

1999 DRAFTING REQUEST

Assembly Amendment (AA-AB133)

Received: **05/18/99**

Received By: **traderc**

Wanted: **Soon**

Identical to LRB:

For: **Legislative Fiscal Bureau**

By/Representing: **Bonderud**

This file may be shown to any legislator: **NO**

Drafter: **traderc**

May Contact:

Alt. Drafters: **hubliks**

Subject: **Environment - env. cleanup**

Extra Copies:

Pre Topic:

LFB:.....Bonderud -

Topic:

PECFA changes

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	traderc 06/2/99	gilfokm 06/4/99		_____			
/1			mclark 06/8/99	_____	lrb_docadmin 06/8/99		
/2	traderc 06/14/99	gilfokm 06/14/99	jfrantze 06/14/99	_____	lrb_docadmin 06/14/99		
/3	traderc 06/15/99	jgeller 06/15/99	kfollet 06/15/99	_____	lrb_docadmin 06/15/99		

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FE Sent For:

13 6/15 jlg KJF 6/15 KJF/wls 6/15
<END>

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/?	traderc 06/2/99	gilfokm 06/4/99		_____			
/1		<i>2-6-14-99</i> Kmeq	mclark 06/8/99	_____	lrb_docadmin 06/8/99		
FE Sent For:							
<i>6/14</i> <i>26/14</i> <i>6/14</i> <END>							

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/?	traderc	<i>1-6-5-99 KMG</i>	<i>MRC 6/7</i>	<i>MRC/KM 6/7</i>			

FE Sent For:

<END>

Representative Duff
Senator Burke
Representative Gard

COMMERCE - BUILDING AND ENVIRONMENTAL REGULATION

PECFA Program Changes [LFB Papers #300 to #308]

Motion:

Move to make the following changes in the PECFA program. Each paragraph is numbered the same as in the attachment to Legislative Fiscal Bureau Budget Paper #300, which compares current law, the recommendations of the Governor's 1999-01 biennial budget bill and the recommendations of the Joint Legislative Audit Committee. Each paragraph references any appropriate alternative in LFB Budget Papers, or summarizes any separate proposals.

1. *Revenue Bonding.* [LFB Paper #308] Authorize \$270 million in bonding. In addition, direct that no more than \$170 million in authority may be released upon enactment of the bill. Direct that before the Building Commission issues the remaining \$100 million in revenue obligations, DQA, Commerce and DNR submit a report to the Joint Committee on Finance for approval of the Committee at a regularly scheduled meeting under s. 13.10. Direct that the report include information about: (a) the proposed bonding issuance; (b) the amount of PECFA claims received during the prior six months; (c) the number and dollar amount of claims that have been received but not paid; and (d) the progress made by the agencies in implementing cost control strategies to reduce the costs of cleanups at PECFA sites. In addition, direct that no revenue obligation authority may be released beyond the initial \$170 million until Commerce and DNR promulgate final permanent administrative rule changes as provided in items #5 and #14.

2. *PECFA Staff and Fees.* Approve the Governor's recommendation to provide Commerce with \$152,200 SEG in 1999-00 and \$174,800 SEG in 2000-01 with 3.0 SEG hydrogeologist positions.

Further, provide Commerce with \$84,200 SEG in 1999-00 and 2.0 SEG two-year project claim review positions. Convert the 2.0 SEG positions to PR and provide \$112,200 PR in 2000-01. Authorize Commerce to promulgate rules to assess and collect fees to recover its costs of approving requests by owners or operators for case closure and providing other assistance requested by claimants at petroleum sites. Direct that Commerce deposit fees in a new program revenue annual appropriation that would fund the 2.0 PR positions beginning in 2000-01. Direct that Commerce submit any permanent rules for assessment and collection of fees to the Legislature under s. 227.19 no later than June 1, 2000. Further, direct that any fees charged by Commerce and DNR for the approval of case closures and other requested assistance not be reimbursable expenses under the PECFA program.

In addition, direct the Secretary of DOA to determine how federal leaking underground storage tank (LUST) funding should be allocated to DNR and Commerce, and to submit a report of its determination to the Joint Committee on Finance for approval at its December, 1999, s. 13.10 meeting.

3. *Petroleum Inspection Fee.* [LFB Paper #301] Adopt Alternative 3 to maintain current law.

4. *Site Priority Categorization.* [LFB Paper #302] Classify a petroleum site as high risk if it has a groundwater enforcement standard exceedence in soil that has a hydraulic conductivity greater than 1×10^{-5} centimeters per second or meets one or more of the following criteria: (a) two or more tests show that the discharge has resulted in a concentration of contaminants in a private or public potable well that exceeds the preventive action limits established under s. 160.15; (b) there is a groundwater enforcement standard exceedence within 100 feet of a private well or 1,000 feet of a public well; (c) petroleum product that is not in dissolved phase is present with a thickness of 0.01 feet or more, as shown by repeated measurements; or (d) there is a groundwater enforcement standard exceedence in bedrock. Specify that DNR would have jurisdiction for administering the cleanup at high risk sites, including all sites with contamination from non-petroleum hazardous substances. All other petroleum sites, excluding unranked sites, would be medium or low risk under the jurisdiction of Commerce. Specify that a site with contamination solely from petroleum products and additives to petroleum products (such as lead or oxygenates) would be categorized as a site with contamination solely from petroleum products.

In addition, specify that the transfer of sites from DNR to Commerce based on the new classification of sites be accomplished by no later than December 1, 1999. Also, specify that if the definition of high risk sites results in classifying more than 35% of sites as high risk by December 1, 1999 (when sites would be transferred from DNR to Commerce), Commerce would be directed to: (a) promulgate emergency rules that establish the standards for categorizing sites of petroleum product discharges that does not provide that all sites at which a groundwater enforcement standard is exceeded be classified as high risk, classifies no more than 35% of petroleum sites as high risk, excluding unranked sites and sites with contamination from non-petroleum hazardous substances, and incorporates any agreements with DNR; (b) promulgate the emergency rules by December 31, 1999; and (c) revise the rules if more than 35% of sites are classified as high risk six months after the rules are in effect.

5. *Risk-Based Analysis.* [LFB Paper #302] Require Commerce and DNR to jointly promulgate rules specifying a method for determining the risk to public health, safety and welfare and to the environment posed by discharges of petroleum products. The method must include consideration of the routes for migration of petroleum product contamination. Direct DNR and Commerce to apply the method to determine the risk posed by a discharge for which the Departments receive notification. Require Commerce and DNR to attempt to agree on the rules. If DNR and Commerce are unable to reach an agreement, require the Secretary of DOA to resolve the matter. Direct that DNR and Commerce promulgate emergency rules without a finding of emergency. Direct Commerce and DNR to submit permanent rules to the Legislature under s. 227.19 no later than June 1, 2000.

6. *Award Prioritization.* [LFB Paper #303] Provide that Commerce shall review claims related to eligible farm tanks, in addition to home oil tanks currently, as soon as the claims are received, and shall issue a PECFA award for eligible farm tank cleanups as soon as it completes review of the claim.

7. *Remedial Action Plan.* [LFB Paper #302 and #303] For purposes of claim reimbursement, require claimants to submit the remedial action plan prepared under current law to Commerce for approval. Commerce would be required to either approve or disapprove the submitted plan for low and medium risk sites, and DNR would be required to approve or disapprove the remedial action plan for high risk sites. Delete the current law requirement that, at the request of the claimant, DNR or Commerce shall review the site investigation and remedial action plan and advise the claimant on the adequacy of the proposed remedial activities. Commerce would be required to review the remedial action plan for a low or medium risk site, and DNR and Commerce would be required to jointly review the remedial action plan for a high risk site, and to determine the least costly method of completing the remedial action activities and complying with groundwater enforcement standards. Commerce would be required to determine whether natural attenuation will complete the remedial action activities at a low or medium risk site in compliance with groundwater enforcement standards. Natural attenuation for petroleum sites would mean the reduction in the concentration and mass of a substance, and the products into which the substance breaks down, due to naturally occurring physical, chemical and biological processes.

8. *Maximum Award.* [LFB Paper #302] Require Commerce to notify the owner or operator of a low or medium risk site of its determination of the least costly method of completing the remedial action activities and complying with groundwater enforcement standards and that reimbursement for remedial action is limited to the amount necessary to implement that method. While the general maximum award would not change from current law, the maximum reimbursement for individual medium or low risk sites could be limited under the motion. (The maximum reimbursement for high risk sites would not be affected.) Commerce would be required to conduct an annual review for low or medium risk sites, and Commerce and DNR would be required to jointly conduct an annual review for high risk sites and make the same determinations of the least costly method and use of natural attenuation. In addition, Commerce would be required to annually review the limit on maximum reimbursement for low or medium risk sites. Provide that reimbursable eligible costs under Commerce administrative rules shall include the least costly method to achieve any remedial action activities ordered by DNR or Commerce, whichever has jurisdiction for the cleanup at the site. The effective date of the maximum award provisions would be November 1, 1999, for remedial action activities that begin on or after that date.

