and (f) any recovery of fraudulent awards. Direct the Department of Revenue (DOR) to collect the fees.

Define "dry cleaning facility" as a facility that dry cleans apparel or household fabrics for the general public other than the following facilities: (a) coin-operated facilities; (b) facilities that are located on U.S. military installations; (c) industrial laundries; (d) commercial laundries; (e) linen supply facilities; (f) facilities that are located at a prison or other penal institution; (g) facilities that are located at a nonprofit hospital or at a nonprofit health care institution; and (h) facilities that are located on property that is owned by the U.S. government or by this state.

Direct that the fees would be payable by the following dates: (a) the annual dry cleaning facility license would be due on or before January 15 for the prior calendar year; (b) the solvents fee would be would be due on January 25, April 25, July 25 and October 25 for the previous three months; and (c) the inventory fee would be due 30 days after the effective date of the bill.

Direct DOR to mail to each known dry cleaning facility an application form for an annual dry cleaning facility license. Direct DOR to issue a license to each person who pays the annual fee and submits the application form. The license would be valid through December 31 of the

year during which the fee is due. If a dry cleaning facility is sold, the seller would be authorized to transfer the license to the buyer. Each holder of a license would be required to display it prominently in the facility to which it applies. Any person who operates a dry cleaning facility and who does not hold a dry cleaning facility license would be required to pay to DOR the license fee and a penalty of $5 for each day that the person operates without a license.

2. Dry Cleaner Environmental Response Council. Create a six-member Dry Cleaner Environmental Response Council in DNR to advise the Department concerning the program. The Council would consist of the following members appointed by the Governor for three-year terms: (a) one representative of dry cleaning operations with annual gross receipts of less than $200,000; (b) two representatives of dry cleaning operations with annual gross receipts of at least $200,000; (c) one representative of wholesale distributors of dry cleaning solvent; (d) one engineer or hydrogeologist with knowledge, experience or education concerning environmental remediation; and (e) one representative of manufacturers and sellers of dry cleaning equipment.

3. Program Definitions. Create the following definitions under the dry cleaner environmental response program:

a. "Bodily injury" would not include those liabilities that are excluded from coverage in liability insurance policies for bodily injury other than liabilities excluded because they are caused by a dry cleaning solvent discharge from a dry cleaning facility.

b. "Case closure letter" would mean a letter provided by DNR that states that, based on information available to the Department, no further remedial action is necessary with respect to a dry cleaning solvent discharge.

c. "Discharge" would mean, but would not be limited to, spilling, leaking, pumping, pouring, emitting, emptying or dumping.

d. "Dry cleaning facility" would mean the same dry cleaning facilities that would be subject to the annual dry cleaning facility licensing fee, except that in addition to excluding facilities that are located on property that is owned by the U.S. government or by this state, exclude a facility that was owned by the federal government or by this state when the facility was operating.

e. "Dry cleaning solvent" would mean a chlorine-based or hydrocarbon-based formulation or product that is used as a primary cleaning agent in the dry cleaning of apparel and household fabrics for the general public.

f. "Emergency" would mean a situation that requires an immediate response to protect public health or safety. An emergency would last until the threat to public health or safety is mitigated.

g. "Groundwater" would mean any of the waters of the state occurring in a saturated subsurface geological formation of permeable rock or soil.

h. "Operator" would mean a person who holds an annual dry cleaning facility license or a subsidiary or parent corporation of the person holding the license.

i. "Owner" would mean a person who owns, or has possession or control of, a dry cleaning facility, or who receives direct or indirect consideration from the operation of a dry cleaning facility regardless of whether the dry cleaning facility remains in operation and regardless of whether the person owns or receives consideration at the time that environmental pollution occurs.

j. "Program year" would mean the period beginning on July 1, and ending on the following June 30.

k. "Property damage" would not include those liabilities that are excluded from coverage in liability insurance policies for property damage, other than liability for remedial action associated with dry cleaning solvent discharges from affected dry cleaning facilities.

l. "Service provider" would mean a consultant, testing laboratory, monitoring well installer, soil boring contractor, other contractor, lender or any other person who provides a product or service for which a claim for reimbursement has been or will be filed under the program, or a subcontractor of such a person.

m. "Subsidiary or parent corporation" would mean a business entity, including a subsidiary, parent corporation or other business arrangement, that has elements of common ownership or control or that uses a long-term contractual arrangement with a person to avoid direct responsibility for conditions at a dry cleaning facility.