9. *Deductible Amount.* [LFB Paper #304] Change the deductible for underground petroleum product storage tank systems for marketers or non-marketers that handle an average of more than 10,000 gallons of petroleum per month to be \$5,000 for eligible costs up to \$100,000 plus 4% of eligible costs exceeding \$100,000. Change the deductible for eligible farm tanks to \$5,000. In addition, increase the deductible for aboveground storage tanks located at terminals to \$15,000 plus 10% of the amount by which eligible costs exceed \$200,000. Specify that the changes in deductible, for affected underground and aboveground storage tanks, would first apply to remedial action plans that are submitted on or after November 1, 1999. Maintain current

law deductibles for claimants who submit remedial action plans in a form acceptable to Commerce and DNR prior to November 1, 1999. Further, authorize Commerce to promulgate rules that would exempt: (a) a municipality from the change in deductibles in excess of the current law maximum deductible if the municipality is conducting the PECFA cleanup as part of a brownfields redevelopment project; and (b) an owner or operator who meets financial hardship criteria.

10. *Interest Cost Reimbursement.* [LFB Paper #305] Limit PECFA reimbursement for interest costs incurred by a PECFA claimant, for loans originating on or after November 1, 1999, based on the applicant's gross revenues in the prior tax year as follows: (a) if gross revenues are over \$5 million to \$15 million in the prior tax year, interest reimbursement would be limited to the prime rate; (b) if gross revenues are over \$15 million to \$25 million, interest reimbursement would be limited to the prime rate minus 1%; (c) if gross revenues are over \$25 million to \$35 million, interest reimbursement would be limited to the prime rate minus 2%; (d) if gross revenues are over \$35 million to \$45 million, interest reimbursement would be limited to the prime rate minus 3%; and (e) if gross revenues are over \$45 million, interest reimbursement would be limited to the prime rate minus 4%. Interest reimbursement for applicants with gross revenues of up to \$5 million in the prior tax year would remain at the current 1% over the prime rate.

11. *Bidding Process.* [LFB Paper #306] Adopt Alternative A.1 to approve the Governor's recommendation to authorize Commerce to promulgate rules that require a person to pay a specified fee as a condition of submitting a bid to provide a service for a cleanup under the PECFA program. Any fees collected under the provision would be deposited in the petroleum inspection fund. If Commerce imposes a fee, the Department would be authorized to use the PECFA awards appropriation to purchase, or provide funding for the purchase of, insurance to cover the amount by which the costs of conducting the cleanup service exceed the amount bid to conduct the cleanup service.

Further, make the following changes related to site bidding:

a. Require DNR or Commerce, whichever agency has jurisdiction over the site, to estimate the cost to complete a site investigation, remedial action plan and remedial action for an occurrence. If that estimate exceeds \$80,000, Commerce would be directed to implement a competitive public bidding process to assist in determining the least costly method of remedial action. Commerce would not be permitted to implement the bidding process if: (a) DNR or Commerce waives the requirement on the grounds that the waiver is necessary in an emergency to prevent or mitigate an imminent hazard to public health, safety or welfare or to the environment; or (b) one agency waives the requirement after providing notice to the other agency. In addition; (a) make the use of the bidding process optional at sites where an enforcement standard is exceeded in groundwater within 1,000 feet of a well operated by a public utility or within 100 feet of any other well used to provide water for human consumption; and (b) allow Commerce to waive bidding requirements if the Department determines that the remedial action plan identifies the most cost efficient cleanup option for the site.

b. Authorize Commerce to disqualify a public bid for remedial action activities at a PECFA site if, based on information available to the Department and experience with other

PECFA projects, the bid is unlikely to establish a maximum reimbursement amount that will sufficiently fund a cleanup necessary to meet applicable site closure requirements.

c. Authorize Commerce to disqualify a public bidder from submitting a bid for remedial action activities at a PECFA site if, based on past performance of the bidder, the bidder has demonstrated an inability to finish remedial actions within previously established cost limits.

d. Authorize Commerce to review and modify established maximum reimbursement amounts for remedial action activities if the Department determines that new circumstances, including newly discovered contamination at a site, warrant the review.

12. *Joint Agency Report.* [LFB Paper #307] Adopt Alternative A.4 (as modified to refer to high risk instead of high priority) to approve the recommendations of the Governor and the Joint Audit Committee related to reporting requirements and require submission of the report every January 1 and July 1 to the Governor, Joint Audit Committee, Joint Committee on Finance and appropriate standing committees. This would require Commerce and DNR to submit a report that includes the following information: (a) the date on which the record of the site investigation was received; (b) the environmental risk factors, as defined by Commerce rule, identified at the site; (c) the year in which DNR or Commerce expects to issue a case closure letter or written approval of the remedial action activities for the site; (d) the number of notifications of petroleum discharges received by the departments and the number of written approvals of remedial action activities provided by the departments; (e) the percentage of sites classified as high risk; (f) the name of each person providing engineering consulting services to a claimant and the number of claimants to whom the person has provided those services; (g) the charges for engineering consulting services for sites for which remedial action activities are approved by the departments and for other sites; (h) the charges by service providers other than engineering consultants for services for which reimbursement is provided, including excavating, hauling, laboratory testing and landfill disposal; and (i) strategies for recording and monitoring complaints of fraud in the program and for the use of Commerce employees who conduct audits to identify questionable claims and investigate complaints.

In addition, require DNR and Commerce to also report on whether disputes arose regarding the annual determination of least costly method and use of natural attenuation under joint annual review for high risk sites and how those disputes were resolved.

Further, direct Commerce to submit a report to the Joint Committee on Finance and the Joint Committee for Review of Administrative Rules, by March 1, 2000, that includes recommendations related to actions Commerce could take to reduce interest costs incurred by claimants including a review of the schedule for progress payments for claims submitted under the program.

13. *Usual and Customary Costs.* [LFB Paper #307] Adopt Alternative B.1. to approve the Joint Legislative Audit Committee recommendations to require Commerce to establish a schedule of usual and customary costs for items that are commonly associated with PECFA claims. Commerce would be required to use the schedule to determine the amount of eligible costs for an occurrence for which a competitive bidding process is not used, except in circumstances under which higher costs must be incurred to complete the remedial action

activities and comply with groundwater enforcement standards. Commerce would not be allowed to use the schedule for an occurrence for which a competitive bidding process is used. The schedule would be required to include the maximum number of reimbursable hours for particular tasks and the maximum reimbursable hourly rates for those tasks. Commerce would be required to use methods of data collection and analysis that enable the schedule of usual and customary costs to be revised to reflect changes in actual costs. This provision would not apply after June 30, 2001. After June 30, 2001, the current law authorization (instead of requirement) for Commerce to establish a schedule of usual and customary costs would be effective again. Commerce would also be required to evaluate the operation of the usual and customary cost schedule and report on the results of the evaluation to the Joint Audit Committee, the Joint Committee on Finance and the appropriate standing committees of the Legislature no later than the first day of the 14th month beginning after the effective date of the bill.

In addition: (a) specify that the cost control provisions in administrative rule COMM 47 relating to ineligible costs would apply for an occurrence for which a competitive bidding process is used; and, (b) direct Commerce to promulgate emergency rules to establish the schedule of usual and customary costs by no later than November 1, 1999, and provide that the rules may be promulgated without a finding of emergency under Chapter 227.

14. *Administrative Rules.* [LFB Paper #307] Require Commerce and DNR to promulgate joint emergency rules within 30 days of the effective date of the bill related to procedures, cost-effective administration and inter-agency training practices. Require Commerce and DNR to attempt to agree on the rules. If DNR and Commerce are unable to reach an agreement, require the Secretary of DOA to resolve the matter. Direct that DNR and Commerce promulgate emergency rules without a finding of emergency. Direct Commerce and DNR to submit permanent rules to the Legislature under s. 227.19 no later than June 1, 2000. The rule changes would be:

a. Commerce and DNR would be required to promulgate joint rules specifying procedures to be used by Commerce and DNR while remedial actions are being conducted, including: (1) annual reviews that include the use of risk-based analysis; (2) annual reports by consultants estimating the additional costs that must be incurred to complete the remedial action activities in compliance with the groundwater enforcement standard; (3) a definition of "reasonable period of time" to complete remedial action by use of natural attenuation in compliance with the groundwater enforcement standards; and (4) procedures to be used in measuring contaminant concentrations for purposes of directing remedial action activities and site closure decisions in compliance with the groundwater enforcement standards.

b. Commerce and DNR would be required to promulgate joint rules to facilitate effective and cost-efficient administration of the program that specify: (1) information that must be submitted under the section, including quarterly summaries of costs incurred with respect to a discharge for which a claim is intended to be submitted but for which a final claim has not been submitted; (2) formats for submitting the information required under (1); and (3) review procedures that must be followed by DNR and Commerce staff when reviewing the information submitted under (1).

c. Commerce and DNR would be required to promulgate joint rules specifying: (1) the conditions under which Commerce and DNR employees must issue approvals of remedial

action activities; and (2) training and management procedures to ensure that employees comply with the requirements under (1).

d. DNR would be required to submit any changes required in its administrative rules necessary to implement the joint DNR and Commerce rules promulgated under (a), (b) and (c) to the Legislature under s. 227.19 no later than June 1, 2000.

15. *Financial Management.* [LFB Paper #307] Adopt Alternative D.1 to approve the Joint Audit Committee recommendations to require Commerce to make improvements to its financial management of the PECFA program. Commerce would be required, no later than the first day of the sixth month beginning after the effective date of the bill, to: (a) update its financial data base for the PECFA program to ensure that complete cost information related to each occurrence and to the annual payment to each owner or operator is readily available; (b) investigate any variances between the amount of total payments indicated by the financial data base for the PECFA program and the amount of total payments indicated by the accounts maintained by DOA to identify when the variances occurred and the reasons for the variances; and (c) make any changes in the Department's financial data base needed to ensure that the data base is consistent with the accounts maintained by DOA.

16. *Emergency Situation.* [LFB Paper #303] Require that in order to submit a PECFA claim for an emergency situation, the owner or operator must have notified DNR and Commerce of the emergency before conducting the remedial action and DNR and Commerce must have jointly authorized emergency action. Repeal the portion of the current law definition of emergency as a situation where the owner or operator acted in good faith in conducting the remedial action activities and did not willfully avoid conducting the investigation or preparing the remedial action plan.

[Change to Base: \$270 million BR, \$411,200 SEG and 3.0 SEG positions, \$112,200 PR and 2.0 PR positions]

[Change to Bill: -\$180 million BR, \$84,200 SEG, \$112,200 PR and 2.0 PR positions]

1999

Date (time) needed SOON

LRB b 0344, 1

**LFB BUDGET AMENDMENT
[ONLY FOR LFB]**

RCT&KSH: KG:

See form **AMENDMENTS — COMPONENTS & ITEMS.**

**LFB AMENDMENT
TO 1999 ASSEMBLY BILL 133 AND 1999 SENATE BILL 45**

>>FOR JT. FIN. SUB. — NOT FOR INTRODUCTION<<

At the locations indicated, amend the bill as follows:

#. Page ¹²²....., line 10.: *after that line insert!*



#. Page, line

#. Page, line

#. Page, line

#. Page, line

#. Page, line

00344/1

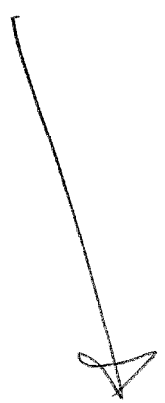
11 Section ^{3m} 13.485 (2) of the statutes is amended to read: ✓

13.485 (2) The building commission may, under s. ~~18.56~~^{18.561} (5) and (9) (j) ^{or 18.562 (3) and (5)(e)}, deposit in a separate and distinct fund, outside the state treasury, in an account maintained by a trustee, fees and charges derived from the facilities or from agreements entered into under sub. (4). The fees and charges deposited are the trustee's moneys in accordance with the agreement between this state and the trustee or in accordance with the resolution pledging the fees and charges to the repayment of revenue obligations issued under this section. 2).

History: 1985 a. 29; 1995 a. 201; 1997 a. 35.

✓ #. Page 160, line 6: delete "which" and substitute "that".

✓ #. Page 165, line 10: delete lines 10 and 11 and substitute:



1366
A

1 resolution, as ~~is~~ are deemed necessary or desirable for the security of bondholders
2 the owners of enterprise obligations or the marketability of the ~~bonds~~ enterprise
3 obligations, including but not limited to provisions as to:

4 " SECTION 17. 18.56 (9) (a) to (j) of the statutes are renumbered 18.561 (9) (a) to
5 (j), and 18.561 (9) (i) and (j), as renumbered, are amended to read:

6 18.561 (9) (i) Issuance of additional ~~bonds~~ enterprise obligations.

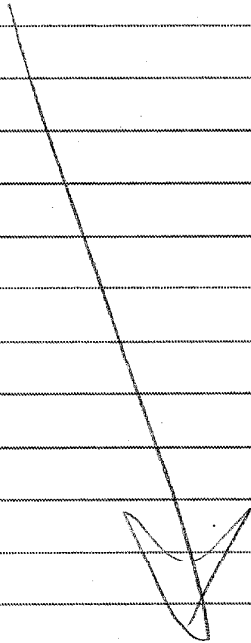
7 (j) Deposit of the proceeds of the sale of the ~~bonds~~ enterprise obligations or
8 revenues of the revenue-producing enterprise or program in trust, including the
9 appointment of depositories or trustees. "

10 SECTION 17. 18.56 (10) of the statutes is renumbered 18.561 (10) and amended
11 to read:

12 18.561 (10) SINKING FUND. The authorizing resolution may set apart ~~bonds~~
13 enterprise obligations the par value of which are equal to the principal amount of any
14 secured obligation or charge subject to which a revenue-producing enterprise or
15 program is to be purchased or acquired, and shall set aside in a sinking fund from
16 the income of the revenue-producing enterprise or program, a sum sufficient to
17 comply with the requirements of the instrument creating the security, ~~or if interest.~~
18 If the instrument does not make any provision therefor for a sinking fund, the
19 resolution shall fix and determine the amount ~~which that~~ shall be set aside into such
20 the sinking fund from month to month for interest on the secured obligation or
21 charge, and a fixed amount or proportion not exceeding a stated sum, which shall be
22 not less than one percent of the principal, to be set aside into the fund to pay the
23 principal of the secured obligation or charge. Any balance in the fund after satisfying
24 the secured obligations or charge, shall be transferred to the redemption fund. ~~Bonds~~
25 Enterprise obligations set aside for the secured obligation or charge may, from time

✓ #. Page 168, line 8: delete "security" and substitute
"secured".

✓ #. Page 172, line 23: delete "owner" and substitute
"owners".



1 18.61 (4) Any public officer or public employe, as defined in s. 939.22 (30), and
 2 the surety on the person's official bond, or any other person participating in any
 3 direct or indirect impairment of any fund established under this subchapter, shall
 4 be liable in any action brought by the attorney general in the name of the state, or
 5 by any taxpayer of the state, or by the holder of any evidence owner of revenue
 6 obligation payable in whole or in part, directly or indirectly, out of such fund, to
 7 restore to the fund all diversions from the fund.

8 SECTION 40. 20.005 (3) (schedule) of the statutes: at the appropriate place,
 9 insert the following amounts for the purposes indicated:

		1999-00	2000-01
10			
11	20.143 Commerce, department of		
12	(3) REGULATION OF INDUSTRY, SAFETY AND BUILDINGS		
13	(Lm) Petroleum storage remedial		
14	action fees	PR A -0-	112,200

✓ # Page 382, line 2: after that line insert:

15 SECTION 41. 20.143 (3) (Lm) of the statutes is created to read:
 2/6m

16 20.143 (3) (Lm) *Petroleum storage remedial action fees*. The amounts in the
 17 schedule for the administration of ss. 101.143 and 101.144. All moneys received
 18 under s. 101.143 (2) (L) shall be credited to this appropriation account. //

19 SECTION 42. 20.143 (3) (s) of the statutes is created to read:

20 20.143 (3) (s) *Petroleum inspection fund — revenue obligation proceeds*. As a
 21 continuing appropriation, all proceeds from revenue obligations that are issued
 22 under subch. II or IV of ch. 18, authorized under s. 101.143 (9m) and deposited in a
 23 fund in the state treasury created under s. 18.57 (1), to provide for reserves and for
 24 expenses of issuance and management of the revenue obligations, and the remainder

1 to be transferred to the petroleum inspection fund for the purposes of the petroleum
 2 storage remedial action program under s. 101.143. Estimated disbursements under
 3 this paragraph shall not be included in the schedule under s. 20.005.

4 ~~SECTION 43.~~ 20.143 (3) (t) of the statutes is created to read:

5 *#. Page 382, line 15; after "(1)" insert*
~~20.143 (3) (t) Petroleum inspection fund — revenue obligation repayment. From~~
 6 ~~the petroleum inspection fund, a sum sufficient to repay the fund in the state~~
 7 ~~treasury created under s. 18.57 (1), or the separate and distinct fund outside the state~~
 8 ~~treasury under s. 18.562 (3) and (5) (e), the amount needed to retire revenue~~
 9 ~~obligations issued under subch. II or IV of ch. 18, as authorized under s. 101.143 (9m).~~

10 ~~SECTION 44.~~ 20.143 (3) (u) of the statutes is created to read:

11 *20.143 (3) (u) Revenue obligation debt service — petroleum inspection fund.*
 12 From the fund in the state treasury created under s. 18.57 (1), all moneys received
 13 by the fund for the purpose of the retirement of revenue obligations, providing for
 14 reserves and for operations relating to the management and retirement of revenue
 15 obligations issued under subch. II or IV of ch. 18, as authorized under s. 101.143 (9m).
 16 All moneys received by the fund are irrevocably appropriated in accordance with
 17 subch. II of ch. 18 and further established in resolutions authorizing the issuance of
 18 the revenue obligations and setting forth the distribution of funds to be received
 19 thereafter. Estimated disbursements under this paragraph shall not be included in
 20 the schedule under s. 20.005.

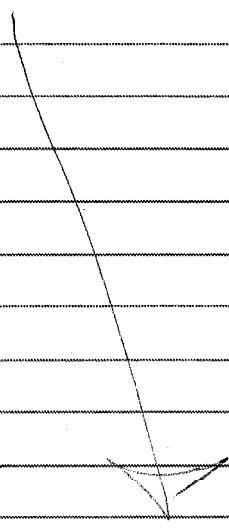
21 ~~SECTION 45.~~ 20.143 (3) (v) of the statutes is amended to read:

22 *20.143 (3) (v) Petroleum storage environmental remedial action; awards.*
 23 Biennially, from the petroleum inspection fund, the amounts in the schedule to pay
 24 awards under s. 101.143 and, legal costs incurred under s. 101.143 (7m), amounts
 25 to reduce principal of outstanding revenue obligations issued pursuant to s. 101.143

14

✓ H. Page 383, line 8: after "101.143" insert "(4)".

awards
under A.