4. Third Party Compensation. Direct the Commissioner of Insurance to promulgate rules defining "rules that are excluded from coverage in liability insurance policies for bodily injury" and "liabilities that are excluded from coverage in liability insurance policies for property damage." Direct that the definitions be consistent with standard insurance industry practices.

Direct the owner or operator of a dry cleaning facility to notify DNR of any action by a third party against the owner or operator for compensation for bodily injury or property damage caused by a dry cleaning solvent discharge from a dry cleaning facility if the owner or operator may be eligible for an award under the program. Authorize DNR to intervene in any action by a third party against an owner or operator for compensation for bodily injury or property damage caused by a dry cleaning solvent discharge from a dry cleaning facility if the owner or operator may be eligible for an award under the program for compensation awarded in the action. Exclude the loss of fair market value from contamination as a reimbursable cost under the program.

5. Eligible Applicants. Owners or operators of dry cleaning facilities could apply for financial assistance to clean up contamination. An owner or operator of a dry cleaning facility located on trust lands of an American Indian tribe may be eligible for an award if the owner or operator satisfies the requirements of the program and complies with program rules and any other rules DNR promulgates concerning dry cleaning facilities.

6. Duties of DNR. Direct DNR to: (a) promulgate administrative rules to administer the program; (b) establish a method for determining the order in which it pays awards, which shall be based on environmental factors and on the order in which applications are received; (c) pay awards for emergency remedial action activities within two working days of receipt of the application (emergency remedial action activities would not include removal of contaminated soils and recovery of free dry cleaning solvent); (d) after paying awards for emergency remedial action activities, give highest priority to paying awards for eligible costs incurred before the effective date; (e) allocate 9.7% of appropriated funds in each fiscal year for emergency remedial action activities and applications that exceed the amount anticipated; (f) promote the program to persons who may be eligible for awards; and (g) keep records and statistics on the program and periodically evaluate the effectiveness of the program.

7. Claim Submittal. Owners or operators who want to participate in the program would be required to do the following: (a) report a dry cleaning solvent discharge to DNR in a timely manner; (b) notify DNR, before conducting a site investigation or any remedial action activity, of the potential for submitting an application for an award under the program (except for an owner or operator who began a site investigation or remedial action activity before the effective date of the bill); (c) conduct an investigation to determine the extent of environmental impact of the dry cleaning solvent discharge; (d) after completing the investigation, prepare a remedial action plan that identifies specific remedial action activities proposed to be conducted (this would not be required if an emergency existed that made the investigation and remedial action plan requirements inappropriate); and (e) conduct remedial action activities, including (1) recover any recoverable dry cleaning solvent, (2) manage any residual solid or hazardous waste in accordance with law, and (3) restore groundwater in accordance with DNR administrative rules.

When an owner or operator notifies DNR of the potential for submitting an application, DNR would be required to provide the owner or operator with information on the program and the Department's estimate of the eligibility of the owner or operator for an award.

Direct DNR, at the request of an owner or operator, to review the site investigation results and remedial action plan within 45 days, and provide an estimate of when funding will be available to pay an award for remedial action. Direct DNR to approve the completed site investigation and remedial action activities before paying an award.

Authorize the owner or operator to enter into a written agreement with another person under which the other person acts as an agent for the owner or operator in conducting the remedial action activities. The owner or operator and the agent would be required to jointly submit an application for an award.

Direct the owner or operator to submit an application on a form provided by DNR. Direct DNR to authorize owners or operators to apply for awards at stages that the Department specifies by rule. Specify that the application shall include all of the following documentation of activities, plans and expenditures associated with the eligible costs incurred because of a dry cleaning solvent discharge from a dry cleaning facility: (a) a record of investigation results and data interpretation; (b) a remedial action plan; (c) contracts for eligible costs incurred because of the discharge and records of the contract negotiations; (d) accounts, invoices, sales receipts or other records documenting actual eligible costs incurred because of the discharge; and (e) other records and statements that DNR determines to be necessary to complete the application.