~~(9m) and, if the department promulgates rules under s. 101.143 (2) (em) 1., to purchase, or provide funding to purchase, insurance described in s. 101.143 (2) (em)~~

~~2.~~

~~SECTION 46. 20.143 (3) (vb) of the statutes is created to read:~~

~~20.143 (3) (vb) *Petroleum storage environmental remedial action revenue bonding; awards.* From the petroleum inspection fund, a sum sufficient not to exceed the net proceeds of special fund obligations issued pursuant to s. 101.143 (9m) to pay awards under s. 101.143 (4) and legal costs incurred under s. 101.143 (7m). Estimated disbursements under this paragraph shall not be included in the schedule under s. 20.005.~~

~~SECTION 47. 25.47 of the statutes is renumbered 25.47 (intro.) and amended to read:~~

~~**25.47 Petroleum inspection fund.** (intro.) There is established a separate nonlapsible trust fund designated as the petroleum inspection fund, to consist of the:~~

~~(1) The fees imposed under s. 168.12 (1), the,~~

~~(2) The payments under s. 101.143 (4) (h) 1m., the~~

~~(3) The payments under s. 101.143 (5) (a) and the,~~

~~(4) The net recoveries under s. 101.143 (5) (c).~~

~~SECTION 48. 25.47 (1m) of the statutes is created to read:~~

~~25.47 (1m) Any fees imposed under s. 101.143 (2) (em) 1. "~~

~~SECTION 49. 25.47 (5) of the statutes is created to read:~~

~~25.47 (5) The moneys transferred from the appropriation account under s~~

~~20.143 (3) (s)~~

~~SECTION 50. 25.47 (6) of the statutes is created to read:~~

✓ #. Page 500, line 23: delete lines 23 and 24 and substitute:
19 SECTION 48. 25.47 (1m) of the statutes is created to read:
20 25.47 (1m) Any fees imposed under s. 101.143 (2) (em) 1. "
21 ~~SECTION 49. 25.47 (5) of the statutes is created to read:~~
22 ~~25.47 (5) The moneys transferred from the appropriation account under s~~
23 ~~20.143 (3) (s)~~
24 ✓ #. Page 501, line 2: after that line insert:
SECTION 50. 25.47 (6) of the statutes is created to read:
714c
715e

1 25.47 (6) The net proceeds of revenue obligations issued under s. 101.143 (9m)
2 that are transferred from a separate and distinct fund outside the state treasury, in
3 an account maintained by a trustee, under s. 18.562 (3) and (5) (e). //

4 ~~SECTION 51. 45.79 (9) (a) of the statutes is amended to read:~~

5 45.79 (9) (a) All moneys received from any source for repayment of loans,
6 mortgages or mortgage loan notes funded with proceeds of revenue obligations
7 issued under sub. (6) (c) shall be deposited into one or more separate nonlapsible
8 trust funds in the state treasury or with a trustee as provided in s. ~~18.56~~ 18.561 (9)
9 (j) or 18.562 (5) (e). The board may pledge revenues received by the funds to secure
10 revenue obligations issued under sub. (6) (c) and shall have all other powers
11 necessary and convenient to distribute the proceeds of the revenue obligations and
12 loan repayments in accordance with subch. II of ch. 18. Unrestricted balances in the
13 funds may be used to fund additional loans issued under sub. (6) (c) and pay the
14 balances owing on loans after the assumptions of the loans or the closings of the sales
15 of residences under sub. (10) (c).

16 ~~SECTION 52. 84.59 (2) of the statutes is amended to read:~~

17 84.59 (2) The department may, under s. ~~18.56~~ 18.561 (5) and (9) (j) or 18.562
18 (3) and (5) (e), deposit in a separate and distinct fund outside the state treasury, in
19 an account maintained by a trustee, revenues derived under s. 341.25. The revenues
20 deposited are the trustee's revenues in accordance with the agreement between this
21 state and the trustee or in accordance with the resolution pledging the revenues to
22 the repayment of revenue obligations issued under this section.

23 ~~SECTION 53. 85.52 (5) (c) of the statutes is amended to read:~~

24 85.52 (5) (c) The department of administration may, under s. ~~18.56~~ 18.561 (5)
25 and (9) (j) or 18.562 (3) and (5) (e), deposit in a separate and distinct fund in the state

1 treasury or in an account maintained by a trustee outside the state treasury, any
 2 portion of the revenues derived under s. 25.405 (2). The revenues deposited with a
 3 trustee outside the state treasury are the trustee's revenues in accordance with the
 4 agreement between this state and the trustee or in accordance with the resolution
 5 pledging the revenues to the repayment of revenue obligations issued under this
 6 subsection.

✓ # Page 962, line 11: delete the material beginning with that line and ending with
 7 SECTION 54. 101.143 (1) (bm) of the statutes is created to read: page 967, line 3, and
 1979p substitute.

8 101.143 (1) (bm) "Enforcement standard" has the meaning given in s. 160.01

9 (2).

10 SECTION 55. 101.143 (1) (cq) of the statutes is created to read:

11 101.143 (1) (cq) "Natural attenuation" means the reduction in the
 12 concentration and mass of a substance, and the products into which the substance
 13 breaks down, due to naturally occurring physical, chemical and biological processes.

✓ 14 SECTION 56. 101.143 (2) (em) of the statutes is created to read:

15 101.143 (2) (em) 1. The department may promulgate rules that specify a fee
 16 that must be paid by a service provider as a condition of submitting a bid to conduct
 17 an activity under sub. (3) (c) for which a claim for reimbursement under this section
 18 will be submitted. Any fees collected under the rules shall be deposited into the
 19 petroleum inspection fund.

20 2. If the department promulgates rules under subd. 1., the department may
 21 purchase, or provide funding for the purchase of, insurance to cover the amount by
 22 which the costs of conducting activities under sub. (3) (c) exceed the amount bid to
 23 conduct those activities.

24 SECTION 57. 101.143 (2) (h) of the statutes is created to read:

1 101.143 (2) (h) The department of commerce and the department of natural
2 resources, jointly, shall promulgate rules designed to facilitate effective and
3 cost-efficient administration of the program under this section that specify all of the
4 following:

5 1. Information that must be submitted under this section, including quarterly
6 summaries of costs incurred with respect to a discharge for which a claim is intended
7 to be submitted under sub. (3) but for which a final claim has not been submitted.

8 2. Formats for submitting the information under subd. 1.

9 3. Review procedures that must be followed by employes of the department of
10 natural resources and the department of commerce in reviewing the information
11 submitted under subd. 1.

12 ~~SECTION 58~~^{1981c} 101.143 (2) (i) of the statutes is created to read:

13 101.143 (2) (i) The department of commerce and the department of natural
14 resources, jointly, shall promulgate rules specifying procedures for evaluating
15 remedial action plans and procedures to be used by employes of the department of
16 commerce and the department of natural resources while remedial actions are being
17 conducted. The departments shall specify procedures that include all of the
18 following:

19 1. Annual reviews that include application of the method in the rules
20 promulgated under sub. (2e) (b) to determine the risk posed by discharges that are
21 the subject of the remedial actions.

22 2. Annual reports by consultants estimating the additional costs that must be
23 incurred to comply with sub. (3) (c) 3. and with enforcement standards.

24 3. A definition of “reasonable time” for the purpose of determining whether
25 natural attenuation may be used to achieve enforcement standards.

1 4. Procedures to be used to measure concentrations of contaminants.

2 SECTION ^{1981e}~~59~~. 101.143 (2) (j) of the statutes is created to read:

3 101.143 (2) (j) The department of commerce and the department of natural
4 resources, jointly, shall promulgate rules specifying all of the following:

5 1. The conditions under which employes of the department of commerce and
6 the department of natural resources must issue approvals under sub. (3) (c) 4.

7 2. Training and management procedures to ensure that employes comply with
8 the requirements under subd. 1.

9 SECTION ^{1981g}~~60~~. 101.143 (2) (k) of the statutes is created to read:

10 101.143 (2) (k) In promulgating rules under pars. (h) to (j), the department of
11 commerce and the department of natural resources shall attempt to reach an
12 agreement that is consistent with those provisions. If the department of commerce
13 and the department of natural resources are unable to reach an agreement, they
14 shall refer the matters on which they are unable to agree to the secretary of
15 administration for resolution. The secretary of administration shall resolve any
16 matters on which the departments disagree in a manner that is consistent with pars.
17 (h) to (j). The department of commerce and the department of natural resources,
18 jointly, shall promulgate rules incorporating any agreement between the
19 department of commerce and the department of natural resources under this
20 paragraph and any resolution of disagreements between the departments by the
21 secretary of administration under this paragraph.

22 SECTION ¹⁹⁸¹ⁱ~~61~~. 101.143 (2) (L) of the statutes is created to read:

23 101.143 (2) (L) The department may promulgate rules for the assessment
24 and collection of fees to recover its costs for providing approval under sub. (3) (c)
25 4. and for providing other assistance requested by applicants under this section.

1 Any moneys collected under this paragraph shall be credited to the appropriation
2 account under s. 20.143 (3) (Lm).

3 SECTION ~~62~~^{1982c} 101.143 (2e) of the statutes is created to read:

4 101.143 (2e) RISK-BASED ANALYSIS. (a) The department of commerce and the
5 department of natural resources shall attempt to agree on a method, which shall
6 include consideration of the routes for migration of petroleum product
7 contamination, for determining the risk to public health, safety and welfare and to
8 the environment posed by discharges for which the department of commerce receives
9 notification under sub. (3) (a) 3.

10 (b) If the department of commerce and the department of natural resources are
11 unable to reach an agreement under par. (a), they shall refer the matters on which
12 they are unable to agree to the secretary of administration for resolution. The
13 secretary of administration shall resolve any matters on which the departments
14 disagree in a manner that is consistent with par. (a). The department of commerce
15 and the department of natural resources, jointly, shall promulgate rules
16 incorporating any agreement between the department of commerce and the
17 department of natural resources under par. (a) and any resolution of disagreements
18 between the departments by the secretary of administration under this paragraph.

19 (c) The department of natural resources or, if the discharge is covered under
20 s. 101.144 (2) (b), the department of commerce shall apply the method in the rules
21 promulgated under par. (b) to determine the risk posed by a discharge for which the
22 department of commerce receives notification under sub. (3) (a) 3.

23 SECTION ~~63~~^{1983b} 101.143 (3) (c) 2. of the statutes is amended to read:

1 101.143 (3) (c) 2. Prepare a remedial action plan that identifies specific
2 remedial action activities proposed to be conducted under subd. 3. and submit the
3 remedial action plan to the department.

4 ~~SECTION 64.~~^{1983 M} 101.143 (3) (cm) of the statutes is amended to read:

5 101.143 (3) (cm) *Monitoring as remedial action.* An owner or operator or person
6 owning a home oil tank system may, with the approval of the department of natural
7 resources or, if the discharge is covered under s. 101.144 (2) (b), the department of
8 commerce, satisfy the requirements of par. (c) 2. and 3. by proposing and
9 implementing monitoring to ensure the effectiveness of the natural process of
10 degradation attenuation of petroleum product contamination.

11 ~~SECTION 65.~~^{1983 P} 101.143 (3) (cn) of the statutes is created to read:

12 101.143 (3) (cn) *Review of remedial action plans.* The department of natural
13 resources or, if the discharge is covered under s. 101.144 (2) (b), the department of
14 commerce shall review and approve or disapprove a remedial action plan submitted
15 under par. (c) 2.

16 ~~SECTION 66.~~^{1983 T} 101.143 (3) (cp) of the statutes is created to read:

17 101.143 (3) (cp) *Bidding process.* 1. Except as provided in subds. 2. to 5., if the
18 department of natural resources or, if the site is covered under s. 101.144 (2) (b), the
19 department of commerce estimates that the cost to complete a site investigation,
20 remedial action plan and remedial action for an occurrence exceeds \$80,000, the
21 department of commerce shall implement a competitive public bidding process to
22 obtain information to assist in making the determination under par. (cs).

23 2. The department of commerce or the department of natural resources may
24 waive the requirement under subd. 1. if an enforcement standard is exceeded in
25 groundwater within 1,000 feet of a well operated by a public utility, as defined in s.

1 196.01 (5), or within 100 feet of any other well used to provide water for human
2 consumption.

3 3. The department of commerce may waive the requirement under subd. 1. if
4 it determines that the remedial action plan identifies the least costly method of
5 complying with par. (c) 3. and with enforcement standards.

6 4. The department of commerce or the department of natural resources may
7 waive the requirement under subd. 1. on the grounds that waiver is necessary in an
8 emergency to prevent or mitigate an imminent hazard to public health, safety or
9 welfare or to the environment.

10 5. The department of commerce or the department of natural resources may
11 waive the requirement under subd. 1. after providing notice to the other department.

12 6. The department of commerce may disqualify a bid received under subd. 1.
13 if, based on information available to the department and experience with remedial
14 action at other sites, the bid is unlikely to establish an amount to sufficiently fund
15 remedial action that will comply with par. (c) 3. and with enforcement standards.

16 7. The department of commerce may disqualify a person from submitting bids
17 under subd. 1. if, based on past performance of the bidder, the department
18 determines that the person has demonstrated an inability to complete remedial
19 action within established cost limits.

20 **SECTION 67**^{1984C} 101.143 (3) (cs) of the statutes is created to read:

21 101.143 (3) (cs) *Determination of least costly method of remedial action.* 1. The
22 department of commerce shall review the remedial action plan for a site that is
23 classified as low or medium risk under s. 101.144 and shall determine the least costly
24 method of complying with par. (c) 3. and with enforcement standards. The
25 department shall notify the owner or operator of its determination of the least costly

1 method and shall notify the owner or operator that reimbursement for remedial
2 action under this section is limited to the amount necessary to implement that
3 method.

4 2. The department of natural resources and the department of commerce shall
5 review the remedial action plan for a site that is classified as high risk under s.
6 101.144 and shall jointly determine the least costly method of complying with par.
7 (c) 3. and with enforcement standards. The departments shall notify the owner or
8 operator of their determination of the least costly method.

9 3. In making determinations under subd. 1., the department of commerce shall
10 determine whether natural attenuation will achieve compliance with par. (c) 3. and
11 with enforcement standards.

12 4. The department of commerce may review and modify an amount established
13 under subd. 1. if the department determines that new circumstances, including
14 newly discovered contamination at a site, warrant those actions.

15 ^{1984m} SECTION 68. 101.143 (3) (cw) of the statutes is created to read:

16 101.143 (3) (cw) *Annual reviews*. 1. The department of commerce shall conduct
17 the annual review required under sub. (2) (i) 1. for a site that is classified as low or
18 medium risk under s. 101.144 and shall determine the least costly method of
19 completing remedial action at the site in order to comply with par. (c) 3. and with
20 enforcement standards. The department shall notify the owner or operator of its
21 determination of the least costly method and shall notify the owner or operator that
22 reimbursement under this section for any remedial action conducted after the date
23 of the notice is limited to the amount necessary to implement that method.

24 2. The department of natural resources and the department of commerce shall
25 conduct the annual review required under sub. (2) (i) 1. for a site that is classified as

1 high risk under s. 101.144 and shall jointly determine the least costly method of
2 completing remedial action at the site in order to comply with par. (c) 3. and with
3 enforcement standards. The departments shall notify the owner or operator of their
4 determination of the least costly method.

5 3. In making determinations under subds. 1. and 2., the department of natural
6 resources and the department of commerce shall determine whether natural
7 attenuation will achieve compliance with par. (c) 3. and with enforcement standards.

8 4. The department of commerce may review and modify an amount established
9 under subd. 1. if the department determines that new circumstances, including
10 newly discovered contamination at a site, warrant those actions.

11 ^{1985b} SECTION 69. 101.143 (3) (d) of the statutes is amended to read:

12 101.143 (3) (d) ~~Review of site investigations, remedial action plans and Final~~
13 ~~review of remedial action activities. The department of natural resources or, if the~~
14 ~~discharge is covered under s. 101.144 (2) (b), the department of commerce shall, at~~
15 ~~the request of the claimant, review the site investigation and the remedial action~~
16 ~~plan and advise the claimant on the adequacy of proposed remedial action activities~~
17 ~~in meeting the requirements of s. 292.11. The advice is not an approval of the~~
18 ~~remedial action activities. The department of natural resources or, if the discharge~~
19 ~~is covered under s. 101.144 (2) (b), the department of commerce shall complete a final~~
20 ~~review of the remedial action activities within 60 days after the claimant notifies the~~
21 ~~appropriate department that the remedial action activities are completed.~~

22 ^{1985e} SECTION 70. 101.143 (3) (g) (intro.) and 1. of the statutes are consolidated,
23 renumbered 101.143 (3) (g) and amended to read:

24 101.143 (3) (g) *Emergency situations.* Notwithstanding pars. (a) 3. and (c) 1.
25 and 2., an owner or operator or the person may submit a claim for an award under

1 sub. (4) after notifying the department under par. (a) 3., without completing an
2 investigation under par. (c) 1. and without preparing a remedial action plan under
3 par. (c) 2. if any of the following apply: 1. An an emergency existed which made the
4 investigation under par. (c) 1. and the remedial action plan under par. (c) 2.
5 inappropriate and, before conducting remedial action, the owner or operator or
6 person notified the department of commerce and the department of natural
7 resources of the emergency and the department of commerce and the department of
8 natural resources authorized emergency action.

9 ~~SECTION 71.~~ ^{1985 F} 101.143 (3) (g) 2. of the statutes is repealed.