Direct DNR to acknowledge, in writing, the receipt of an application. DNR would make an award to reimburse the applicant for eligible costs paid if the Department finds that the applicant meets the requirements of the program and rules promulgated under the program.

8. Application Deadline. Specify that closed dry cleaning facilities will have five years and active dry cleaning facilities will have 10 years from the date that DNR first accepts applications under the program to fulfill the requirements for eligibility.

9. Denial of Applications. DNR would deny an application for an award if any of the following applies: (a) the application is not within the scope of the program; (b) the applicant submits a fraudulent application; (c) the applicant has been grossly negligent in the maintenance of the dry cleaning facility; (d) the applicant intentionally damaged the dry cleaning equipment; (e) the applicant falsified records; (f) the applicant wilfully failed to comply with laws or rules of the state concerning the use or disposal of dry cleaning solvents; and (g) the applicant has not paid the fees required under the program.

10. Eligible Costs. Eligible reimbursable costs under the program would include reasonable and necessary costs paid for the following items only: (a) removal of dry cleaning solvents from surface waters, groundwater or soil; (b) investigation and assessment of contamination caused by a dry cleaning solvent discharge from a dry cleaning facility; (c) preparation of remedial action plans; (d) removal of contaminated soils; (e) soil and groundwater treatment and disposal; (e) environmental monitoring; (f) laboratory services; (g) maintenance of equipment for dry cleaning solvent recovery used as a part of remedial action activities; (h) restoration or replacement of a private or public potable water supply; (i) restoration of environmental quality; (j) contractor costs for remedial action activities; (k) inspection and supervision; (l) costs of purchase and installation of interim remedial equipment; (m) other costs that Commerce determines to be reasonable and necessary; (n) third party compensation for bodily injury and property damage caused by a dry cleaning solvent discharge from a dry cleaning facility; and (o) financing costs, including interest at no more than the prime rate and loan origination fees of up to 1% of the loan principal, and excluding costs of financing activities that are undertaken after the effective date of the budget act without DNR's advance written approval.

11. Ineligible Costs. The following would be ineligible costs: (a) costs incurred before January 1, 1991; (b) costs of retrofitting or replacing dry cleaning equipment; (c) other costs that Commerce determines to be associated with, but not integral to, the investigation and remediation of a dry cleaning solvent discharge from a dry cleaning facility; (d) unreasonable or unnecessary costs; (e) costs for investigations or remedial action activities conducted outside Wisconsin; and (f) costs for discharges from hazardous substances other than dry cleaning solvents. Require DNR to subtract an amount equal to one-half of ineligible costs claimed by an owner from the eligible costs of the claim (a consultant would be assessed the fee if the claim was prepared by the consultant).

12. Deductible. Provide for the following deductible schedule. Allow DNR to postpone collection of the deductible if the owner or operator is unable to pay. If the deductible is waived, DNR would record a lien on the property until the deductible amount is paid.

Cost of Remediation	Deductible
$0 - $200,000	$10,000
$200,001 - $400,000	$10,000 plus 8% of amount of claim over $200,000 to $400,000
$400,001 - $600,000	$26,000 plus 10% of amount of claim over $400,000 to $600,000

13. Maximum Award. Provide a maximum award of $600,000 for reimbursement for costs incurred at a single dry cleaning facility. Specify that Commerce may not issue financial assistance to an owner or operator in one program year that totals more than the following: (a) $250,000 for an owner or operator of 10 or fewer dry cleaning facilities; or (b) $500,000 for an owner or operator of more than 10 dry cleaning facilities.

14. Contributory Negligence. Prohibit DNR from diminishing or denying an award as a result of negligence attributable to the applicant.

15. Assignment of Awards. If an applicant files an assignment of an award to a person who loans money to the applicant for the purposes of conducting activities under the program, the filing would create a lien in favor of the assignee in the proceeds of the award. The lien would secure all principal, interest, fees, costs and expenses of the assignee related to the loan. The lien would have priority over any previously existing or subsequently created lien, assignment, security interest or other interest in the proceeds of the award.

16. Recovery of Awards. A right of action would accrue to the state against an owner or operator only if the owner or operator submits a fraudulent application or does not meet the requirements under the program and if an award is issued to the owner or operator for eligible costs. The Attorney General would be required to take appropriate actions to recover awards to

which the state is entitled. DNR would be required to request the Attorney General to take action if DNR discovers a fraudulent claim after an award is issued.