10 ~~SECTION 72.~~ ^{1985 M} 101.143 (4) (b) (intro.) of the statutes is amended to read:

11 101.143 (4) (b) *Eligible costs.* (intro.) ~~Eligible~~ Except as provided in par. (c),
12 eligible costs for an award under par. (a) include actual costs or, if the department
13 establishes a schedule usual and customary cost under par. (cm) for an item, usual
14 and customary costs for the following items only:

15 ~~SECTION 73.~~ ^{1985 r} 101.143 (4) (b) 16. of the statutes is created to read:

16 101.143 (4) (b) 16. Compliance using the least costly method, with an order of
17 the department of commerce or the department of natural resources to conduct
18 remedial action activities in response to a discharge from a petroleum product
19 storage system or home oil tank system.

20 ~~SECTION 74.~~ ^{1985 W} 101.143 (4) (c) (intro.) of the statutes is amended to read:

21 101.143 (4) (c) *Exclusions from eligible costs.* (intro.) Eligible costs for an
22 award under par. (a) do not include the following, regardless of whether a competitive
23 bidding process is used:

24 ~~SECTION 75.~~ ^{1986 C} 101.143 (4) (c) 8. of the statutes is renumbered 101.143 (4) (c) 8.

25 (intro.) and amended to read:

1 101.143 (4) (c) 8. (intro.) Interest costs incurred by an applicant that exceed
2 interest at ~~1% over the prime rate, as determined under rules promulgated by the~~
3 department. the following rate:

4 ^{1986e}
SECTION ~~76~~. 101.143 (4) (c) 8. a. to f. of the statutes are created to read:

5 101.143 (4) (c) 8. a. If the applicant has gross revenues of not more than
6 \$5,000,000 in the most recent tax year before the applicant submits a claim, 1% over
7 the prime rate.

8 b. If the applicant has gross revenues of more than \$5,000,000 but not more
9 than \$15,000,000 in the most recent tax year before the applicant submits a claim,
10 the prime rate.

11 c. If the applicant has gross revenues of more than \$15,000,000 but not more
12 than \$25,000,000 in the most recent tax year before the applicant submits a claim,
13 1% under the prime rate.

14 d. If the applicant has gross revenues of more than \$25,000,000 but not more
15 than \$35,000,000 in the most recent tax year before the applicant submits a claim,
16 2% under the prime rate.

17 e. If the applicant has gross revenues of more than \$35,000,000 but not more
18 than \$45,000,000 in the most recent tax year before the applicant submits a claim,
19 3% under the prime rate.

20 f. If the applicant has gross revenues of more than \$45,000,000 in the most
21 recent tax year before the applicant submits a claim, 4% under the prime rate.

22 ^{1986g}
SECTION ~~77~~. 101.143 (4) (c) 10. of the statutes is created to read:

23 101.143 (4) (c) 10. Fees charged under sub. (2) (L) or s. 292.55 (2).

24 ¹⁹⁸⁶ⁱ
SECTION ~~78~~. 101.143 (4) (c) 11. of the statutes is created to read:

1 101.143 (4) (c) 11. For a site that is classified as low or medium risk under s.
2 101.144, costs that exceed the amount necessary to comply with sub. (3) (c) 3. and
3 with enforcement standards using the least costly method, subject to par. (b) 16.

4 SECTION ^{1986k} ~~79~~ 101.143 (4) (c) 12. of the statutes is created to read:

5 101.143 (4) (c) 12. Costs that are incurred after the date of a notice under sub.
6 (3) (cw) 1. and that exceed the amount necessary to comply with sub. (3) (c) 3. and
7 with enforcement standards using the method specified in the notice, subject to par.
8 (b) 16.

9 SECTION ^{1986m} ~~80~~ 101.143 (4) (cm) of the statutes is renumbered 101.143 (4) (cm) 1.
10 and amended to read:

11 101.143 (4) (cm) 1. The department ~~may~~ shall establish a schedule of usual and
12 customary costs for ~~any~~ items under par. (b) ~~and may~~ that are commonly associated
13 with claims under this section. The department shall use that schedule to determine
14 the amount of a claimant's eligible costs for an occurrence for which a competitive
15 bidding process is not used, except in circumstances under which higher costs must
16 be incurred to comply with sub. (3) (c) 3. and with enforcement standards. For an
17 occurrence for which a competitive bidding process is used, the department may not
18 use the schedule. In the schedule, the department shall specify the maximum
19 number of reimbursable hours for particular tasks and the maximum reimbursable
20 hourly rates for those tasks. The department shall use methods of data collection and
21 analysis that enable the schedule to be revised to reflect changes in actual costs. This
22 subdivision does not apply after June 30, 2001.

23 SECTION ^{1986p} ~~81~~ 101.143 (4) (cm) 2. of the statutes is created to read:

24 101.143 (4) (cm) 2. The department may establish a schedule of usual and
25 customary costs for any items under par. (b) and may use that schedule to determine

1 the amount of a claimant's eligible costs. This subdivision applies after June 30,
2 2001.

3 ^b
¹⁹⁸⁷⁶ SECTION ~~82~~. 101.143 (4) (d) 2. (intro.) of the statutes is amended to read:

4 101.143 (4) (d) 2. (intro.) The department shall issue the award under this
5 paragraph without regard to fault in an amount equal to the amount of the eligible
6 costs that exceeds a the deductible amount of \$2,500 plus 5% of the eligible costs, but
7 not more than \$7,500 per occurrence, except that the deductible amount for a
8 petroleum product storage system that is owned by a school district or a technical
9 college district and that is used for storing heating oil for consumptive use on the
10 premises is 25% of eligible costs under par. (dg). An award issued under this
11 paragraph may not exceed the following for each occurrence:

12 ^c
^{1991c} SECTION ~~83~~. 101.143 (4) (dg) of the statutes is created to read:

13 101.143 (4) (dg) *Deductible; underground systems.* The amount of the
14 deductible for an award under par. (d) is as follows for each occurrence:

15 1. Except as provided under par. (di), for an owner or operator of an
16 underground petroleum product storage tank system that is located at a facility at
17 which petroleum is stored for resale or an owner or operator of an underground
18 petroleum product storage tank system that handles an annual average of more than
19 10,000 gallons of petroleum per month, \$5,000 plus 4% of the amount by which
20 eligible costs exceed \$100,000.

21 2. For a school district or a technical college district with respect to a discharge
22 from an underground petroleum product storage tank system that is used for storing
23 heating oil for consumptive use on the premises, 25% of eligible costs.

24 3. For the owner or operator of a petroleum product storage system that is
25 described in par. (ei) 1., \$5,000.

1 4. For an owner or operator other than an owner or operator described in subd.
2 1., 2. or 3., \$2,500, plus 5% of eligible costs, but not more than \$7,500.

3 SECTION ~~84~~^{1992c} 101.143 (4) (di) of the statutes is created to read:

4 101.143 (4) (di) *Rules concerning deductible for underground systems.* The
5 department may promulgate rules describing a class of owners and operators of
6 underground petroleum product storage tank systems otherwise subject to par. (dg)
7 1. for whom the deductible is the amount under par. (dg) 4. rather than the amount
8 under par. (dg) 1. if the class is based on financial hardship or consists of local
9 governmental units that are conducting remedial action as part of projects to
10 redevelop brownfields, as defined in s. 234.88 (1) (a).

11 SECTION ~~85~~^{1993c} 101.143 (4) (dm) 2. a. of the statutes is amended to read:

12 101.143 (4) (dm) 2. a. For the owner or operator of a terminal, \$15,000 plus 5%
13 10% of the amount by which eligible costs exceed \$200,000.

14 SECTION ~~86~~^{1993f} 101.143 (4) (dm) 2. c. of the statutes is amended to read:

15 101.143 (4) (dm) 2. c. For the owner or operator of a petroleum product storage
16 system that is described in par. (ei) 1., ~~\$2,500 plus 5% of eligible costs but not more~~
17 ~~than \$7,500~~ \$5,000 per occurrence.

18 SECTION ~~87~~^{1993m} 101.143 (4) (ei) 2. of the statutes is repealed and recreated to read:

19 101.143 (4) (ei) 2. The department shall review claims related to discharges
20 from farm tanks described in subd. 1. as soon as the claims are received. The
21 department shall issue an award for an eligible discharge from a farm tank described
22 in subd. 1. as soon as it completes the review of the claim. //

23 #. Page 968, line 5: delete "\$450,000,000" and substitute "\$270,000,000".
SECTION 88. 101.143 (9m) of the statutes is created to read:

24 101.143 (9m) REVENUE OBLIGATIONS. (a) For purposes of subch. II of ch. 18, the
25 petroleum storage remedial action program is a special fund program, and the

1 petroleum inspection fund is a special fund. The petroleum inspection fund is a
2 segregated fund created by the imposition of fees, penalties or excise taxes. The
3 legislature finds and determines that a nexus exists between the petroleum storage
4 remedial action program and the petroleum inspection fund in that fees imposed on
5 users of petroleum are used to remedy environmental damage caused by petroleum
6 storage.

7 (b) Deposits, appropriations or transfers to the petroleum inspection fund for
8 the purposes of the petroleum storage remedial action program may be funded with
9 the proceeds of revenue obligations issued subject to and in accordance with subch.
10 II of ch. 18 and, if designated a higher education bond, in accordance with subch. IV
11 of ch. 18.

12 (e) The department shall have all other powers necessary and convenient to
13 distribute the special fund revenues and to distribute the proceeds of the revenue
14 obligations in accordance with subch. II of ch. 18 and, if designated a higher
15 education bond, in accordance with subch. IV of ch. 18.

16 (f) The department may enter into agreements with the federal government or
17 its agencies, political subdivisions of this state, individuals or private entities to
18 insure or in any other manner provide additional security for the revenue obligations
19 issued under this subsection.

20 (g) Revenue obligations may be contracted by the building commission when
21 it reasonably appears to the building commission that all obligations incurred under
22 this subsection can be fully paid on a timely basis from moneys received or
23 anticipated to be received. Revenue obligations issued under this subsection may not
24 exceed \$270,000,000 in principal amount. In addition to this limit on principal
25 amount, the building commission may contract revenue obligations under this

Page 968, line 9: after that line insert!

1 subsection as the building commission determines is desirable to fund or refund
2 outstanding revenue obligations, to pay issuance or administrative expenses, to
3 make deposits to reserve funds or to pay accrued or capitalized interest.

insert
B

4 (gm) Of the revenue obligations authorized under par. (g), no more than
5 \$170,000,000 may be issued until all of the following conditions have been met:

6 1. The joint committee on finance has approved, at a regular quarterly meeting
7 under s. 13.10, a report jointly submitted by the departments of administration,
8 commerce and natural resources. The report shall include information regarding all
9 of the following:

10 a. The proposed issuance of any revenue obligations in excess of \$170,000,000.

11 b. The amount of claims under sub. (3) received during the 2 calendar quarters
12 immediately preceding the date of the report.

13 c. The number and dollar amount of claims under sub. (3) that the department
14 of commerce has received but not paid.

15 d. The progress made by the departments of administration, commerce and
16 natural resources in implementing cost control strategies to reduce the costs of
17 cleanups at sites for which claims are submitted under sub. (3).

18 2. The departments of commerce and natural resources have jointly
19 promulgated permanent rules under sub. (2) (h) to (j). "

20 (h) Unless otherwise expressly provided in resolutions authorizing the
21 issuance of revenue obligations or in other agreements with the owners of revenue
22 obligations, each issue of revenue obligations under this subsection shall be on a
23 parity with every other revenue obligation issued under this subsection and in
24 accordance with subch. II of ch. 18 and, if designated a higher education bond, in
25 accordance with subch. IV of ch. 18.

1 (i) Recognizing its moral obligation to do so, the legislature expresses its
 2 expectation and aspiration that, if the legislature reduces the rate of the petroleum
 3 inspection fee and if the funds in the petroleum inspection fund are insufficient to
 4 pay the principal and interest on the revenue obligations issued under subch. II or
 5 IV of ch. 18 pursuant to this subsection, the legislature shall make an appropriation
 6 from the general fund sufficient to pay the principal and interest on the obligations.

7 *#. Page 968, line 22: delete the material beginning with that line and ending with page 970, line 12, and substitute:*
 SECTION 88 101.143 (11) of the statutes is created to read: *1994m*

8 101.143 (11) REPORTS. No later than each January 1 and July 1, the department
 9 of commerce and the department of natural resources shall submit the the governor,
 10 to the joint legislative audit committee, to the joint committee on finance ✓ and to the
 11 appropriate standing committees of the legislature, ✓ under s. 13.172 (3), a report on
 12 the program under this section. The departments shall include all of the following
 13 information in the report:

14 (a) All of the following information for each petroleum product storage system
 15 and home oil tank system from which a discharge has occurred for which remedial
 16 action activities are being conducted:

- 17 1. The date on which the record of the site investigation was received.
- 18 2. The environmental risk factors, as defined by the department of commerce
 19 by rule, identified at the site.
- 20 3. The year in which the approval under sub. (3) (c) 4. is expected to be issued.

21 (am) The number of notices received under sub. (3) (a) 3. and the number of
 22 approvals given under sub. (3) (c) 4.

23 (b) The percentage of sites classified as high risk under s. 101.144.

1 (c) The name of each person providing engineering consulting services to a
2 claimant under this section and the number of claimants to whom the person has
3 provided those services.

4 (d) The charges for engineering consulting services for sites for which
5 approvals are given under sub. (3) (c) 4. and for other sites.

6 (e) The charges by service providers other than engineering consultants for
7 services for which reimbursement is provided under this section, including
8 excavating, hauling, laboratory testing and landfill disposal.

9 (em) Whether disputes have arisen between the departments under sub. (3)
10 (cw) 2. and, if so, how those disputes have been resolved.

11 (f) Strategies for recording and monitoring complaints of fraud in the program
12 under this section and for the use of employes of the department of commerce who
13 conduct audits to identify questionable claims and investigate complaints.

14 SECTION ~~90~~^{1995p} 101.144 (1) (ae) of the statutes is created to read:

15 101.144 (1) (ae) "Enforcement standard" has the meaning given in s. 160.01 (2).

16 SECTION ~~91~~^{1995r} 101.144 (1) (aq) of the statutes is created to read:

17 101.144 (1) (aq) Except as provided under sub. (3g), "high-risk site" means the
18 site of a discharge of a petroleum product from a petroleum storage tank if the
19 discharge has resulted in a concentration of contaminants that exceeds an
20 enforcement standard in soil that has a hydraulic conductivity of 1×10^{-5} centimeters
21 per second or if at least one of the following applies:

22 1. Repeated tests show that the discharge has resulted in a concentration of
23 contaminants in a well used to provide water for human consumption that exceeds
24 a preventive action limit, as defined in s. 160.01 (6).

1 2. Petroleum product that is not in dissolved phase is present with a thickness
2 of 0.01 feet or more, as shown by repeated measurements.

3 3. An enforcement standard is exceeded in groundwater within 1,000 feet of a
4 well operated by a public utility, as defined in s. 196.01 (5), or within 100 feet of any
5 other well used to provide water for human consumption.

6 4. An enforcement standard is exceeded in bedrock.

7 SECTION ~~92~~^{1996c}. 101.144 (2) (b) 1. of the statutes is amended to read:

8 101.144 (2) (b) 1. The site of the discharge is classified, as provided under sub.
9 ~~(3m)~~ (a) 3., as medium priority risk or low priority risk, based on the threat that the
10 discharge poses to public health, safety and welfare and to the environment.

11 SECTION ~~93~~^{1996e}. 101.144 (2) (b) 2. of the statutes is amended to read:

12 101.144 (2) (b) 2. The site of the discharge is not contaminated by a hazardous
13 substance other than the petroleum product, including any additive, that was
14 discharged from the petroleum storage tank.

15 SECTION ~~94~~^{1997c}. 101.144 (3g) of the statutes is created to read:

16 101.144 (3g) (a) If, on December 1, 1999, more than 35% of sites classified
17 under this section, excluding sites that are contaminated by a hazardous substance
18 other than a petroleum product or an additive to a petroleum product, are classified
19 as high-risk sites, the department of commerce and the department of natural
20 resources shall attempt to reach an agreement that specifies standards for
21 determining whether the site of a discharge of a petroleum product from a petroleum
22 storage tank is classified as high risk. The standards shall be designed to classify
23 no more than 35% of those sites as high-risk sites and may not classify all sites at
24 which an enforcement standard is exceeded as high-risk sites. If the department of
25 commerce and the department of natural resources are unable to reach an

1 agreement, they shall refer the matters on which they are unable to agree to the
2 secretary of administration for resolution. The secretary of administration shall
3 resolve any matters on which the departments disagree in a manner that is
4 consistent with this paragraph. The department of commerce shall promulgate rules
5 incorporating any agreement between the department of commerce and the
6 department of natural resources under this paragraph and any resolution of
7 disagreements between the departments by the secretary of administration under
8 this paragraph.

9 (b) If, 6 months after rules under par. (a) are in effect, more than 35% of the sites
10 classified under this section, excluding sites that are contaminated by a hazardous
11 substance other than a petroleum product or an additive to a petroleum product, are
12 classified as high-risk sites, the department of commerce shall revise the rules using
13 the procedure for promulgating the rules in par. (a).

14 SECTION ^{1998C}95. 101.144 (3m) (a) 3. of the statutes is amended to read:

15 101.144 (3m) (a) 3. Establishes procedures, standards and schedules for
16 determining whether the site of a discharge of a petroleum product from a petroleum
17 storage tank is classified as high priority, medium priority risk or low priority risk
18 and establishes procedures and schedules for classifying sites of discharges of
19 petroleum products from petroleum storage tanks. //

20 SECTION 96. 281.59 (4) (b) of the statutes is amended to read:

21 281.59 (4) (b) The department of administration may, under s. ~~18.56~~ 18.561 (5)
22 and (9) (j) or 18.562 (3) and (5) (e), deposit in a separate and distinct fund in the state
23 treasury or in an account maintained by a trustee outside the state treasury, any
24 portion of the revenues derived under s. 25.43 (1). The revenues deposited with a
25 trustee outside the state treasury are the trustee's revenues in accordance with the

✓ #, Page 1065, line 12: delete the material beginning with that line and ending with page 1066, line 17.

1 agreement between this state and the trustee or in accordance with the resolution
2 pledging the revenues to the repayment of revenue obligations issued under this
3 subsection.