17. Interim Remedial Equipment. Direct DNR to allocate 46% of the funds appropriated for financial assistance in each year for awards to reimburse owners and operators for costs of preliminary site screening and the purchase and installation of equipment to begin the cleanup of discharges of dry cleaning solvent from dry cleaning facilities before the completion of full site investigations and remedial action plans. Prohibit DNR from making an award for interim remedial equipment after June 30, 2002.

An owner or operator would be eligible for an award for interim remedial equipment of up to $15,000, of which not more than $2,500 may be for the cost of conducting the preliminary site screening. An owner or operator would be eligible if all of the following apply: (a) the owner or operator reports the dry cleaning solvent discharge to DNR in a timely manner; (b) the owner or operator conducts a preliminary site screening, including an onsite mobile laboratory analysis of any soil and groundwater affected by the discharge to determine the location for installation of the interim remedial equipment; (c) an emergency does not exist at the affected dry cleaning facility; (d) the owner or operator installs equipment that is approved by DNR to begin the cleanup of the discharge of dry cleaning solvent; (e) the dry cleaning facility is operating at the time the owner or operator applies for assistance; and (f) the owner or operator submits an application for reimbursement in a form approved by DNR and complies with any inspection requirements established by the Department.

Authorize DNR to promulgate rules for determining usual and customary costs reimbursable under the interim remedial equipment section. Specify that if an owner or operator is eligible for an award for interim remedial equipment and also applies for an award for investigation and remedial action activities, the owner or operator and any person who caused the discharge of dry cleaning solvent is not required to conduct a site investigation or proceed with other remedial action activities until DNR informs the owner or operator that funding is available for an award to the owner or operator. However, the owner or operator would not be allowed to delay cleanup if an emergency exists because of the discharge of dry cleaning solvent.

18. Appropriations. Create three appropriations in DNR: (a) a SEG annual appropriation for payment of financial assistance with expenditure authority of $1,600,000 SEG in 1998-99; (b) a SEG annual administrative appropriation in the Air and Waste Division's Bureau for Remediation and Redevelopment for environmental review with expenditure authority of $38,400 SEG in 1997-98 with 1.0 position and $98,200 SEG in 1998-99 with 2.0 positions; and (c) a SEG annual administrative appropriation in the Customer Assistance and External Relations Division's Bureau of Community Financial Assistance for grant administration with expenditure authority of $37,000 SEG in 1997-98 with 1.0 position and $94,400 SEG in 1998-99 with 2.0 positions.

Create a SEG annual administrative appropriation in DOR for administration of the gross receipts tax based license fee and solvents fees and provide expenditure authority of $51,600 SEG in 1997-98 and $55,500 SEG in 1998-99 with 1.0 position.

19. Enhanced pollution prevention measures. New facilities where construction began after the effective date of the bill would be ineligible for cleanup grants unless all of the following apply: (a) wastes involving dry cleaning solvent are managed in compliance with certain federal laws; (b) the facility does not discharge solvent into a sewer, septic system or waters of the state; (c) dry cleaning machines have appropriate containment structures that are able to contain any leak, spill or other release of dry cleaning solvent from the machines or other pieces of equipment; (d) floors are sealed or otherwise impervious to dry cleaning solvent; and (e) solvent is delivered to the facility by means of a closed, direct-coupled delivery system. Existing facilities on which construction began on or before the effective date of the bill would be ineligible for an award beginning on the 91st day after the day on which DNR issues a case closure letter with respect to the discharge of dry cleaning solvent from the dry cleaning facility, unless the owner or operator has implemented the enhanced pollution prevention measures.

20. Closed facilities. Former dry cleaning facility sites would be eligible for a cleanup award if the owner guaranteed annual payments, for 30 years after DNR issues an award, equal to the average license fee paid and the average solvent fees paid by operating dry cleaning facilities in that year. An owner or operator of a closed facility would be required to guarantee payment by executing a note and mortgage on the site of the dry cleaning facility and a payment bond acceptable to DNR.

21. Liability. Specify that conducting a cleanup or applying for an award under the program are not an admission of liability for environmental pollution. Further, specify that the program does not supersede common law or statutory liability for damages from a dry cleaning facility. An award under the program would be the exclusive method for the recovery of eligible costs. If a person conducts a remedial action activity for a discharge at a dry cleaning facility site, whether or not the person files an application under the program, the remedial action activity conducted and any application filed under the program would not be evidence of liability or an admission of liability for any potential or actual environmental pollution.

22. Effective Date. The effective date of the fees would be the effective date of the bill. The effective date for submitting applications for awards to DNR would be September 1, 1998. Require DNR to notify, in writing, all Wisconsin dry cleaners at least 30 days prior to the date that applications will be accepted for awards under the program.

23. Program Sunset. Sunset the program 35 years after the effective date of the bill. Further, require the Dry Cleaner Environmental Response Council to evaluate the program at least every five years, based on criteria developed by the Council.

24. Program Review. Direct DNR to, no later than January 1, 2002, complete a review of the program and submit a report on the results of the review to Joint Finance and the appropriate standing committees of the Legislature. The report shall include the Department's recommendations for changes to the program. The review shall include consideration of whether the program should be expanded or ended, whether the program should be incorporated into a

broader program of financial assistance for the remediation of environmental contamination and whether private insurance coverage should be required for any dry cleaning facilities.

25. Cost Controls. Unless, otherwise specified in the motion, generally adopt cost control measures consistent with the PECFA program.

Note:

While only limited date is available, it is estimated that the motion would generate approximately $1.85 million in fee revenues annually ($1.7 million in 1997-98). The first annual dry cleaning facility license fees would be billed in January, 1998 based on calendar year 1997 gross receipts. Based on 1995 estimates that a 2% gross receipts tax would generate approximately $1.6 million annually, a 1.8% tax would be expected to generate approximately $1.44 million annually. The dry cleaning solvents tax would generate approximately $400,000 annually (approximately $250,000 for 7.5 months in 1997-98) and the inventory fee could generate up to $60,000 of one-time revenue in 1997-98. (However, since the fee is based on self-reporting of inventory of dry cleaning solvents, it is unknown what amount of revenues would be received.) Based on license fee and solvent revenue estimates and approximately 400 to 500 active dry cleaners, closed or former dry cleaning facilities would have to pay approximately $3,700 to $4,600 annually for 30 years ($111,000 to $138,000) in addition to the program deductibles to be eligible for a cleanup award under the motion.

Administrative costs of $127,000 in 1997-98 and $248,100 in 1998-99 for 5.0 positions would be deducted from total revenues and the remaining revenues would be available for appropriation for program awards (approximately $1.6 million annually).

The total cost of cleanup at active and former dry cleaner facilities is unknown. Industry estimates have varied significantly, depending on how the program is structured. Estimates of total cleanup costs have ranged from $30 million to $320 million to cleanup 400 to 900 contaminated sites. (While the industry estimated that eligible cleanup costs would be $120 million for a dry cleaner environmental response fund under a previous motion under Commerce, the industry estimates that eligible cleanup costs under this motion would be $70 million.)

While the motion provides 5.0 positions (4.0 DNR and 1.0 DOR), it is unclear whether the agencies would be able to meet required timelines under the motion. Requiring a two-day turnaround for DNR completion of review of emergency requests may be difficult for the Department to comply with, and DOA would require additional time to process an award payment after being authorized by DNR. DNR may have difficulty in reviewing site investigations and remedial action plans within the required 45 days of receipt. It is unclear what would happen if DNR could not comply with the 45 day review deadline.

The requirement that DNR deny applications if the applicant has been grossly negligent in the maintenance of the dry cleaning facility could require DNR to regulate business practices which are not currently within its responsibility (for example, building inspection, facility safety and fire safety requirements).

[Change to Base: $3,550,000 SEG-REV; $1,975,100 SEG]
[Change to Bill: $3,550,000 SEG-REV; $1,975,100 SEG]

MO# 1779

BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A
2 JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

AYE 15 NO 1 ABS 0

Senator Shibilski
Senator Panzer

NATURAL RESOURCES -- AIR, WASTE AND CONTAMINATED LAND

Waste Tire Reimbursement Grants

Motion:

Move to provide $407,700 GPR in 1997-98 for grants to the following companies who received prorated waste tire reimbursement grants for tires processed or used during calendar year 1995, under administrative rule NR 555:

a.	An-Gun, Inc., West Bend	$21,257
b.	Auburndale Recycling, Auburndale	172,253
c.	TR Cochart Tire Recycling, Belgium	22,537
d.	Packaging Corporation of America, Tomahawk	191,607

Specify that DNR shall pay each of the four grant recipients the remaining eligible grant amount that was not paid during the 1995-96 grant cycle. Create a GPR appropriation for payment of the grants and repeal the appropriation on June 30, 1999.

Note:

The waste tire removal and recycling program (including cleanup of stockpiles of tires, reimbursement grants to end-users and processors of waste tires and management or recovery grants to fund activities that reduce illegal dumping of tires) and the associated $2 per tire fee on new vehicle purchases are repealed effective June 30, 1997. On June 30, 1997, an estimated $1,500,000 waste tire program revenue account balance will lapse to the general fund.

In 1995-96, DNR awarded calendar year 1995 reimbursement grants of $790,352 for end users and processors, which was 41% of the total eligible amount of $1,926,043. The remaining eligible amount was $1,135,691. The motion would fully fund the remaining eligible amount for four of the 25 grant recipients through a one-time appropriation of GPR.

[Change to Base: $407,700 GPR]
[Change to Bill: $407,700 GPR]

Motion #7020

MO# 7020

BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A
JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

AYE 7 NO 9 ABS 0

Senator Panzer

NATURAL RESOURCES -- AIR, WASTE AND CONTAMINATED LAND

Certified Remediation Professionals Program

Motion:

Move to incorporate the provisions of LRB b0375/2 creating a certified remediation professionals program that would require persons who perform certain cleanup activities to be certified by DNR. The program would include the following provisions.

1. Require that as of April 1, 1998, a person: (1) may not submit a report to DNR, Commerce or DATCP with respect to a covered activity unless the report is prepared by, or under the direction of, a certified remediation professional; or (2) may not conduct a covered activity unless the person is, or is under the direction or supervision of, a certified remediation professional. Specify that the requirement would not apply to a report prepared, or an activity performed, by a state employe acting within the scope of his or her employment.

2. Define "covered activity" as: (1) corrective action under the agricultural chemical cleanup program; (2) petroleum tank cleanup under the petroleum environmental cleanup fund award (PECFA) program or Commerce regulation of non-PECFA eligible petroleum tanks; (3) closure and long-term care of unlicensed hazardous waste facilities; (4) corrective action at facilities that store, treat or dispose of solid waste or hazardous waste; (5) response to a discharge of a hazardous substance; (6) remedial action under the purchaser limited liability program; (7) environmental assessment under the lender limited liability program; (8) environmental repair of sites or facilities contaminated by environmental pollution; (9) response, cleanup or removal of an abandoned container; or (10) any other environmental remedial action specified by DNR by rule. Specify that "covered activity" does not include an emergency response under the hazardous substances spill, environmental repair and abandoned containers statutes.

3. Define "report" as a report of a site investigation, a report of interim actions prior to remedial action, a report of the design of a proposed remedial action plan, a report of a site closure or any other report designated by DNR, Commerce or DATCP by rule.

4. Direct DNR to promulgate rules necessary to implement the program. Direct DNR to develop the rules in consultation with all state agencies that have oversight responsibility for programs related to environmental remediation and with other interested persons. Require that the rules include requirements for education, continuing education, training, experience and standards of professional conduct for certified remediation professionals. Specify that the requirements and standards shall be sufficiently stringent so that covered activities conducted by or under the direction or supervision of a certified remediation professional and all reports related

to covered activities that are prepared by or under the direction or supervision of certified remediation professionals are rendered in a manner that protects public health, safety, welfare and the environment and that is consistent with applicable statutes and rules.

5. Require DNR to promulgate emergency rules, without the finding of an emergency, by February 1, 1998, to implement the program. Require that the emergency rules authorize a person to become a certified remediation professional by certifying to DNR that the person possesses the minimum education and experience required under the rule for certified remediation professionals. Exempt DNR from the requirement to publish notices of applications for certificates under the emergency rule. Specify that a certificate issued under the emergency rule would be valid until such time, as determined by DNR, that a person may become certified under permanent rules promulgated by DNR or until the certificate is revoked. The emergency rules would remain in effect for a period not to exceed two years.

6. Require that each application for an initial or renewal certificate be accompanied by a fee in an amount established by rule that is sufficient to cover all costs of administering and enforcing the program. Provide DNR with $74,500 PR in 1997-98 and $95,100 PR in 1998-99 and 2.0 PR positions in a continuing appropriation to administer the program.

7. A certificate under the program may only be issued to an individual and could not be transferred.

8. DNR would periodically publish notice of each application for a certificate, approval or denial of a certificate, revocation of a certificate and termination of a certificate. Prohibit DNR from approving an application for an initial or renewal certificate until at least 30 days after the notice of application for the initial or renewal certificate has been published. Direct DNR to promulgate rules for the periodic publication of notice of applications.

9. An initial certificate may only be granted or renewed if the applicant or the holder of the certificate is in compliance with all requirements under the program and under rules promulgated by DNR, Commerce and DATCP. Suspend or revoke a certificate if DNR, Commerce or DATCP determine that the individual holding the certificate fails to comply with all requirements under the program and under rules promulgated by the agencies.

10. Authorize DNR to bar an individual whose application for an initial certificate or a renewal certificate is denied, or whose certificate is revoked, from applying for a certificate for a period determined by DNR. If a certificate is revoked, DNR would be authorized to permanently bar the individual from applying for a certificate.

11. Require a certified remediation professional to obtain and maintain insurance against loss, expense and liability, including those caused by pollution, resulting from errors, omissions or neglect in the performance of any professional service in an amount of at least $1,000,000 per claim and $1,000,000 in annual aggregate claims, with a deductible of no more than $100,000 per claim.

12. Prohibit a person from advertising or otherwise holding himself or herself out to be a certified remediation professional unless that person possesses a valid certificate.

13. Authorize employes or agents of DNR, Commerce or DATCP to at any reasonable time enter any site or building for the purpose of investigating, sampling or inspecting any condition, equipment, practice or property relating to a covered activity conducted, supervised or directed by a certified remediation professional.

14. Authorize employes or agents of DNR, Commerce or DATCP to seek a special inspection warrant authorizing entry to a site or building if permission to enter is denied or if one of the three departments determines that entry without prior notice is necessary to enforce the program.

15. Require a certified remediation professional to provide any information requested by DNR, Commerce or DATCP relating to his or her activities as a certified remediation professional. If one of the three agencies has reason to suspect that a violation of any statute or rule related to a covered activity has occurred or may occur, it would be authorized to issue an order requiring the production or analysis of samples, requiring the protection of records or requiring any action by the certified remediation professional that may be necessary to prevent or eliminate the violation.

16. Direct DNR, Commerce and DATCP to enter a memorandum of understanding with respect to common areas of responsibility that relate to the program. The memorandum of understanding would not take effect until it is approved by the Secretary of DOA.

17. Authorize any person aggrieved by a determination or order of DNR under the program to request a contested case hearing under ch. 227.

Note:

The motion would create a certified remediation professionals program in DNR, authorize DNR to promulgate rules, (including emergency rules), authorize DNR to assess fees to individuals who apply for certification, provide 2.0 PR positions and associated funding, and establish program requirements. Individuals would be authorized to perform certain activities under programs such as PECFA, the agricultural chemical cleanup program, or hazardous substances cleanup programs, only if they obtain a remediation professional certificate. DNR would be authorized to bar an individual whose application for an initial certificate or a renewal certificate is denied, or whose certificate is revoked, from applying for a certificate for a period of time, or to permanently bar the individual from applying for a certificate.

While only limited information is available about the number of people who might apply for certification as a remediation professional, it is expected that there might be 200-500

applicants seeking certification. Based on 1998-99 costs of $95,100 for 2.0 DNR positions, this would result in DNR assessing fees of approximately $190 to $475 per applicant if DNR requires annual certification (fees would be higher if the certification period exceeds one year).

[Change to Base: $169,600 PR and 2.0 PR positions]
[Change to Bill: $169,600 PR and 2.0 PR positions]

MO# 1760

BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A
JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

AYE 16 NO 0 ABS 0