4 **SECTION 97. Nonstatutory provisions.**

4 Page 140a, line 10: delete lines 10 to 21 and substitute:
5 (a) FINANCIAL MANAGEMENT No later than the first day of the 6th month
6 beginning after the effective date of this subsection, the department of commerce
7 shall do all of the following:

(c5) of petroleum storage remedial action program

6 beginning after the effective date of this subsection, the department of commerce
7 shall do all of the following:

8 (a) Update its financial data base for the program under section 101.143 of the
9 statutes to ensure that complete cost information related to each occurrence and to
10 the annual payment to each owner or operator is readily available.

11 (b) Investigate any variances between the amount of total payments indicated
12 by the department's financial data base for the program under section 101.143 of the
13 statutes and the amount of total payments indicated by the accounts maintained by
14 the department of administration under section 16.52 of the statutes to identify
15 when the variances occurred and the reasons for the variances.

16 (c) Make any changes in the department's financial data base needed to ensure
17 that the data base is consistent with the accounts maintained by the department of
18 administration under section 16.52 of the statutes.

19 (d) ^{3yr} RULE MAKING For petroleum storage remedial action program

20 (a) The department of commerce and the department of natural resources shall
21 submit in proposed form the rules required under section 101.143 (2) (h), (i) and (j)
22 and (2e) of the statutes, as created by this act, to the legislature under section 227.19
23 of the statutes no later than June 1, 2000.

24 (b) Using the procedure under section 227.24 of the statutes, the department
25 of commerce and the department of natural resources shall promulgate the rules

Insert from p. 43 41-A

paragraph 42 -

1 required under section 101.143 (2) (h), (i) and (j) and (2e) of the statutes, as created
2 by this act. Notwithstanding section 227.24 (1) (c) and (2) of the statutes, the
3 emergency rules may remain in effect until September 1, 2000, or the date on which
4 rules under ~~101.143~~ (a) take effect, whichever is sooner. Notwithstanding section 227.24
5 (1) (a), (2) (b) and (3) of the statutes, the departments are not required to provide
6 evidence that promulgating rules under this paragraph is necessary for the
7 preservation of the public peace, health, safety or welfare and is not required to
8 provide a finding of emergency for rules promulgated under this paragraph. The
9 departments shall promulgate rules under this paragraph no later than the 30th day
10 after the effective date of this paragraph.

11 (c) Using the procedure under section 227.24 of the statutes, the department
12 of commerce shall promulgate rules to implement section 101.143 (4) (cm) 1. of the
13 statutes, as affected by this act, for the period before the effective date of permanent
14 rules, but not to exceed the period authorized under section 227.24 (1) (c) and (2) of
15 the statutes. Notwithstanding section 227.24 (1) (a), (2) (b) and (3) of the statutes,
16 the department is not required to provide evidence that promulgating rules under
17 this paragraph is necessary for the preservation of the public peace, health, safety
18 or welfare and is not required to provide a finding of emergency for rules promulgated
19 under this paragraph. The department shall promulgate rules under this paragraph
20 no later than November 1, 1999.

21 (d) The department of commerce shall submit in proposed form any rules under
22 section 101.143 (2) (h) of the statutes, as created by this act, to the legislature under
23 section 227.19 of the statutes no later than June 1, 2000.

24 (e) If the conditions under section 101.144 (3g) (a) of the statutes, as created
25 by this act apply on December 1, 1999, using the procedure under section 227.24 of

1

1 the statutes, the department of commerce shall promulgate the rules required under
 2 section 101.144 (3g) (a) of the statutes, as created by this act, for the period before
 3 the effective date of permanent rules, but not to exceed the period authorized under
 4 section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a),
 5 (2) (b) and (3) of the statutes, the department is not required to provide a finding of
 6 emergency for rules promulgated under this paragraph. The department shall
 7 promulgate rules under this paragraph no later than December 31, 1999.

*This Item
contains at line
22 below.*

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44
44-A*

8 ^{Rules related to petroleum storage remedial action program.}
 9 (3) The department of natural resources shall submit in proposed form any
 10 changes in its rules necessary to conform to the rules under section 101.143 (2) (h),
 11 (i) and (j) of the statutes, as created by this act, to the legislature under section 227.19
 12 of the statutes no later than June 1, 2000. "

12 (3) CLAIMS REVIEW PROJECT POSITIONS. The authorized FTE positions for the
 13 department of commerce, funded by the appropriation under section 20.143 (3) (Lm)
 14 of the statutes, as created by this act, are increased by 2.0 PR project positions for
 15 the period ending on June 30, 2001, for the purpose of performing claims review
 16 under section 101.143 of the statutes.

*move
to p.
41
41-A*

17 ^{#. Page 1397, line 2: after that line insert: for leaking underground storage tanks}
 18 (4) REPORT CONCERNING FEDERAL FUNDING. The secretary of administration shall
 19 report to the joint committee on finance on how federal funds related to leaking
 20 underground storage tanks should be allocated between the department of
 21 commerce and the department of natural resources. The secretary shall submit the
 22 report for review by the committee at its 4th quarterly meeting ^{under section 13.0 of the statute} in 1999. "

22 (5) TRANSFER OF SITES. The department of natural resources and the
 23 department of commerce shall identify sites the classification of which is changed
 24 because of the changes made by this act in section 101.144 of the statutes and shall
 25 transfer authority over those sites no later than December 1, 1999.

later

① ^{3 y 4 w} (6) REPORT CONCERNING INTEREST COSTS. No later than March 1, 2000, the
 2 department of commerce shall submit a report to the joint committee on finance and
 3 the joint committee for review of administrative rules containing recommendations
 4 for actions that the department could take to reduce interest costs incurred by
 5 claimants under the program under section 101.143 of the statutes, including a
 6 review of schedules for making progress payments to claimants.

⑦ ^{3 y x} (7) EVALUATION OF USUAL AND CUSTOMARY COST SCHEDULE. The department of
 8 commerce shall evaluate the operation of section 101.143 (4) (cm) 1. of the statutes,
 9 as affected by this act, and shall report the results of the evaluation to the joint
 10 legislative audit committee, to the joint committee on finance and to the appropriate
 11 standing committees of the legislature, in the manner provided in s. 13.172 (3) of the
 12 statutes, no later than the first day of the 14th month beginning after the effective

⑬ date of this subsection. ¹¹
vt. Page 1411, line 22: after that line insert!

✓
 Inset
 14
 from p. 43
 44-45

SECTION 98. Appropriation changes; commerce.

16 (1) HYDROGEOLOGIST POSITIONS. In the schedule under section 20.005 (3) of the
 17 statutes for the appropriation to the department of commerce under section 20.143
 18 (3) (w) of the statutes, as affected by the acts of 1999, the dollar amount is increased
 19 by \$152,200 for fiscal year 1999-00 and the dollar amount is increased by \$174,800
 20 for fiscal year 2000-01 to increase the authorized FTE positions for the department
 by 3.0 SEG hydrogeologist positions.

21 (2) PETROLEUM STORAGE REMEDIAL ACTION CLAIMS REVIEW. In the schedule under
 22 section 20.005 (3) of the statutes for the appropriation to the department of commerce
 23 under section 20.143 (3) (w) of the statutes, as affected by the acts of 1999, the dollar
 24 amount is increased by \$84,200 for fiscal year 1999-00 to increase the authorized
 25 FTE positions for the department by 2.0 SEG project positions for the period ending

1 on June 30, 2000, for the purpose of performing claims review under section 101.143
2 of the statutes.

SECTION 99. Initial applicability.

3 *#. Page 1448, line 12: delete lines 12 to 23 and substitute:*

(cs) to petroleum storage remedial action program

4 (1) ^{3yt} RISK BASED ANALYSIS AND REIMBURSEMENT CHANGES. The treatment of section
5 101.143 (2e) (c), (3) (cn), (cp), (cs) and (g) and (4) (c) 11. of the statutes first applies
6 to a discharge with respect to which activities under section 101.143 (3) (c) 3. or (g)
7 of the statutes are begun on the effective date of this subsection.

3yu Petroleum storage remedial action program (cs)

8 (2) ^{3yu} DEDUCTIBLES. The treatment of section 101.143 (4) (d) 2. (intro.), (dg) ~~and~~
9 (dm) 2. a. and c. and (ei) 2. of the statutes first applies to a person who submits a
10 remedial action plan, that is acceptable to the department of commerce or the
11 department of natural resources, on November 1, 1999.

(cs) Petroleum storage remedial action program

12 (3) ^{3yv} INTEREST REIMBURSEMENT. The treatment of section 101.143 (4) (c) 8. of the
13 statutes first applies to an applicant whose loan is secured on November 1, 1999. "

SECTION 100. Effective dates.

~~This act takes effect on the day after publication, except as follows:~~

~~(1) APPROPRIATION INCREASES. SECTION 98 of this act takes effect on July 1, 1999,
or on the second day after publication of the 1999-2001 biennial budget act,
whichever is later.~~

(cs) to petroleum storage remedial action program

19 (2) ^{9yt} RISK BASED ANALYSIS AND REIMBURSEMENT CHANGES. The treatment of section
20 101.143 (2e) (c), (3) (cn), (cp), (cs) and (g) and (4) (c) 11. of the statutes and SECTION
21 ³¹⁰ (3yt), (3yu) and (3yv) of this act take effect on November 1, 1999. "

22 (END)

3 initial app subsections

#. Page 1469, line 21: delete lines 21 to 23.

#. Page 1470, line 4: delete lines 4 to 6 and substitute: