

Committee Name:
Joint Committee – Finance
(JC–Fi)

Appointments

99hr_JC–Fi_Appt_pt00

Committee Hearings

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Committee Reports

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Clearinghouse Rules

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Executive Sessions

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Hearing Records

99hr_ab0000

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Misc.

99hr_JC–Fi__Misc__s.13.10_pt12b2

Record of Committee Proceedings

99hr_JC–Fi_RCP_pt00

13.10 Meeting
Wednesday, May 3, 2000
Agenda Item IX

Issue:

Revenue: Lottery General Program Operations and Lottery Credit
Administration

Comments:

Revenue wants the lottery general program operations appropriation and associated position authority to be converted from GPR back to SEG. You may remember, during the budget deliberations between the two houses, Sen. Chvala fought to have this operation funded with GPR. The governor partially vetoed that provision, funding it with GPR in the first half of the biennium (199-00) and no funding was provided for the second half.

So, Revenue is requesting that it all be reconverted to SEG so they can go on with their usual lottery operations. Pretty much your only choices here are to do it or to take no action. I talked to Barb in Sen. Decker's office and she thinks that the caucus game plan is to take no action at this time and see if the leaders of both houses offer some sort of compromise or resolution. I guess it's best just to go with the flow here.

Staff Recommendation:

Alternative 3

Prepared by: Julie



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

May 3, 2000

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Revenue: Section 13.10 Request Relating to Lottery General Program Operations and Lottery Credit Administration -- Agenda Item IX

The Department of Revenue (DOR) requests supplemental SEG funding in 2000-01 from the Joint Committee on Finance's supplemental appropriation under s. 20.865(4)(u), as follows: (a) \$21,095,800 for lottery general program operations under s. 20.566(8)(q); and (b) \$33,500 for lottery credit administration under s. 20.566(2)(r). The SEG funding for these purposes would be provided from the lottery fund. In addition, DOR requests the conversion of 110.5 GPR positions for lottery operations to SEG positions in 2000-01 and the deletion of 3.0 GPR positions for lottery credit administration in 2000-01.

BACKGROUND

Lottery General Program Operations. The 1999-01 biennial budget bill, as passed by the Legislature (1999 Enrolled Assembly Bill 133), would have converted, for the 1999-01 biennium, \$21,095,800 SEG and 110.5 SEG positions annually for general program operations of the lottery to GPR funding. The bill created a GPR annual appropriation for this purpose and provided that no monies may be encumbered or expended from the GPR appropriation after the effective date of the 2001-03 biennial budget act. The bill retained the SEG appropriation for this purpose, but prohibited the expenditure or encumbrance of funds from the SEG appropriation in the 1999-01 biennium.

Under the 1999-01 biennial budget act (Act 9), however, these provisions were partially vetoed by the Governor. The partial veto deleted \$21,095,800 GPR for lottery general program operations in 2000-01; GPR funding for this purpose is, therefore, provided in 1999-00 only. Under the partial veto, encumbrances and expenditures from the SEG appropriation for general

program operations are allowed in the 1999-01 biennium, but no SEG funding is appropriated for this purpose under the act. In 2000-01, 110.5 GPR positions remain under Act 9, but no funding (GPR or SEG) is provided for the positions. In his veto message, the Governor indicates that SEG expenditure authority for lottery general program operations in 2000-01 could be restored through separate legislation or action by the Joint Committee on Finance under s. 13.10 of the statutes.

Lottery Credit Administration. The 1999-01 biennial budget bill as proposed by the Governor included base level funding of \$43,300 SEG in 1999-00 and \$33,500 SEG in 2000-01 to administer the lottery credit. The funding was for administrative activities, including certifying equalized value school tax rates, training municipal officials, data processing printing, mailing and year-end reconciliation. In September, 1999, the Joint Committee on Finance, acting under s. 13.10 of the statutes, provided DOR with 3.0 SEG permanent positions and additional supplemental funding of \$130,600 SEG in 1999-00 and \$152,900 SEG in 2000-01 for lottery credit administration. This action reflected 1999 Wisconsin Act 5 that extended the lottery credit to primary residences only. However, as passed by the Legislature, the 1999-01 biennial budget would have converted the \$43,300 SEG in 1999-00 and \$33,500 SEG in 2000-01 to GPR. DOR was also provided 3.0 GPR positions to reflect the September action of the Joint Committee on Finance under s. 13.10. (The associated additional funding was not provided.) The Governor's partial veto deleted the \$33,500 GPR that was provided in 2000-01 to administer the lottery credit. In his veto message, the Governor indicated that lottery SEG funding for administration of the lottery credit in 2000-01 could be restored through separate legislation or action by the Joint Committee under s. 13.10 of the statutes.

In 2000-01, then, Act 9 provides DOR with 3.0 GPR positions, but no GPR funds for credit administration. In addition, under the September, 1999, s. 13.10 action, DOR is provided with \$152,900 SEG and 3.0 SEG positions in 2000-01 for credit administration.

Department of Justice Gaming Law Enforcement. While not a part of the current request, it should be noted that Enrolled Assembly Bill 133 also created an annual GPR gaming law enforcement appropriation in the Department of Justice (DOJ) and converted \$226,000 SEG in 1999-00 and \$226,700 SEG in 2000-01 and 2.75 SEG positions annually to GPR funding for lottery gaming law enforcement functions. As with the other previously discussed appropriations, the bill also prohibited DOJ from encumbering or expending any monies from the GPR appropriation after the effective date of the 2001-03 biennial budget act. The bill retained the SEG appropriation for this purpose, but prohibited the expenditure or encumbrance of funds from the SEG appropriation in the 1999-01 biennium. The Governor's partial veto deleted the GPR funding for gaming law enforcement in 2000-01 (\$226,700) and the prohibition on encumbering or expending any monies from the segregated appropriation during the 1999-01 biennium. In 2000-01, the 2.75 GPR positions remain, but no funding is provided (GPR or SEG) for lottery gaming enforcement.

ANALYSIS

Lottery General Program Operations. Segregated funding from the lottery fund has been the funding source for the state lottery in every year of lottery operations except in 1999-00. Base level funding (1998-99) for the lottery general program operations appropriation was \$21,092,800 SEG with 110.5 SEG positions. In the 1999-01 budget deliberations, based on the Governor's recommendation, funding was increased by \$3,000 annually to reflect standard budget adjustments and a postage rate increase (for a total of \$21,095,800 annually). As described above, Act 9 converts the funding and positions from SEG to GPR in 1999-00; however, the partial veto leaves the lottery with 110.5 GPR positions in 2000-01, but no GPR or SEG funding to support operations.

Segregated funding from the lottery fund is available and has been, historically, the usual funding source for lottery operations. If no funding is provided in 2000-01, the lottery would have no expenditure authority for operations, but the state would still have lottery functions to administer and contractual obligations that would be legally binding. The Committee could, therefore, approve the Department's request for \$21,095,800 SEG for lottery general program operations and the conversion of 110.5 GPR lottery positions to SEG positions in 2000-01.

Lottery Credit Administration. The Department's request would also restore \$33,500 SEG base level funding in 2000-01 and delete the 3.0 GPR unfunded positions that were to supplant the SEG positions provided under s. 13.10 action. If the request is approved, DOR would be provided a total of \$186,400 SEG and 3.0 SEG positions in 2000-01 for lottery credit administration.

Department of Justice Gaming Law Enforcement. DOJ did not submit a s. 13.10 request to restore \$226,700 SEG in its lottery gaming law enforcement appropriation and to convert 2.75 GPR positions to SEG positions in 2000-01. According to DOJ officials, a request was not submitted because it was not known at the time that the request was due whether separate legislation to address the issue would be enacted. DOJ officials noted that if no legislation was enacted, the Department would request funding at the Committee's June, 2000, s. 13.10 meeting.

Under Senate Bill 357, the Governor's partial vetoes of the lottery provisions in Enrolled AB 133 would have been reversed, with GPR funding provided in 2000-01 for lottery operations, DOR lottery credit administration and DOJ lottery law enforcement. However, while the bill passed the Senate on February 9, 2000, it was not taken up by the Assembly.

In the absence of separate legislation, these lottery functions need to be addressed by the Committee under s. 13.10 of the statutes. The Committee may: (a) approve the current DOR request; (b) approve the DOR request and, in addition, address the DOJ funding and position requirements in 2000-01; or (c) defer the current DOR request and take it up in conjunction with a request from DOJ at the Committee's June, 2000, s. 13.10 meeting.

ALTERNATIVES

1. Approve the Department's request for supplemental SEG funding in 2000-01 from the Joint Committee on Finance's supplemental appropriation under s. 20.865(4)(u), as follows: (a) \$21,095,800 for lottery general program operations under s. 20.566(8)(q); and (b) \$33,500 for lottery credit administration under s. 20.566(2)(r). The SEG funding for these purposes would be provided from the lottery fund. In addition, approve the Department's request to convert 110.5 GPR positions for lottery operations to SEG positions in 2000-01 and delete 3.0 GPR positions for lottery credit administration in 2000-01.

2. In addition to Alternative 1, approve supplemental SEG funding in 2000-01 from the Joint Committee on Finance's supplemental appropriation under s. 20.865(4)(u), for the Department of Justice in the amount of \$226,700 for lottery gaming law enforcement under s. 20.455(2)(r). The SEG funding for this purpose would be provided from the lottery fund. Also, approve the conversion of 2.75 GPR positions for lottery gaming law enforcement to SEG positions in 2000-01.

3. Take no action at this time.

Prepared by: Art Zimmerman

MO# ALT 1

BURKE	Y	<input checked="" type="radio"/> N	A
DECKER	Y	<input checked="" type="radio"/> N	A
JAUCH	<input checked="" type="radio"/> Y	<input checked="" type="radio"/> N	A
MOORE	Y	<input checked="" type="radio"/> N	A
SHIBILSKI	Y	<input checked="" type="radio"/> N	A
PLACHE	<input checked="" type="radio"/> Y	<input checked="" type="radio"/> N	A
COWLES	<input checked="" type="radio"/> Y	N	A
DARLING	<input checked="" type="radio"/> Y	N	A
GARD	<input checked="" type="radio"/> Y	N	A
PORTER	<input checked="" type="radio"/> Y	N	A
KAUFERT	<input checked="" type="radio"/> Y	N	A
ALBERS	<input checked="" type="radio"/> Y	N	A
DUFF	<input checked="" type="radio"/> Y	N	A
WARD	<input checked="" type="radio"/> Y	<input checked="" type="radio"/> N	A
HUBER	<input checked="" type="radio"/> Y	<input checked="" type="radio"/> N	A
RILEY	<input checked="" type="radio"/> Y	N	A

1
2

AYE 10 NO 6 ABS 0

May 3, 2000
s. 13.10 Meeting
AGENDA ITEM X

Summary -- DWD: Request related to the KIDS Computer System

DWD is requesting the release of \$2M GPR for the KIDS computer system for FY 99-00. This money was placed in the Committee's appropriation as part of the budget because they had experienced some underfunding in this regard recently, and it may have been possible to make up funding with the creation of the centralized receipt and disbursement (CR&D) system.

The projections of income through CR&D were better than the actual income received, in part, due to the late passage of the budget. Therefore, even with the \$2M they are requesting, DWD will have a \$3.9M deficit in the KIDS budget for FY 99-00.

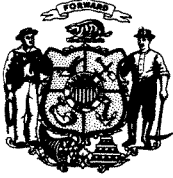
Recommendation:

Alternative 1 (Approve the request)

Prepared by: Cindy

PS: Jennifer Noyes, former LAB staffer, is the new J. Jean Rogers. Since she was one of the auditors on the KIDS audit, I feel more comfortable with this request than similar DWD requests in the past.

Moore - why DWD has held up reimbursement to MKE county?



Legislative Fiscal Bureau

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May 3, 2000

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Workforce Development: Section 13.10 Request Related to the KIDS Computer System -- Agenda Item X

REQUEST

The Department of Workforce Development (DWD) requests the transfer of \$2,000,000 GPR in 1999-00 from the Joint Committee on Finance's supplemental appropriation to DWD's general program operations appropriation [s. 20.445(3)(a)] to fund expenditures related to the Kids Information Data System (KIDS).

BACKGROUND

Federal law requires every state to have a certified statewide, automated child support system in place by October 1, 1997. The KIDS system was developed to replace the previous automated child support system, which did not meet the federal requirements. The state has contracted with IBM Global since January, 1993, to develop and operate the KIDS system in Wisconsin.

The federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) imposed a number of new requirements on states relating to child support enforcement. Some of these requirements have necessitated changes to the KIDS system, particularly the creation of the centralized receipt and disbursement (CR&D) system and the new hire reporting system. System modifications required by the new federal provisions must be in place by October 1, 2000.

Funding Sources for KIDS

Funding for KIDS under the 1999-01 biennial budget (1999 Wisconsin Act 9) is \$39,821,800 (\$10,035,400 GPR, \$7,800,000 PR, \$852,500 SEG and \$21,133,900 FED) in 1999-00 and \$39,087,300 (\$10,092,500 GPR, \$6,900,000 PR, \$852,500 SEG and \$21,242,300 FED) in 2000-01. The PR funding is from the \$25 annual CR&D fee that is charged to support obligors and the SEG funding is from interest earnings on the support collections trust fund. The PR and SEG funds are applied to the CR&D component of the KIDS budget. Of the total amount budgeted, \$2,000,000 GPR annually was placed in the Committee's appropriation to reflect underspending that has occurred in recent years as well as the potential for increased revenues from the CR&D fee. More detail on these revenue sources is provided below.

Federal and GPR Funding. State operation of the KIDS system is generally funded at a 66/34 federal/state match. The state match is paid for with GPR funding. Federal funding for the development and conversion of automated child support systems was available at an enhanced 90/10 federal/state match until October 1, 1997. System modifications required under PRWORA are eligible for an enhanced 80% federal rate.

CR&D Fees. Since January 4, 1999, the state has operated an automated system for processing the receipt and disbursement of child support, maintenance, health care expenses, birth expenses and other support-related expenses. The system is partially funded from an annual \$25 CR&D fee charged by DWD to support obligors. Expenses of the CR&D function that are not covered by the \$25 fee or interest earnings in the support collections trust fund (described below) are funded with GPR and federal matching funds. Prior to 1999, the county clerks of court or a support collection designee collected and disbursed support payments and collected and retained the \$25 fee for this service.

As part of Act 9, modifications were made to enhance DWD's ability to collect the CR&D fee, beginning with fees that were ordered on January 1, 2000. These modifications included the requirement that the annual fee be withheld from earnings and that the fee constitutes an assignment of all earnings and other income to DWD. Act 9 also specified that the obligation to pay any CR&D fees that are in arrears continues even if the obligor is no longer required to pay support or maintenance. Finally, the law allows county child support agencies to cause an assignment of income for the fee to go into effect if the obligor is ten days past due (previously, only a court or family court commissioner could make an assignment).

Support Collection Trust Fund Interest Earnings. Monies received from income withholding and other collections of child or family support, maintenance or spousal support, health care expenses or birth expenses are deposited to the segregated state support collections trust fund. Interest earned on the fund during the delay between the time a collection is received and the time the payment issued to the recipient is drawn ("float") is used to fund the CR&D function.

ANALYSIS

The following table summarizes the KIDS budget and available revenues for 1999-00 under Act 9 and under the Department's revised budget. The largest expenditure is for system maintenance and change orders (\$21,011,300 under the revised budget), which primarily reflects fees paid to IBM Global and other contractors and includes CR&D operations. The InfoTech budget (currently \$11,316,800) includes the fee paid to the Department of Administration (DOA) for mainframe services and connection to the consolidated data network. The remaining budget is for state staff in DWD's Bureau of Information Technology Services (BITS) and supplies and services. The attachment provides additional detail regarding the budget. The Department has not revised the KIDS budget for the 2000-01 fiscal year at this time.

1999-00 KIDS Budget

	Act 9			Revised Budget		
	State	FED	Total	State	FED	Total
KIDS Budgeted Expenditures						
System Maintenance and Change Orders	\$12,039,000	\$8,368,400	\$20,407,400	\$10,369,800	\$10,641,500	\$21,011,300
InfoTech Charges	3,726,900	6,686,500	10,413,400	3,847,700	7,469,100	11,316,800
State Staff and BITS Costs	1,829,800	3,958,900	5,788,700	1,664,900	3,385,500	5,050,400
Supplies and Services	<u>1,092,200</u>	<u>2,120,100</u>	<u>3,212,300</u>	<u>1,143,600</u>	<u>2,219,900</u>	<u>3,363,500</u>
Total KIDS Budget	\$18,687,900	\$21,133,900	\$39,821,800	\$17,026,000	\$23,716,000	\$40,742,000
<i>Change to Act 9</i>				<i>-\$1,661,900</i>	<i>\$2,582,100</i>	<i>\$920,200</i>
Revenues Available for KIDS and CR&D						
CR&D Fee (PR)	\$7,800,000	\$0	\$7,800,000	\$4,600,000	\$0	\$4,600,000
Interest Earnings (SEG)	852,500	0	852,500	1,050,000	0	1,050,000
GPR & FED in DWD Appropriations	8,035,400	21,133,900	29,169,300	8,035,400	21,133,900	29,169,300
Committee's GPR Appropriation	<u>2,000,000</u>	<u>0</u>	<u>2,000,000</u>	<u>2,000,000</u>	<u>0</u>	<u>2,000,000</u>
Total Available Revenues	\$18,687,900	\$21,133,900	\$39,821,800	\$15,685,400	\$21,133,900	\$36,819,300
<i>Change to Act 9</i>				<i>-\$3,002,500</i>	<i>\$0</i>	<i>-\$3,002,500</i>
KIDS Surplus / (Deficit)	\$0	\$0	\$0	-\$1,340,600	-\$2,582,100	-\$3,922,700

The table shows that, even with the release of the \$2,000,000 GPR from the Committee's appropriation, the KIDS budget is estimated to have a \$3,922,700 shortfall in 1999-00. The deficit is the result of reduced revenues of \$3,002,500 (from the CR&D fee) and increased expenditures of \$920,200. The Department has indicated that it can modify expenditures to absorb the difference, although it has not identified what changes will be made. In addition, as discussed later in this paper, it is possible that additional CR&D fees will be available to fund expenditures.

Revenues

The reduction in the amount of revenue available for KIDS is attributed to lower collections from the CR&D fee than projected under Act 9. The Act 9 estimate of \$7.8 million included \$3.8 million in base level collections. In addition, it was estimated that the Act 9 withholding and

assignment modifications that provided the Department with the ability to collect additional fees, including arrearages, would generate an additional \$4.0 million in 1999-00. However, the late passage of the biennial budget delayed implementation of these modifications from January 1, 2000, which was assumed under Act 9, to April 1, 2000.

Support obligors were notified in November, 1999, of any unpaid fees and that any unpaid amount remaining in April would be withheld from earnings or turned over to a collection agency. Collections for the months of December, January and February increased significantly over the same month in the previous year, possibly due to the result of the notification. However, because of slow collections in the early part of the current fiscal year, the amount collected for 1999-00 through the end of February (\$3,136,000) is approximately equal to the amount collected at the same time last fiscal year (\$3,146,000). The revised estimate of \$4.6 million reflects 50% growth for the remainder of the current fiscal year over 1998-99. It is feasible that additional collections will be made once the fees are actually withheld from income and that final collections will exceed \$4.6 million. Any additional revenue can be used to reduce the KIDS deficit.

The reduced revenues from the CR&D fee are partially offset by increased interest earnings. Interest earnings on the child support collections trust fund are reestimated to increase by \$197,500 (from \$852,500 to \$1,050,000) based on actual earnings through February.

Expenditures

The revised estimate of KIDS expenditures has increased by \$920,200 (2.3%) compared to the Act 9 estimate. The table and the attachment show that this increase is made up of increases and decreases in the various components of the budget. The largest increase (\$1,118,700) is from DOA's mainframe charges and is attributed to modifications that are currently being made to the database that will allow for a reduction in processing time. Mainframe costs are expected to return to prior levels in the fall once the modifications are complete. Contractor fixed costs have increased by \$1,011,600 because two positions that were formally charged on an hourly basis were added to the fixed cost portion of the IBM contract. This change is reflected in lower budgeted costs (\$1,099,500) for ongoing system maintenance, change orders required by federal law and county priority requests due to a lower hourly rate charged by IBM. Finally, budgeted expenditures for state staff are reduced by \$858,600 because there are fewer positions dedicated to the KIDS system.

Revised expenditures for the CR&D component of the KIDS budget increased by \$950,100. Most of the increase is attributed to an estimated \$790,000 in fees charged by the bank for processing checks. These fees were not included in the Act 9 budget. The remaining portions of the CR&D budget increased by \$160,000 due to a larger volume of transactions being processed than previously estimated.

SUMMARY

As noted, under Act 9, \$2,000,000 GPR of the KIDS budget for 1999-00 was placed in the Committee's appropriation because the system had experienced underspending in recent years and because it was possible that additional revenues would be generated by the CR&D fee. Based on more recent information, KIDS expenditures are now estimated to be slightly higher than the figures used in Act 9. Further, it appears that revenues from the CR&D fee will be lower than estimated due, in part, to delayed passage of the budget bill. Therefore, the Committee may wish to approve the Department's request.

Even with the requested \$2,000,000 transfer, the Department projects a \$3.9 million deficit in the KIDS budget at the end of 1999-00. This could be offset by additional CR&D revenues or by adjusting expenditures for the system. At this time, the Department indicates that it should be able to address the deficit without requesting additional GPR.

ALTERNATIVES

1. Approve the Department's request to transfer \$2,000,000 in 1999-00 to the general program operations appropriation [s. 20.445(3)(a)] to fund expenditures related to KIDS.
2. Deny the request.

Prepared by: Kelsie Doty
Attachment

MO# Alt 1

2	BURKE	Y	N	A
	DECKER	Y	N	A
	JAUCH	Y	N	A
	MOORE	Y	N	A
	SHIBILSKI	Y	N	A
	PLACHE	Y	N	A
	COWLES	Y	N	A
	DARLING	Y	N	A
1	GARD	Y	N	A
	PORTER	Y	N	A
	KAUFERT	Y	N	A
	ALBERS	Y	N	A
	DUFF	Y	N	A
	WARD	Y	N	A
	HUBER	Y	N	A
	RILEY	Y	N	A

AYE 16 NO 0 ABS _____

ATTACHMENT

KIDS and CR&D Budget for State Fiscal Year 1999-00 Under s. 13.10 Request

	Act 9			Revised Budget			Difference		
	State	FED	Total	State	FED	Total	State	FED	Total
System Maintenance and Change Orders									
Ongoing System Maintenance	\$1,159,800	\$2,251,300	\$3,411,100	\$1,107,300	\$2,149,500	\$3,256,800	-\$52,500	-\$101,800	-\$154,300
Contractor Fixed Costs	530,400	1,029,600	1,560,000	874,300	1,697,300	2,571,600	343,900	667,700	1,011,600
Centralized Receipt & Disbursement	8,803,000	292,200	9,095,200	7,144,400	2,900,900	10,045,300	-1,658,600	2,608,700	950,100
New Hire Reporting System	351,900	683,100	1,035,000	264,100	512,600	776,700	-87,800	-170,500	-258,300
Other Change Orders Required by Federal Law	871,700	3,486,900	4,358,600	718,500	2,874,100	3,592,600	-153,200	-612,800	-766,000
County Priority Requests	322,200	625,300	947,500	261,200	507,100	768,300	-61,000	-118,200	-179,200
Subtotal	\$12,039,000	\$8,368,400	\$20,407,400	\$10,369,800	\$10,641,500	\$21,011,300	-\$1,669,200	\$2,273,100	\$603,900
State Staff and BITS Costs									
State Staff	\$752,600	\$1,868,000	\$2,620,600	\$547,400	\$1,214,600	\$1,762,000	-\$205,200	-\$653,400	-\$858,600
Supplemental Staff	313,300	608,200	921,500	184,400	357,900	542,300	-128,900	-250,300	-379,200
Capital/Installation/Infrastructure	34,000	66,000	100,000	20,900	40,700	61,600	-13,100	-25,300	-38,400
800 Number/Help Desk/Voice Response	68,000	132,000	200,000	2,300	5,900	8,200	-65,700	-126,100	-191,800
Local Area Network Service	272,700	529,200	801,900	394,600	766,100	1,160,700	121,900	236,900	358,800
Maintenance	8,500	16,500	25,000	16,300	31,700	48,000	7,800	15,200	23,000
DWD System Fee	380,700	739,000	1,119,700	499,000	968,600	1,467,600	118,300	229,600	347,900
Subtotal	\$1,829,800	\$3,958,900	\$5,788,700	\$1,664,900	\$3,385,500	\$5,050,400	-\$164,900	-\$573,400	-\$738,300
InfoTech Charges									
Mainframe	\$3,226,400	\$6,047,000	\$9,273,400	\$3,533,300	\$6,858,800	\$10,392,100	\$306,900	\$811,800	\$1,118,700
Telecommunications	500,500	639,500	1,140,000	314,400	610,300	924,700	-186,100	-29,200	-215,300
Subtotal	\$3,726,900	\$6,686,500	\$10,413,400	\$3,847,700	\$7,469,100	\$11,316,800	\$120,800	\$782,600	\$903,400
Supplies and Services									
Centralized Mailing	\$409,300	\$794,600	\$1,203,900	\$424,100	\$823,200	\$1,247,300	\$14,800	\$28,600	\$43,400
Credit Bureau Reports	11,000	21,400	32,400	9,800	19,000	28,800	-1,200	-2,400	-3,600
Supplies and Services	671,900	1,304,100	1,976,000	709,700	1,377,700	2,087,400	37,800	73,600	111,400
Subtotal	\$1,092,200	\$2,120,100	\$3,212,300	\$1,143,600	\$2,219,900	\$3,363,500	\$151,400	\$99,800	\$151,200
Total KIDS Budget	\$18,687,900	\$21,133,900	\$39,821,800	\$17,026,000	\$23,716,000	\$40,742,000	-\$1,661,900	\$2,582,100	\$920,200
Revenues Available for KIDS and CR&D									
Centralized Receipt & Disbursement Fee (PR)	\$7,800,000	\$0	\$7,800,000	\$4,600,000	\$0	\$4,600,000	-\$3,200,000	\$0	-\$3,200,000
Support Collections Trust Fund Earnings (SEG)	852,500	0	852,500	1,050,000	0	1,050,000	197,500	0	197,500
GPR and Federal Funding in DWD Appropriations	8,035,400	21,133,900	29,169,300	8,035,400	21,133,900	29,169,300	0	0	0
Committee's GPR Appropriation	2,000,000	0	2,000,000	2,000,000	0	2,000,000	0	0	0
Total Available Revenues	\$18,687,900	\$21,133,900	\$39,821,800	\$15,685,400	\$21,133,900	\$36,819,300	-\$3,002,500	\$0	-\$3,002,500
KIDS Surplus / (Deficit)	\$0	\$0	\$0	-\$1,340,600	-\$2,582,100	-\$3,922,700	-\$1,340,600	-\$2,582,100	-\$3,922,700

May 3, 2000
13.10 JFC Meeting

Agenda Item XI
DNR & Commerce - LUST Report

Issue:

The budget bill required DNR & Commerce to decide how to reallocate funding and staff as they transfer more PECFA cases from DNR to Commerce. This report outlines their plan.

Summary:

The budget bill required a 65% - 35% PECFA case split between Commerce and DNR. FB says they met that requirement as of last December, which was the required date in Act 9. Since DNR cases take longer to resolve, the split has since grown to about 62% - 38%. DOA apparently believes this is equitable and recommends that federal LUST funding be distributed accordingly (hence alternative 1). This was also the plan that was sent to EPA recently.

Staff Recommendation:

Alternative 1

(note: I suppose any of the alternatives is fine, but #1 or #2 are better because it leaves more funding in DNR.)

Prepared by: Barry



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

May 3, 2000

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Leaking Underground Storage Tank Funding Allocation Report Submitted by the Department of Administration -- Agenda Item XI

REQUEST

1999 Wisconsin Act 9 (the 1999-01 biennial budget act) directed the Department of Administration (DOA) to report to the Joint Committee on Finance on how federal grant funds related to leaking underground storage tanks (LUST) should be allocated between the Department of Commerce and the Department of Natural Resources (DNR). Act 9 directed DOA to submit the report for review and approval, modification or disapproval by the Committee at its December, 1999, s. 13.10 meeting.

Requests for the Committee's consideration at the December s. 13.10 meeting were to be submitted by November 26, 1999. On December 10, 1999, the Committee received a report from DOA in response to the Act 9 directive. DOA recommended allocating total funding from the federal LUST grant and the segregated petroleum inspection fund between the two agencies according to the same percentage as the allocation of active ranked petroleum sites, including sites that also have contamination from non-petroleum substances. DOA recommended allocating 38% of the total funding from the two sources to DNR and 62% to Commerce, which would equal the percentage split of the number of sites administered by each agency as of December 1, 1999. Under the DOA recommendation, \$588,400 in federal LUST funding would be transferred from DNR to Commerce in 2000-01. Implementation of the revised allocation would be phased in during the remainder of 1999-00.

BACKGROUND

1995 Act 27 (the 1995-97 biennial budget act) transferred from DNR to Commerce the administration of remedial action at medium- and low-priority petroleum contaminated sites based on the threat that the discharge poses to public health, safety and welfare and to the environment, effective July 1, 1996. Under 1995 Act 27 provisions, DNR administered remedial action at high-priority petroleum sites and sites contaminated with both petroleum and other hazardous substances and Commerce administered remedial action at medium- and low-priority petroleum sites. Commerce has primary responsibility for the financial management of the petroleum environmental cleanup fund award (PECFA) program, including payment of PECFA claims. Both agencies are responsible for ensuring that cleanups under their jurisdiction are performed in an adequate and cost-effective manner.

1999 Act 9 changed the method used to classify a petroleum site. Act 9 classifies a petroleum site as high-risk (rather than high-priority previously) if it meets one or more of the following criteria: (a) repeated tests show that the discharge has resulted in a concentration of contaminants in a private or public potable well that exceeds a preventive action limit, as defined in s. 160.01(6); (b) petroleum product that is not in dissolved phase is present with a thickness of 0.01 feet or more, as shown by repeated measurements; (c) there is a groundwater enforcement standard exceedence within 1,000 feet of a public drinking water well or within 100 feet of any other well used to provide water for human consumption; or (d) there is a groundwater enforcement standard exceedence in fractured bedrock. DNR has jurisdiction for administering remedial action at high-risk sites, including all sites with contamination from non-petroleum hazardous substances. All other petroleum sites, excluding unranked sites, are medium- or low-risk under the jurisdiction of Commerce.

Under Act 9, DNR was required to transfer medium- and low-risk sites to Commerce based on the new classification of sites no later than December 1, 1999. If the definition of high-risk sites resulted in classifying more than 35% of sites as high-risk, excluding unranked sites and sites that have contamination from a hazardous substance other than petroleum or an additive to petroleum, by December 1, 1999, Commerce is required to promulgate emergency rules that establish standards for categorizing sites of petroleum product discharges that classifies no more than 35% of petroleum sites as high-risk.

Act 9 also directs Commerce and DNR to submit a report to the Governor, appropriate standing committees of the Legislature, the Joint Committee on Finance and the Joint Audit Committee every January 1 and July 1 that relates to petroleum storage tank cleanups that are in progress. The report is required to provide detailed information about site investigation reports received, case closure letters issued, the percentage of sites classified as high-risk, persons providing engineering consulting services, disputes between DNR and Commerce under the annual review of sites and investigations of fraud. The first joint agency report was received by the Legislature on February 3, 2000.

ANALYSIS

Petroleum Site Classification

The December 10, 1999, DOA report to the Joint Committee on Finance indicates that as of December 1, 1999, the Act 9 statutory redefinition of high-risk sites resulted in a total of 4,355 active ranked sites, including petroleum sites that also have contamination from non-petroleum substances (co-contaminated sites). Of the 4,355 active ranked sites, 1,667 (38%) are high-risk or co-contaminated sites under the jurisdiction of DNR and 2,688 (62%) are medium- and low-risk sites under the jurisdiction of Commerce. When 491 co-contaminated sites are excluded under the Act 9 directive, there are 3,864 active ranked sites, including 1,176 (30%) high-risk sites under the jurisdiction of DNR and 2,688 (70%) medium- and low-risk sites under the jurisdiction of Commerce. Thus, on December 1, 1999, the split of sites under the jurisdiction of the two agencies met the Act 9 test of having no more than 35% of active sites with only petroleum contamination ranked as high-risk.

DNR and Commerce sent a December 6, 1999, letter to the Assembly and Senate Chief Clerks and the Co-Chairs of the Joint Committee for Review of Administrative Rules stating that the Departments met the December 1 deadline for transferring sites that are not high-risk from DNR to Commerce and the test of having no more than 35% of specified sites classified as high-risk. However, on December 1, 1999, while DNR had identified sites to be transferred to Commerce, it had not transferred most of the case files for the sites to Commerce. DNR plans to transfer the case files to Commerce as questions or actions related to the sites arise, and as Commerce hires staff to administer cleanups.

On February 3, 2000, Commerce and DNR submitted the first semi-annual report under Act 9 on the status of the PECFA program. In the report, the agencies reported that as of December 31, 1999, there were 4,820 active ranked sites, including co-contaminated sites. The increase of 465 active ranked sites between December 1 and December 31, 1999, is due, in part, to the ranking of sites that had been reclassified from "high-priority" under the former definition to "unranked" under the Act 9 criteria on December 1, 1999. The reclassification to unranked was done because the Departments did not have sufficient site investigation report data to determine whether some sites meet one of the four new high-risk criteria. During December, 1999, the agencies received sufficient information to rank 465 previously-unranked or newly-identified sites. As of December 31, 1999, 1,948 (40%) of the 4,820 active ranked sites are high-risk or co-contaminated sites under the jurisdiction of DNR and 2,872 (60%) are medium- and low-risk under the jurisdiction of Commerce. When 548 co-contaminated sites are excluded, 1,400 (33%) are high-risk sites under the jurisdiction of DNR and 2,872 (67%) are medium- and low-risk sites under the jurisdiction of Commerce.

In addition to the active ranked sites, there were 2,561 active unranked sites as of December 31, 1999 (representing 35% of all active sites). The unranked sites will be ranked when sufficient information to make a classification decision is submitted by the site consultant to one of the

agencies. Neither agency is actively managing the unranked sites unless an emergency situation at the site arises or sufficient information is received to allow the agencies to rank the site.

As of December 31, 1999, the Act 9 high-risk criteria continued to classify less than 35% of petroleum-only active ranked sites as high-risk, but the percentage had increased from 30% on December 1, 1999, to 33% on December 31, 1999. In addition, the percentage of active ranked high-risk petroleum or co-contaminated sites under the jurisdiction of DNR increased from 38% on December 1, 1999, to 40% on December 31, 1999. It is possible that the eventual ranking of the 2,561 active unranked sites will change the percentage of sites classified as high-risk.

The agencies have not updated the December, 31, 1999, data regarding the number of sites administered by DNR and Commerce. DNR officials anticipate that updated data would not change the percentage split of sites by more than one or two percent.

PECFA Current Funding Allocation

The DOA report states that for 1999-00, \$2,895,200 is currently allocated to administration of PECFA cleanups from federal LUST grants and the segregated petroleum inspection fund. This does not include SEG funds for Commerce review and payment of PECFA claims. DNR currently receives 58% (\$1,688,600) of the funds and Commerce receives 42% (\$1,206,600). The current allocation includes a transfer of \$210,000 annually in federal LUST grants from DNR to Commerce made under a September, 1999, interagency agreement.

Table 1 shows the current allocation of funding and positions between the two agencies. The Table includes updated information received since the DOA December, 1999, memorandum. First, the DOA report indicated that there are currently 40 FED and SEG positions allocated to the two agencies. DNR has recently provided corrected information about the number of current DNR positions, which results in a current total of 38 rather than 40 positions allocated to the two agencies, with 23 positions (61%) in DNR and 15 (39%) in Commerce. Second, in addition to the amounts shown in the table DNR and Commerce have received one-time LUST funds totaling \$445,000 that are available for calendar year 2000 and are allocated 40% to DNR and 60% to Commerce. The agencies can use these one-time funds during state fiscal year 1999-00 or 2000-01.

TABLE 1

**Current Allocation 1999-00 Revised with January 2000
Information from DNR and Commerce**

	<u>DNR</u>	<u>DNR % of Total</u>	<u>Commerce</u>	<u>Commerce % of Total</u>	<u>Total</u>	<u>Total %</u>
Funding						
SEG	\$237,600	19%	\$996,600	81%	\$1,234,200	43%
FED	<u>1,451,000</u>	<u>87%</u>	<u>210,000</u>	<u>13%</u>	<u>1,661,000</u>	<u>57%</u>
Total Funding	1,688,600	58%	1,206,600	42%	2,895,200	100%
Positions						
SEG	4	21%	15	79%	19	50%
FED	<u>19</u>	<u>100%</u>	<u>0</u>	<u>0%</u>	<u>19</u>	<u>50%</u>
Total Positions	23	61%	15	39%	38	100%
Total Number of Sites November 30, 1999	3,361	77%	994	23%	4,355	100%

DOA Recommended Funding Allocation

DOA recommends a reallocation of the federal LUST grant that would provide DNR and Commerce with a percentage of total PECFA funding equal to the percentage of ranked active petroleum and co-contaminated sites identified as of December 1, 1999, that are administered by each of the agencies. DOA recommends that on an annualized basis, beginning in 2000-01, this would provide 38% of FED and SEG funds to DNR and 62% to Commerce. A transfer of \$588,400 FED annually from DNR to Commerce would be made to accomplish this, and would be gradually phased in during the next five to six months. The DOA report described a reallocation of positions so that DNR would be allocated approximately 18 FTE (45%) positions and Commerce would be allocated 22 FTE (55%), a decrease of 7 FTE in DNR and a corresponding increase in Commerce.

DNR and Commerce have submitted updated information about the proposed funding allocation that is summarized in Table 2. Commerce recently submitted a s. 16.505 request for 12 PECFA positions provided as PR through an interagency agreement with DNR, instead of the 7 positions included in the DOA report. In addition, the February 3, 2000, joint agency report to the Legislature states that as of December 31, 1999, 40% of active ranked sites are high-risk or co-contaminated under the jurisdiction of DNR and 60% are medium- or low-risk under the jurisdiction of Commerce (as compared with a 38%/62% split on December 1, 1999).

Under the DOA recommendation for funding allocation shown in Table 2, annualized funding would be allocated 38% to DNR and 62% to Commerce, and annualized positions would be allocated 37% to DNR and 63% to Commerce. Ongoing federal LUST funding totaling \$588,400 annually would be transferred from DNR to Commerce in 2000-01. Commerce would

have ongoing federal LUST funding totaling \$798,400 annually (the \$210,000 currently allocated and the additional transfer of \$588,400). The total number of positions funded from federal LUST and SEG PECFA sources would increase from 38 currently to 43. The three agencies have agreed that during the transition year 1999-00, Commerce would utilize \$498,400 of the ongoing annual LUST allocation. In 1999-00, DNR would retain \$300,000 of the \$798,400 in LUST funding allocated to Commerce, which would fund DNR PECFA staff until Commerce is able to hire staff and DNR transfers the case files.

TABLE 2

Proposed PECFA Funding Allocation 2000-01
Revised with January, 2000 Information from DNR and Commerce

	<u>DNR</u>	<u>DNR % of Total</u>	<u>Commerce</u>	<u>Commerce % of Total</u>	<u>Total</u>	<u>Total %</u>
Funding						
SEG	\$237,600	19%	\$996,600	81%	\$1,234,200	43%
FED	<u>862,600</u>	<u>52%</u>	<u>798,400</u>	<u>48%</u>	<u>1,661,000</u>	<u>57%</u>
Total Funding	1,100,200	38%	1,795,000	62%	2,895,200	100%
Positions						
SEG	4	21%	15	79%	19	44%
FED	<u>12</u>	<u>50%</u>	<u>12</u>	<u>50%</u>	<u>24</u>	<u>56%</u>
Total Positions	16	37%	27	63%	43	100%
Total Number of Ranked Active Petroleum and Co-Contaminated Sites						
December 1, 1999	1,667	38%	2,688	62%	4,355	100%
December 31, 1999	1,948	40%	2,872	60%	4,820	100%

The DOA recommendation is based on the premise that the administrative workload for individual sites averages approximately the same, whether the site is classified as high-, medium- or low-risk. The agencies discussed an alternative of providing additional staff for the administration of high-risk sites, but did not have data that showed that high-risk sites take more time to oversee than other sites. In addition, the three agencies anticipate that increased use of risk-based analysis and bidding of cleanup costs will significantly reduce the complexity of the management of high-risk sites, and will even out the administrative workload at high-, medium- and low-risk sites.

DOA indicates that DNR and Commerce are discussing many enhancements to the site cleanup review and approval process that will result in an increase in the sharing of workload by the two agencies. Act 9 requires joint agency involvement at high-risk sites, such as the review of the remedial action plan, determination of the least costly method of completing the remedial action activities in compliance with groundwater enforcement standards and determination of whether natural attenuation will complete the remedial action activities in compliance with groundwater enforcement standards.

The DOA report states that DOA, DNR and Commerce will meet and review the allocation plan at least annually to address emerging issues such as changes in federal LUST grant funding and the percentage of sites allocated to each of DNR and Commerce. Changes in these factors could result in modification of the funding allocation between the two agencies. Agency officials anticipate that the first review of the funding allocation would be completed in the fall of 2000 as DNR and Commerce prepare federal LUST grant applications for calendar year 2001.

An alternative to approving a 38% DNR and 62% Commerce funding allocation based on December 1, 1999, data would be to approve a 40% DNR and 60% Commerce funding allocation based on the more recent December 31, 1999, data. This would result in transferring \$530,500 in federal LUST funding from DNR to Commerce in 2000-01, which is \$57,900 less than the \$588,400 under the DOA recommendation. Officials from the three agencies indicate that the agencies are all comfortable with the preliminary agreement they made based on the December 1, 1999, data, and would prefer to make the first adjustment in the funding allocation in the fall of 2000. They indicate that the percentage of sites under the jurisdiction of each of DNR and Commerce can be expected to fluctuate up and down for the first year of implementation as the four high-risk criteria are applied to sites.

Another alternative to the proposed 38%/62% funding allocation would be to approve a 35% DNR and 65% Commerce funding allocation. This would provide DNR with the same percentage of funding as the statutes specify should be the maximum percentage of high-risk sites with only petroleum contamination. However, the statutes specify that DNR would retain jurisdiction for petroleum sites that also have contamination from other hazardous substances. The proposed 38%/62% funding allocation allocates LUST and PECFA funding for sites under DNR's jurisdiction that have contamination from petroleum (these sites are LUST and potential PECFA sites) and from other hazardous substances. A 35%/65% funding allocation would result in transferring \$675,300 in federal LUST funding from DNR to Commerce in 2000-01, which is \$86,900 more than the \$588,400 under the DOA recommendation.

DNR Funding and Staff

Based on updated information provided by DNR, the funding allocation recommendation would decrease the number of DNR positions by 7 from 23 to 16 FTE and DNR would be allocated \$588,400 less in LUST funds annually. DNR indicates that in addition to the 23 current positions, the Department provides work effort related to LUST and PECFA of at least 10 FTE funded from the segregated environmental fund, remediated property fees, GPR and other federal funds. Under the reallocation plan, DNR would discontinue allocating the additional staff effort to LUST and PECFA, and restore the staff efforts to the appropriate activities to reflect the funding sources (brownfields redevelopment, state lead cleanup of sites where a responsible party is unable or unwilling to cleanup the site, hazardous substance spills, federal Superfund cleanups and federal corrective actions).

In addition to the ongoing LUST funds allocated to DNR and Commerce, DNR received \$180,000 in one-time LUST funds in calendar year 2000, as shown in Table 1. The Department

plans to use the funds for: (a) converting paper files, reports and submittals to digital or electronic format (\$95,000); and (b) limited-term employees to perform site review work (\$75,000).

If the funding allocation would be based on the percentage of sites administered by each agency on December 31, 1999, (40% DNR and 60% Commerce), DNR would retain \$57,900 annually that DOA recommends be transferred to Commerce. This would be sufficient to retain one additional FTE, for a total of 17 DNR LUST/PECFA positions (Commerce would be allocated one less position).

Under an alternative funding allocation of 35% for DNR and 65% for Commerce, \$86,900 would be transferred from DNR to Commerce in addition to the \$588,400 recommended by DOA. This means that DNR would have sufficient funding for 15 LUST/PECFA positions (one less than under the DOA recommendation) and Commerce would be allocated one position in addition to the 27 recommended by DOA.

Commerce Funding and Staff

Under the proposed DOA reallocation of LUST and PECFA funds, Commerce would be allocated \$588,400 annually in additional LUST funds. While the DOA report estimated that this would result in 7 additional Commerce staff, Commerce submitted a request under s. 16.505/515 for 12 additional PR positions in an interagency agreement appropriation. The number of Commerce PECFA positions would increase from 15 to 27. (A separate Legislative Fiscal Bureau paper describes the Commerce request.)

In addition to the ongoing LUST funds allocated to DNR and Commerce, Commerce received \$265,000 in one-time LUST funds in calendar year 2000, as shown in Table 1. Commerce and DNR reported to EPA that the one-time funds would be used to: (a) support existing site administration efforts; (b) develop computer Internet systems for receiving data on and tracking remediation progress on individual sites; (c) develop computer Internet systems for tracking and recording complaints on consultants and consulting firms; and (d) provide specific site prioritization, investigation and remediation activities for a number of abandoned petroleum sites.

Commerce indicates that it has reallocated some of the LUST funds received in 1999-00, and plans to reallocate some of the LUST funds proposed to be allocated to Commerce in 2000-01, to support existing SEG-funded PECFA staff. This would free up SEG monies to pay for two Department of Justice special agents for criminal PECFA investigations through June 30, 2001. (This is described further in the separate Legislative Fiscal Bureau memoranda related to the Commerce request for positions and the Department of Justice request for two special agent positions.)

If the funding allocation would be based on a 40% DNR / 60% Commerce split, \$57,900 less annually would be transferred to Commerce than under the DOA recommendation. This would be equal to approximately one FTE, for a total of 26 LUST/PECFA positions in Commerce. If the funding allocation would be based on a 35% DNR / 65% Commerce split, the LUST funding

transfer would increase by \$86,900 over the DOA recommendation, and Commerce could be allocated 28 LUST/PECFA positions.

EPA Approval

Prior to 1999, the federal Environmental Protection Agency (EPA) preferred to contract with one state agency for LUST responsibilities and funding. Under the current agreement dated September, 1999, the calendar year 1999 LUST grant is modified to allow DNR as the state recipient of the EPA LUST grant to subcontract with Commerce to perform \$210,000 in LUST-eligible PECFA activities. DOA, DNR and Commerce have had conversations with EPA staff about the allocation of LUST funding between DNR and Commerce as recommended by DOA. The state and EPA have generally agreed to the continuation of the subcontracting relationship between DNR and Commerce during calendar year 2000, and have discussed the possible conversion of the contractual relationship between the state and EPA into separate contracts between EPA and each of the two agencies. The agencies indicate that EPA has expressed verbal support of the concept of reallocation of LUST funding as recommended by DOA.

In a January 14, 2000, letter from DOA, DNR and Commerce to EPA, the agencies submitted a calendar year 2000 LUST grant application and enclosed the DOA December, 1999, report to the Joint Committee on Finance. The January letter indicates that funding levels for DNR and Commerce would be based on the allocation of sites as of December 1, 1999. During a transition period in calendar year 2000, Commerce would fill positions and DNR positions formerly funded by the LUST grant would be deleted. During the transition period, Commerce would be allocated \$498,400 in LUST base funding during calendar year 2000 (rather than the full proposed \$798,400 annual amount), and DNR would retain \$300,000 to fund DNR staff during the transition.

The agencies indicate they will work with EPA to revise the calendar year 2000 grant agreement to be consistent with the allocation report approved by the Committee and other possible program changes. The agencies would also study the possibility of establishing two separate grant agreements with EPA consistent with the allocation of sites between the two agencies. DNR and Commerce hope to submit separate LUST applications to EPA for calendar year 2001.

Any funding allocation plan approved by the Committee would also have to be approved by EPA when it approves the federal LUST grant to DNR and Commerce. On April 5, 2000, DOA, Commerce and DNR sent a letter to the Committee Co-Chairs that stated that if the federal LUST grant was not awarded by mid-April, the state would be at risk of losing a portion of the 2000 federal grant. On April 14, 2000, the agencies mailed a signed grant agreement to EPA for EPA's approval. In the April 5 letter, the agencies indicated that after the Committee acts on the DOA funding allocation report, the agencies would submit any changes made by the Committee to EPA in the form of an amendment to the grant agreement.

ALTERNATIVES

1. Allocate total FED LUST and SEG petroleum inspection fund funding to DNR and Commerce in the same proportion as the percentage of ranked active petroleum and co-contaminated sites managed by each of the agencies, contingent on EPA approval of the funding allocation. Approve the funding split recommended by DOA based on the number of active ranked sites administered by each agency on December 1, 1999, which would provide 38% of total FED and SEG PECFA funding for DNR and 62% for Commerce. This would transfer \$588,400 in ongoing LUST grant funding from DNR to Commerce.

2. Approve Alternative 1 but base the funding split on the number of active ranked sites administered by each agency on December 31, 1999. This would provide 40% of total FED and SEG PECFA funding for DNR and 60% for Commerce and would transfer \$530,500 in ongoing LUST grant funding from DNR to Commerce.

3. Allocate 35% of total FED LUST and SEG petroleum inspection fund funding for DNR and 65% for Commerce, which would provide DNR with a proportion of total funding equal to the statutory threshold of classifying no more than 35% of petroleum-only active ranked sites as high-risk. This would transfer \$675,300 in ongoing LUST grant funding from DNR to Commerce.

Prepared by: Kendra Bonderud

MO# Alt 1

BURKE	Y	N	A
DECKER	Y	N	A
JAUCH	Y	N	A
MOORE	Y	N	A
SHIBILSKI	Y	N	A
PLACHE	Y	N	A
COWLES	Y	N	A
DARLING	Y	N	A
GARD	Y	N	A
PORTER	Y	N	A
KAUFERT	Y	N	A
ALBERS	Y	N	A
DUFF	Y	N	A
WARD	Y	N	A
HUBER	Y	N	A
RILEY	Y	N	A

AYE 15 NO 0 ABS 1

May 3, 2000
13.10 JFC Meeting

Agenda Item XII
Justice - PECFA Investigations

Issue:

DOJ wants 2 PR special agent positions to investigate criminal activity under PECFA, \$286,000 overall.

Summary:

I suppose the Republicans might want to play games here and not give Doyle two new positions, but this is pretty important. There is a lot of taxpayer money at stake in PECFA (especially after the last budget), and we can't let white collar fraud run amuck in the program. I've heard too many stories about shady consultants and contractors.

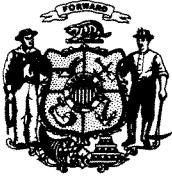
Currently, DOJ investigates PECFA fraud but they don't have enough people to devote to all the cases and run down leads. As with the legislation, PECFA crime cases are very time consuming. I believe Commerce is on board with this request as well, and included it in an MOU with Justice. In addition, these need to be permanent positions because it would be almost impossible to recruit people on a 2-year basis and, unfortunately, the PECFA program will likely keep on going, and going, and going. . .

Staff Recommendation:

Alternative 1

(note: I would not support a project position alternative.)

Prepared by: Barry



Legislative Fiscal Bureau

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May 3, 2000

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Justice: Section 16.505 Request Relating to PECFA Investigations -- Agenda Item XII

REQUEST

The Department of Justice (DOJ) requests two permanent, special agent positions for its Division of Criminal Investigation to investigate criminal activity under the state Petroleum Environmental Cleanup Fund Award (PECFA) program. The program revenue positions would be funded from DOJ's interagency and intra-agency assistance; investigations appropriation with revenues derived from segregated funds through the Department of Commerce PECFA administration appropriation (\$110,100 in 1999-00 and \$176,200 in 2000-01).

BACKGROUND

Under Wisconsin Statutes, DOJ is required to investigate crime which is statewide in nature, importance or influence. The statutes also require the Attorney General to appoint, under the classified service, investigative personnel to achieve the purposes described above and who have the powers of a peace officer. DOJ's Division of Criminal Investigation (DCI) provides these investigative services to local law enforcement agencies. To achieve this purpose, DCI is organized into four bureaus: (a) the arson bureau; (b) the gaming enforcement bureau; (c) the special assignments bureau; and (d) the white collar crimes bureau.

The two positions requested by DOJ would be housed in the white collar crimes bureau, which investigates: (a) complaints relating to public corruption and misconduct of public officials and officers; (b) complaints relating to embezzlements, thefts, computer crime, bank frauds, security fraud, health care fraud and insurance fraud; and (c) complaints involving antitrust violations, such as bid rigging, territory allocation and the restraint of trade. In addition, special

agents in the white collar crimes bureau provide training to local, state and federal law enforcement persons in the areas described above.

Currently, the white collar crimes bureau has nine criminal investigators who are located in four regional offices as follows:

<u>Office Location</u>	<u>Number of Special Agents</u>
Appleton	2.0
Eau Claire	1.0
Madison	3.0
Milwaukee	3.0

The nine investigators are responsible for investigating white collar crime cases in all 72 counties within the state. According to DOJ, the number of special agent positions authorized for DCI has remained unchanged since 1992. DOJ officials also indicate that at any one time, each agent has ten to 15 active cases.

DCI has conducted 27 investigations since 1991 involving criminal activity associated with petroleum cleanup. Examples of cases Commerce has referred to DOJ include rigging bids to steer work toward a specific firm, creating fake contracts to obtain reimbursement for non-eligible costs and falsifying bills to be submitted with claims. As a result of DOJ and Commerce investigations, two owners of an excavation firm and one site owner received prison terms for defrauding the program and several consultants were temporarily or permanently suspended from participating in the PECFA program.

ANALYSIS

Currently, DOJ special agents investigate PECFA fraud. However, DOJ officials state that they are unable to devote enough time to those cases. On average, DOJ officials state that the white collar crimes bureau handles two to three PECFA cases per year (out of a total 80 white collar crime cases opened per year in the bureau), which take approximately one and one-half years to complete. DOJ officials state that the Department currently has two open PECFA cases, and possibly a third case to be opened soon. DOJ officials indicate that PECFA cases are very time-consuming and require experienced agents to do the work. Each case consists of many interviews with people involved in the case, and the examination of large quantities of records and paperwork.

According to DOJ officials, PECFA fraud currently costs the state millions of dollars. The October, 1998, Legislative Audit Bureau review of the PECFA program recommended that Commerce develop strategies for tracking and monitoring complaints of fraud filed by consultants, owners, and other interested parties and develop a plan on how to best use its audit staff to help

identify questionable claims and investigate complaints. Since then, Commerce has begun to develop ways of tracking complaints, some of which may involve allegations of fraud.

Commerce has identified a need to increase the continuity in the investigation of fraud cases that are referred to DOJ. Currently, PECFA cases compete with other white collar criminal investigations for the time of DOJ special investigators and during some months, there is little activity on an investigation. In December, 1999, Commerce and DOJ signed a memorandum of agreement for the time period January 1, 2000 through June 30, 2001, under which Commerce would pay for two investigators, to be devoted solely to PECFA cases. Commerce agreed to reallocate funds from the PECFA administrative appropriation under the segregated petroleum inspection fund (s. 20.143(3)(w)) of up to \$110,100 in 1999-00 and \$176,200 in 2000-01 to pay for the DOJ investigators.

If granted the position authority, DOJ indicates it would need experienced investigators in the positions because of the complex nature of the PECFA investigations. DOJ would likely transfer two experienced agents already working in the white collar crimes bureau into the PECFA positions and backfill the existing positions with two agents who would likely transfer from other investigative units within DOJ. According to DOJ officials, the two likely PECFA agents are the most experienced in PECFA cases and have expressed a desire to fill the positions. DOJ indicates that approximately 80% of the major PECFA cases occur in southeastern and eastern Wisconsin. As a result, DOJ would likely place one agent in the Appleton office and the other in the Milwaukee office.

DOJ believes that permanent position authority is needed because it would be very difficult to recruit experienced agents into project positions. DOJ and Commerce officials state that having two experienced agents devoted to PECFA fraud may also act as a deterrent for future fraud.

Commerce indicates that, during the 1999-01 biennium, SEG funds to pay for the DOJ staff would be obtained by reallocating some of the federal leaking underground storage tank (LUST) funds received in 1999-00 and proposed to be allocated to Commerce in 2000-01, to support existing SEG-funded PECFA staff. This would free up SEG monies to pay for the two DOJ positions through June 30, 2001. (Commerce indicates that it is not likely that EPA would authorize direct use of federal LUST funds for criminal investigations. Rather, LUST funds must be used for administration of cleanups.) (Separate Legislative Fiscal Bureau papers describe the proposed allocation of federal LUST funds between Commerce and the Department of Natural Resources and the s. 16.505 request for 12.0 Commerce positions funded from federal LUST funds.)

Commerce used some of the \$210,000 in LUST funds received in calendar year 1999 to pay the costs of SEG-funded hydrogeologists who administer PECFA site cleanups. The reallocation of funds would free up sufficient funds to pay for the 1999-00 costs of the DOJ investigators. Commerce plans to reallocate some of the \$265,000 in one-time LUST funds allocated to Commerce in calendar year 2000 in a similar manner in order to pay for the DOJ investigators in 2000-01. In addition to, or alternatively, Commerce might request the Department of Administration to release from unallotted reserve \$51,500 that is authorized for contracts for field

DEPARTMENT OF JUSTICE

PECFA Investigator Position

Motion:

Move to provide 1.0 PR special agent two-year project position for the Department of Justice's Division of Criminal Investigation to investigate criminal activity under the state Petroleum Environmental Cleanup Fund Award (PECFA) program.

Note:

The motion would approve 1.0 PR project PECFA investigator position, rather than the requested 2.0 PR permanent positions.

MO#				
	BURKE	Y	<input checked="" type="radio"/> N	A
	DECKER	Y	<input checked="" type="radio"/> N	A
	JAUCH	Y	<input checked="" type="radio"/> N	A
	MOORE	Y	<input checked="" type="radio"/> N	A
	SHIBILSKI	Y	<input checked="" type="radio"/> N	A
	PLACHE	Y	<input checked="" type="radio"/> N	A
	COWLES	Y	<input checked="" type="radio"/> N	A
	DARLING	<input checked="" type="radio"/> Y	N	A
2	GARD	<input checked="" type="radio"/> Y	N	A
	PORTER	Y	N	A
	KAUFERT	<input checked="" type="radio"/> Y	N	A
1	ALBERS	<input checked="" type="radio"/> Y	N	A
	DUFF	Y	<input checked="" type="radio"/> N	A
	WARD	Y	<input checked="" type="radio"/> N	A
	HUBER	Y	<input checked="" type="radio"/> N	A
	RILEY	Y	<input checked="" type="radio"/> N	A

AYE 4 NO 11 ABS _____

May 3, 2000
13.10 JFC Meeting

Agenda Item XIII
Commerce - PECFA Staff

Issue:

Commerce wants 12.0 PR positions, and \$1.6 million from DNR, for administrative work at low and medium risk PECFA sites. This is all part of the staff and caseload transfer provided for in the last budget (in the "do-nothing" legislature).

Summary:

The first full paragraph on p. 3 says that the DOJ PECFA crime positions could be more easily made full time if we make 3 of the Commerce spots project positions. I think that's a good trade. I think 12 positions is adequate, in fact I would even go to 11 if other committee members are willing. The 65-35 split is pretty arbitrary anyway.

Staff Recommendation:

Alternatives 1 & 4

(note: alternatives 2 & 4 would also be fine - and I suppose making all of them permanent instead of 3 being project positions is also ok if Duff or somebody really feels strongly about it. But no to #3.)

Prepared by: Barry



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

May 3, 2000

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Commerce: Section 16.505 Request for PECFA Staff -- Agenda Item XIII

REQUEST

On February 9, 2000, the Joint Committee on Finance received a request from the Department of Administration for 12.0 PR positions in the Department of Commerce for administration of cleanup at low- and medium-risk petroleum-contaminated sites under the Petroleum Environmental Cleanup Fund Award (PECFA) program. The Department of Natural Resources (DNR) would provide Commerce with \$763,400 in 1999-00 and \$798,400 in 2000-01 from federal Leaking Underground Storage Tank (LUST) grant funding. Commerce would deposit the funds in the program revenue service interagency agreements continuing appropriation [s. 20.143 (3)(ka)]. Because the appropriation is a continuing, all monies received appropriation, DOA has not requested an increase in expenditure authority. DOA would allocate expenditure authority in the appropriation through its allotment process.

BACKGROUND

In its December 10, 1999, report to the Joint Committee on Finance, DOA recommended allocating total funding from the federal LUST grant and the segregated petroleum inspection fund between the two agencies according to the same percentage as the allocation of active ranked petroleum sites, including sites that also have contamination from non-petroleum substances. DOA recommended allocating 38% of the total funding from the two sources to DNR and 62% to Commerce, which would equal the percentage split of the number of sites administered by each agency as of December 1, 1999. (A separate Legislative Fiscal Bureau paper describes the funding allocation report.)

ANALYSIS

Under DOA's proposed funding allocation plan, Commerce would have ongoing federal LUST funding totaling \$798,400 annually. Commerce would use these funds in 2000-01 to support the requested 12.0 staff. During the transition year of 1999-00, the proposed expenditure of \$763,400 would include: (a) \$498,400 of the annual LUST allocation; and (b) \$265,000 in additional one-time LUST funds allocated to Commerce, which Commerce could spend in the calendar year 2000 portion of 1999-00 or 2000-01.

The requested 12.0 Commerce staff would include 11 entry-level hydrogeologists to administer cleanup at low- and medium-risk sites and one program assistant. The 12.0 positions would include the following activities: (a) 2.11 FTE to review site investigations; (b) 1.0 FTE to review remedial action plans for sites waived from the public bidding process (generally sites with \$60,000 or less in cleanup costs); (c) 3.14 FTE to implement bidding for sites with more than \$60,000 in cleanup costs; (d) 2.47 FTE to review the progress of sites undergoing remediation; and (e) 3.28 FTE to review and authorize site closures. As Commerce hires staff, DNR would gradually delete 7.0 federally-funded positions, and transfer the senior-level hydrogeologist staff to vacancies in other remediation programs.

Prior to the December 1, 1999, transfer of sites from DNR to Commerce, 15 Commerce hydrogeologists administered clean up at 994 ranked active sites. After the transfer of sites, Commerce administered 2,688 ranked active medium- or low-risk sites as of December 1, 1999 and 2,872 sites as of December 31, 1999. This represents almost a tripling of the number of sites administered by Commerce. The 11 requested hydrogeologists and one program assistant would assist in the administering the increased workload of sites.

In addition, Commerce requests that the 1999-00 proposed expenditure include \$447,900 to develop computer Internet systems for receiving data, tracking remediation progress on individual sites and tracking complaints on consultants and consultant firms. Because the appropriation is continuing, Commerce could expend a portion of these funds in 2000-01.

Commerce used some of the \$210,000 in LUST funds that the Department received in calendar year 1999 to pay the costs of current SEG-funded hydrogeologists who administer PECFA site cleanups. The reallocation of funds would free up sufficient funds to pay for the 1999-00 costs of the 2.0 Department of Justice (DOJ) staff requested in a separate s. 16.505/515 submission. (A separate Legislative Fiscal Bureau paper summarizes the DOJ request.) Commerce plans to reallocate some of the \$265,000 in one-time LUST funds allocated to Commerce in calendar year 2000 in a similar manner in order to pay for the DOJ staff in 2000-01. In addition to, or alternatively, Commerce might reallocate SEG funds authorized for field audit of cleanup sites or for vacant authorized positions for a portion of the DOJ staff cost.

It is possible that Commerce may not need all funds currently proposed for staff during the 1999-01 biennium. The Department of Employment Relations (DER) is currently developing a

recruitment list for hydrogeologists and applications were due April 20, 2000. Commerce officials anticipate that the Department could interview candidates and have them start work within four to eight weeks after the Committee authorizes the positions. In addition, three advanced hydrogeologist positions were authorized in Act 9, for which Commerce is in the process of writing a position description and obtaining the approval of DER before the Department can fill the positions. Thus, the Department may realize sufficient staff salary savings to pay for the DOJ positions during 1999-01.

While Commerce could reallocate funds in the short-term to pay for the DOJ positions, Commerce officials have not identified a permanent source of funding to pay for the DOJ staff after June 30, 2001. If the Committee chooses to provide the 2.0 DOJ positions as permanent, 3.0 of the Commerce hydrogeologist positions could be provided as two-year project positions instead of permanent. (The 2.0 DOJ positions would have approximately the same cost as 3.0 Commerce positions.) Provision of some of the positions as project would provide an opportunity to consider long-term funding issues during 2001-03 biennial budget deliberations. Alternatively, the 2.0 DOJ positions could be provided as project and the Commerce positions could be provided as permanent. Finally, the Committee could choose to provide both the DOJ and Commerce positions as permanent, and during 2001-03 budget deliberations, could either consider requiring Commerce to continue reallocating funding to pay for the positions or increasing expenditure authority in DOJ or Commerce.

If the funding allocation would be established at 40% DNR and 60% Commerce, based on the percentage of sites administered by each agency on December 31, 1999, this would decrease the transfer by \$57,900, equal to approximately one FTE. If the Committee approves a funding allocation based on the December 31, 1999, allocation of sites, it could authorize 11 of the 12 requested Commerce positions. DNR would delete six instead of seven FED LUST positions.

If the funding allocation would be established at 35% DNR and 60% Commerce based on a funding allocation that provides DNR with the same percentage of funding as the statutes specify should be the maximum percentage of high-risk sites with only petroleum contamination this would increase the transfer by \$86,900 over the DOA recommendation. If the Committee approves a funding allocation based on a 35%/65% split, it could authorize 13 Commerce positions instead of 12. DNR would delete eight instead of seven FED LUST positions.

If the request is denied, Commerce could attempt to hire limited-term employees until the 2001-03 biennial budget is enacted and decisions related to funding and position authorization could be made as part of that process. However, it could be argued that the request should not be deferred for the following reasons: (a) the Commerce request was submitted to the Committee in response to the Act 9 directive that DOA recommend an allocation of LUST funding between Commerce and DNR; (b) state agencies are generally authorized to use LTEs only if they will be performing work of a temporary nature for less than six months; and (c) the low unemployment rate in the state would make it difficult for Commerce to hire LTEs since candidates could likely find permanent positions elsewhere.

ALTERNATIVES

1. Approve the DOA recommendation to authorize 12.0 PR permanent positions in Commerce for PECFA program administration of medium- and low-risk petroleum-contaminated sites (based on a 38% DNR and 62% Commerce funding allocation).
 2. Authorize 11.0 PR permanent positions in Commerce (based on a 40% DNR and 60% Commerce funding allocation).
 3. Authorize 13.0 PR permanent positions in Commerce (based on a 35% DNR and 65% Commerce funding allocation).
-
4. Approve Alternative 1, 2 or 3 with the modification that 3.0 of the Commerce positions would be provided as two-year project positions.
 5. Deny the request.

Prepared by: Kendra Bonderud

MO# Act 1 + 4

2	BURKE	Y	N	A
	DECKER	Y	N	A
	JAUCH	Y	N	A
	MOORE	Y	N	A
	SHIBILSKI	Y	N	A
	PLACHE	Y	N	A
	COWLES	Y	N	A
	DARLING	Y	N	A
	GARD	Y	N	A
	PORTER	Y	N	A
	KAUFERT	Y	N	A
	ALBERS	Y	N	A
	DUFF	Y	N	A
	WARD	Y	N	A
	HUBER	Y	N	A
	RILEY	Y	N	A
	AYE	<u>16</u>	NO <u>0</u>	ABS <u>0</u>

May 3, 2000
13.10 JFC Meeting

Agenda Item XIV
DNR & Commerce - LUST Report

Issue:

Commerce wants to use \$112,000 PR from existing revenues to pay for 2 one-year claim review project positions.

Summary:

~~The budget bill gave Commerce the authority to charge fees to pay for more claims review staff. They don't want to charge fees for a variety of bogus reasons (see p. 3, paragraph 1).~~

Although it wasn't required, the intent of the budget language was clearly to have Commerce charge some fees (see p. 2, last half of paragraph 2; and p. 3, paragraph 3). DNR has to charge fees for both brownfields and PECFA work, Commerce should too. PECFA is already a giant welfare program. There's no reason Commerce shouldn't charge fees.

I am reluctantly recommending alternative 1 only because these are just one-year project positions. In the next budget, Commerce better have a plan to charge some fees.

Staff Recommendation:

Alternative 1

(note: alternative 2 would also be ok, see what Duff wants to do.)

Prepared by: Barry



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

May 3, 2000

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Commerce: Section 16.505/515 Request for PECFA Claim Review Project Staff --
Agenda Item XIV

REQUEST

On April 4, 2000, the Department of Administration forwarded a s. 16.505/515 request to the Joint Committee on Finance from the Department of Commerce for \$112,200 PR in 2000-01 with 2.0 PR one-year project positions for claim review under the Petroleum Environmental Cleanup Fund Award (PECFA) program. The positions and funding would be provided in the Safety and Buildings Division general program operations appropriation [s. 20.143 (3)(j)] and funded from petroleum tank plan review and installation inspection fees currently deposited in the appropriation. The request would also delete 2.0 PR project positions that expire in October, 2001, that were provided in 1999 Act 9 (the 1999-01 biennial budget act) under a new appropriation for petroleum storage remedial action fees [s. 20.143 (3)(Lm)]. On April 19, 2000, the Committee Co-Chairs notified DOA that a meeting would be scheduled to consider the request.

BACKGROUND

Act 9 provided Commerce with \$84,200 SEG in 1999-00 and 2.0 SEG two-year project claim review positions. The act converted the 2.0 SEG positions to PR and provided \$112,200 PR in 2000-01 in a new program revenue annual appropriation. Act 9 authorized 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. Commerce would use fees collected under the provision to fund the two claim review staff. In addition, the act directed that any fees charged by Commerce or the Department of Natural Resources (DNR) on or after the effective date of the act (October 29, 1999) for the approval of

case closures and other requested assistance not be reimbursable expenses under the PECFA program.

The authorization for Commerce to promulgate fees is similar to authorization provided to DNR in 1997 Act 27 (the 1997-99 biennial budget act). DNR is authorized to assess and collect fees to offset the costs for DNR activities related to approving requests for certain exemptions from future liability for cleanup of contaminated property and to offset the costs for much of the technical and redevelopment assistance provided by DNR, including the brownfields initiatives enacted in the last two budgets and activities previously performed by the Department. DNR promulgated NR 749 as an emergency rule effective September 19, 1998, and as a permanent rule effective February 15, 1999. DNR is authorized 10.0 PR positions from remediated property fees.

ANALYSIS

A number of cost control provisions were enacted in the 1999-01 biennial budget to address a claims backlog and the severe disparity between available revenues in the petroleum inspection fund and the demand for expenditures primarily from incoming PECFA claims. Under Act 9, \$270 million in revenue obligations was authorized to reduce or eliminate the backlog of claims awaiting payment. Further, a number of provisions dealt directly with the cost of PECFA cleanups, such as the agencies determining the least costly method of remediation, encouraging natural attenuation where appropriate and bidding sites with costs over \$60,000. Other provisions increased the costs of cleanups to owners, such as generally higher deductible levels and limiting interest cost reimbursements. Prior to Act 9, cleanups were reimbursed at between 75% to over 99% of eligible cleanup costs. Under Act 9, all tank owners that submit remedial actions plans beginning in November, 1999, will pay at least 5% of costs. The Act 9 provision allowing Commerce to charge fees for case close-out letters and certain other activities and eliminating reimbursement for these fees could be viewed as: (a) promoting greater uniformity with DNR fees that began in 1998; and (b) limiting PECFA awards from the petroleum inspection fund. In addition, revenues from the fees authorized under Act 9 could be used to fund ongoing PECFA claims or site review staff in future biennia. Therefore, approving the Commerce request could be viewed as inconsistent with the intent of Act 9.

The two claim review staff authorized in Act 9 have been hired and are paid from the petroleum inspection fund through June 30, 2000. The two positions are helping Commerce reduce the backlog of PECFA claims waiting for processing so that the proceeds of revenue obligations authorized in Act 9 can be paid as quickly as possible. Commerce had used almost \$170 million in bond proceeds by mid-April, 2000, to pay PECFA claims in the backlog, and expects to use the remaining \$100 million in authorized bonding to pay the remaining backlog of received claims during May and June. Commerce is currently processing claims within 60 to 90 days of receipt. Commerce processes claims within a few days of receipt if they are for home heating oil tanks or sites where the investigation and cleanup can be completed to the point of closure for \$80,000 or less, excluding interest.

Commerce has not taken action to promulgate fees by rule under Act 9 to provide funding for the two claim review staff beginning July 1, 2000. The Commerce request indicates that if it charged fees, they could cover functions such as providing approval of remedial action strategies, providing technical assistance to site owners, tracking remediation progress and determining when sites may be closed. Commerce advocates using existing fees collected for petroleum tank plan review and installation inspection. The Department argues that it does not want to charge new fees because: (a) a fee related to site closure could have the unintended consequence of delaying rather than expediting the closure of sites, which is counter to a program goal of closing sites; (b) new fees would create an additional workload to administer; and (c) Act 9 included other program changes that may increase costs to PECFA claimants such as larger deductibles and fees as a condition of submitting a bid for remediating a site.

The funding source proposed by Commerce would be fees currently collected for petroleum tank plan review and installation inspection and deposited in the safety and buildings program revenue general operations appropriation. Such revenues collected prior to 1995-96 were transferred to the segregated petroleum inspection fund. Staff who perform tank plan reviews and installation inspections were transferred in the 1993-95 biennial budget act from the safety and buildings appropriation to a new SEG petroleum inspection appropriation. In 1996, both of these functions were transferred from the former Department of Industry, Labor and Human Relations to the Department of Commerce. Due to an oversight, petroleum tank plan review and installation inspection revenues collected since July 1, 1996 totaling approximately \$1.2 million continue to be deposited in the safety and buildings appropriation instead of the petroleum inspection fund. The revenues are being held in reserve and are not being used for safety and buildings expenditures. Commerce plans to include, in its 2001-03 biennial budget request, a statutory correction so that past and future tank revenues would be deposited in the petroleum inspection fund. While the safety and buildings appropriation does not currently fund any petroleum or PECFA staff, Commerce is authorized to use the appropriation to administer petroleum-related activities.

Under the Commerce request, the agency would not use the authority provided in Act 9 to collect fees from PECFA claimants to pay for the two claim review positions. While this would be less burdensome to the almost two-thirds of site owners currently under Commerce jurisdiction who would not pay a fee for case close-out, it would continue a disparity that existed prior to enactment of Act 9. Site owners under DNR jurisdiction would continue to pay a fee for case close-out or certain other requests for technical assistance while Commerce site owners would not. Under Act 9, the program no longer reimburses claimants for fees charged by either agency for the approval of cleanup or provision of other technical assistance. Prior to Act 9, the DNR fees were reimbursable under the PECFA program.

While the DNR fees are assessed for a number of activities related to brownfields cleanup and requests for exemption from liability, fees are also assessed for certain activities at PECFA sites. Over 80% of remediated property fees are from case close-out letters. After a site investigation and cleanup has been completed at a site under DNR jurisdiction, a person may

request a close-out letter from DNR which states that the Department has determined that, based on information available at the time of review, no further action is required. Almost all of the remediated property fees paid by owners of PECFA sites are comprised of a \$750 fee paid to DNR to receive a case close-out letter at a DNR-administered site. PECFA sites administered by Commerce do not pay a similar fee. PECFA sites must receive approval from the appropriate agency that the cleanup activities have been completed before Commerce may pay a final PECFA award for the site.

Fees charged by DNR before October 29, 1999, are eligible for reimbursement under the PECFA program, and fees charged by DNR on or after October 29, 1999 (the effective date of Act 9), are not eligible for reimbursement. Examples of other types of remediated property fees charged by DNR are \$500 for technical assistance, \$500 for an off-site letter that clarifies who is not responsible when contamination is migrating on to a property from an off-site source, \$250 for a no further action letter for a spill site where an immediate action was taken and \$750 for review of a remedial action options report or site investigation report.

Prior to implementation of the Act 9 redefinition of high-, medium- and low-risk petroleum-contaminated sites, DNR administered cleanup at approximately 77% of active sites and Commerce administered cleanup at the remaining 23% of sites. When DNR transferred medium- and low-risk sites to Commerce on December 1, 1999, under the new Act 9 definition, DNR retained authority for approximately 38% to 40% of ranked active petroleum-contaminated sites and sites with contamination from petroleum and another hazardous substance. Commerce administers cleanup at the other 60% to 62% of active sites.

If the request is approved, the claim review positions would expire June 30, 2001, and the future need for the positions could be evaluated as part of 2001-03 budget deliberations. If the Committee does not approve the request, Commerce would have to promulgate fees by rule if it wants to fund the positions after June 30, 2000. Commerce does not currently have any vacant claim review positions which the two incumbent project claims reviewers could be moved into. If Commerce were to establish fees under the Act 9 provision, it is not known whether they would differ from DNR fees in either the amount charged or the activity assessed.

ALTERNATIVES

1. Approve the request to provide Commerce with \$112,200 PR in 2000-01 in the Safety and Buildings general operations appropriation with 2.0 PR one-year project positions for claim review under the PECFA program and to delete 2.0 PR project positions under the appropriation for petroleum storage remedial action fees.

2. Deny the request.

Prepared by: Kendra Bonderud

MO#	BURKE	DECKER	JAUCH	MOORE	SHIBILSKI	PLACHE	COWLES	DARLING	GARD	PORTER	KAUFERT	ALBERS	DUFF	WARD	HUBER	RILEY	AYE	NO	ABS
	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A			
	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N			
	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y			

Handwritten: ALT 1

Handwritten: 16

May 3, 2000
13.10 JFC Meeting

Agenda Item XV
DNR - Request for Air Education Project Position

Issue:

DNR wants a 3-year PR project position to provide community assistance and education on clean air issues. The money comes through DOT as part of the federal CMAQ program.

Summary:

Not sure why anyone would have objected to this. It's pretty clear cut.

The federal Clean Air Act requires an information and education campaign in nonattainment areas. We have to do this and it's a good use of CMAQ funds.

Only real issue is an internal staffing matter with DNR. Why in the world is this person slated to be located in Madison?!!! (see paragraph 2 on p.2) If there was ever a position that should be in the SE District office this is it. Maybe a little cajoling would be in order.

Staff Recommendation:

Alternative 1

Prepared by: Barry



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

May 3, 2000

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Natural Resources: Section 16.505 Request Related to Air Education Project Position
-- Agenda Item XV

REQUEST

On March 16, 2000, the Department of Administration (DOA) forwarded a s. 16.505/515 request to the Joint Committee on Finance from the Department of Natural Resources (DNR) for 1.0 PR, three-year project position in the community assistance and external relations general program operations - service funds appropriation [s. 20.370(9)(mk)]. The position would coordinate an air quality public information and education program through federal funds received by the Wisconsin Department of Transportation. On April 5, 2000, the Committee Co-Chairs notified DOA that a meeting would be scheduled to consider the request.

BACKGROUND

The Wisconsin DOT received a grant from the Congestion Mitigation and Air Quality (CMAQ) program of the U.S. Department of Transportation. The CMAQ program provides funds to help meet requirements of the federal Clean Air Act. It funds projects in nonattainment areas that do not meet the National Ambient Air Quality Standards and former nonattainment areas that are in compliance for ozone, carbon monoxide and small particulate matter standards. Projects funded by CMAQ must reduce transportation-related emissions. Southeastern Wisconsin is classified as a severe ozone air quality nonattainment area. The Clean Air Act requires states to advise people of health hazards from air pollution and actions that people can take to prevent the exceedence of air quality standards.

DNR entered into an interagency agreement with the Wisconsin DOT to use \$854,900 in CMAQ funds to undertake a three-year public information and education program titled "It All Adds Up to Cleaner Air." DNR will use \$213,700 in air emission fees over three years to provide the required 20% state match to the federal funds. The DNR program will use television, radio and print media to inform the public about air quality problems and transportation choices individuals can make that improve air quality. The program will also include an educational component targeted at youth and young drivers.

ANALYSIS

The requested position would be a communication specialist in the Madison office of the DNR Bureau of Communication and Education. The position would coordinate the three-year public information and education program. Examples of activities to be performed by the position are to: (a) develop and implement DNR's programs for a mobile sources education project; (b) provide information and advice to DNR air management staff and U.S. Environmental Protection Agency (EPA) staff about how to integrate air science information into high school and technical college curricula and how to involve the public in making voluntary transportation choices; (c) develop partnerships with educational and citizen groups, professional organizations, industry, local governments and state and federal agencies; (d) provide information to targeted audiences such as youth about the Clean Air Act goals and requirements; and (e) coordinate internal DNR communication so that staff understand voluntary mobile source air pollution reduction strategies.

Although the source of the funding for the air quality public information and education program is from the federal government, DNR receives the funds as program revenue through the Wisconsin DOT. While the appropriation is budgeted at \$100,200 PR annually, it is a continuing appropriation where all monies received from state agencies may be expended for customer service and communication purposes. Therefore, DOA may provide DNR with additional expenditure authority to utilize the DOT grant. However, the positions can only be provided through the s. 16.505 process. DNR requested the project position to provide a centralized contact person in the Bureau of Communication and Education to coordinate the program. Without the project position, DNR could consider reallocating staff from other agency programs or hiring limited-term employees to perform some of the duties of the requested position.

While the three-year grant was originally intended to cover the three fiscal years of 1999-00, 2000-01 and 2001-02, DNR has not begun implementing the program because of delays in finalizing the interagency agreement with DOT and lack of staff resources to coordinate the program. DNR plans to begin implementing the program if approval of the project position is obtained. The Department would ask DOT to adjust the end date in the interagency agreement to provide a three-year length of the contract.

ALTERNATIVES

1. Approve the request to provide DNR with 1.0 PR, three-year project position to implement an air quality public information and education program.
2. Deny the request.

Prepared by: Kendra Bonderud

MO# Alt 1

2 BURKE	Y	N	A
DECKER	Y	N	A
JAUCH	Y	N	A
MOORE	Y	N	A
SHIBILSKI	Y	N	A
PLACHE	Y	N	A
COWLES	Y	N	A
DARLING	Y	N	A
1 GARD	Y	N	A
PORTER	Y	N	A
KAUFERT	Y	N	A
ALBERS	Y	N	A
DUFF	Y	N	A
WARD	Y	N	A
HUBER	Y	N	A
RILEY	Y	N	A

AYE 15 NO 1 ABS _____

May 3, 2000
13.10 JFC Meeting

Agenda Item XVI
DNR - Air Management Construction Permit Staff

Issue:

DNR wants \$334,000 and 3.0 PR positions to perform air pollution construction permit review and enforcement.

Summary:

The budget bill directed DNR to request these positions. Alliant and WEPCO support the request. We've been underfunding DNR's air quality program for too long now. It's time to start giving them the people they need to do the job right, and make sure we don't have a backlog or delays in the processing of construction permit requests.

Staff Recommendation:

Alternative 1

(note: alternative 2 is probably ok as well, but some questions may be in order to determine if this is just good budgeting or would hamstring DNR in some way.)

Prepared by: Barry



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

May 3, 2000

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Natural Resources: Section 16.505/515 Request for Air Management Construction Permit Staff -- Agenda Item XVI

REQUEST

On March 16, 2000, the Department of Administration (DOA) forwarded a s. 16.505/515 request to the Joint Committee on Finance from the Department of Natural Resources (DNR) for \$11,300 PR in 1999-00 and \$222,800 PR in 2000-01 with 3.0 PR positions beginning in 2000-01. The positions and funding would be provided in the air management appropriation s. 20.370(2)(ci) to perform air pollution construction permit review and enforcement activities and support bureau-wide costs. On April 5, 2000, the Committee Co-Chairs notified DOA that a meeting would be scheduled to consider the request.

BACKGROUND

All new, modified, reconstructed, relocated or replaced air pollutant sources which are not exempt from construction permit requirements under administrative rules are required to obtain a construction (new source) permit before beginning construction. A construction permit allows a company to build, initially operate and test the air pollution source. The source is required to have a complete operation permit on file with DNR by the time the construction permit expires. DNR is required to analyze major source construction permit applications within 120 days and minor source applications within 30 days. A 30-day public comment period follows DNR's preliminary determination of whether the application can be approved. If there is significant public interest, DNR may hold a public hearing within 60 days of the end of the public comment period. DNR must issue or deny the construction permit within 60 days after the close of the comment period or public hearing.

Construction permit activities are funded from program revenue fees authorized in administrative rule NR 410. The fees for an individual source vary depending on situations such as the type of request, type of pollutant, whether emission testing is required, and whether the applicant requests expedited review. DNR issued an average of 177 construction permits annually from 1994-95 through 1998-99.

DNR is authorized \$1,245,900 PR with 16.5 PR positions in each of 1999-00 and 2000-01 to administer the construction permit program. In 1998-99, the Department collected \$1,391,000 in construction permit fees and expended \$1,193,700. The July 1, 1999, balance of the construction permit appropriation account was \$401,500.

1999 Act 9 (the 1999-01 biennial budget act) directed DNR to submit a request under s. 16.505/515, after administrative rules are promulgated, to fund asbestos abatement and construction permit activities from available revenues. During 1999, DNR promulgated administrative rule changes to increase construction permit fees under NR 410 with an effective date of July 1, 2000. Fees for major sources will increase by an average of 35% and fees for minor sources will not increase. (Major sources generally include facilities that have the potential to emit over 250 tons per year of certain pollutants, or over 100 tons per year in the southeastern area of the state that is not in attainment with certain federal air quality standards or in specific source categories.)

ANALYSIS

The DNR request includes two components. First, 3.0 PR positions are requested beginning in 2000-01 with \$154,500 PR for salaries, fringe benefits and associated supplies. The positions would include: (a) a program assistant in Madison to process construction permit applications; (b) an air management specialist in Madison to develop ambient air quality models for new or modified sources to ensure the sources do not violate ambient air quality permits; and (c) an air management engineer in the southeast region to process construction permit applications. Second, \$11,300 PR in 1999-00 and \$68,300 annually beginning in 2000-01 would be used for the following bureau-wide costs: (a) \$7,200 for information technology maintenance; (b) \$3,500 for computer networking and storage; (c) \$34,600 for computer replacement; and (d) \$23,000 for an internship program coordinated by the University of Wisconsin Institute for Environmental Studies.

In 1997 Act 27 (the 1997-99 biennial budget act), expenditures in the construction permit appropriation were limited to available revenues by deleting 2.0 vacant positions and transferring 2.5 positions to revenues from emission tonnage fees paid by stationary sources that emit certain air pollutants. In 1997-99, DNR was authorized 16.5 positions from construction permit fees and also reallocated 2.5 full-time equivalent (FTE) staff from other funding sources, primarily emissions tonnage fees, to process construction permits. DNR indicates that workload has increased so that currently in addition to the 16.5 authorized positions, 3.0 FTE are being reallocated to construction permit activities. Overtime hours worked in the program increased by 38% from 3,106 in 1997-98 to 4,299 in 1998-99.

Updated estimates of construction permit revenues include \$1,400,000 in 1999-00 and \$1,750,000 in 2000-01, including an estimated \$350,000 from the fee increase beginning in 2000-01 and annually thereafter. If the Committee approves the request, expenditures and reserves would equal \$1,580,000 in 2000-01 and the June 30, 2001, construction permit appropriation account balance would be approximately \$680,000.

Use of construction permit fee revenues to fund construction permit processing staff would allow the Department to reduce or eliminate the reallocation of staff from the air emission fees appropriation consistent with Act 9 provisions, and should reduce the amount of overtime needed to process construction permits. The air emissions fee appropriation is used to fund DNR costs of implementing federal Clean Air Act provisions associated with reducing air emissions of facilities being assessed the fees. These activities include the direct and indirect costs of issuing or renewing operating permits, air quality monitoring, compliance and enforcement of state and federal air requirements. While Act 9 converts 5.0 FED positions to PR from emissions fees and provides new emissions fee revenues of almost \$1.1 million annually, the Governor partially vetoed another \$600,000 in annual emission fee revenues and directed the lapse of \$608,100 in expenditure authority in 2000-01. The directed lapse means that DNR may not be able to fill the 5.0 PR positions provided by Act 9 and could have to further reduce expenditures in 2000-01 to comply with the Governor's veto directive.

The new fees and appropriation account balance would be expected to be sufficient to fund the 16.5 existing and 3.0 requested positions on an ongoing basis. Provision of the three positions should allow the agency to more closely align fee revenues with the workload in the construction permit and emission tonnage fee accounts. If the request for three air construction permit staff is denied, DNR would continue to divert emissions fee staff to construction permit review and pay overtime to construction permit staff in order to meet statutory timelines for permit review. This would require the Department to continue to reduce other activities funded from emissions fees.

The requested funds for bureau-wide costs (\$11,300 PR in 1999-00 and \$68,300 PR in 2000-01) were included to assign costs proportionally, based on the number of positions funded from each appropriation in the bureau. The construction permit appropriation funds approximately 10% of staff in the bureau. DNR indicates the requested bureau-wide costs are currently being paid primarily from federal air grants. DNR did not request a reduction in the expenditure authority in air appropriations to offset the \$68,300 annual increase in bureau-wide costs from the construction permit appropriation because the Department wants to use the freed-up funds for expenditures related to monitoring, technical analysis and assistance, compliance, enforcement and public outreach. However, if \$68,300 is provided for bureau-wide costs from the construction permit appropriation, expenditure authority in the air emission fee appropriation could be decreased by a corresponding amount, so that the approved funds would be a reallocation rather than an increase in bureau-wide expenditure authority. Reallocation of the requested amount could help the Department reduce air emission fee expenditures in 2000-01 to comply with the Governor's veto directive related to the emission fees appropriation.

ALTERNATIVES

1. Approve the request to provide DNR with: (a) \$154,500 PR in 2000-01 with 3.0 PR positions to perform construction permit review and enforcement activities; and (b) \$11,300 PR in 1999-00 and \$68,300 PR in 2000-01 in the construction permit appropriation for bureau-wide costs.

2. Approve Alternative 1 and in addition, decrease the air emission fee appropriation by \$11,300 PR in 1999-00 and \$68,300 PR in 2000-01 to offset the increase in bureau-wide costs provided from the construction permit appropriation.

3. Deny the request.

Prepared by: Kendra Bonderud

MO# Alt 1

2	BURKE	<input checked="" type="radio"/>	N	A
	DECKER	<input checked="" type="radio"/>	N	A
	JAUCH	<input checked="" type="radio"/>	N	A
	MOORE	<input checked="" type="radio"/>	N	A
	SHIBILSKI	<input checked="" type="radio"/>	N	A
	PLACHE	<input checked="" type="radio"/>	N	A
	COWLES	<input checked="" type="radio"/>	N	A
	DARLING	<input checked="" type="radio"/>	N	A
	GARD	Y	<input checked="" type="radio"/>	A
	PORTER	Y	<input checked="" type="radio"/>	A
	KAUFERT	<input checked="" type="radio"/>	N	A
	ALBERS	<input checked="" type="radio"/>	N	A
	DUFF	<input checked="" type="radio"/>	N	A
	WARD	<input checked="" type="radio"/>	N	A
	HUBER	<input checked="" type="radio"/>	N	A
	RILEY	<input checked="" type="radio"/>	N	A

AYE 14 NO 2 ABS _____

May 3, 2000
13.10 JFC Meeting

Agenda Item XVII
DNR - Request for Air Asbestos Management Staff

Issue:

DNR wants 1 PR position to meet their EPA obligations to administer asbestos abatement regulations.

Summary:

~~The state's asbestos program is not meeting EPA~~
requirements for timely submittal of information. The new staff person would allow the agency to more closely align fee revenues with the workload in the asbestos management account and restore air emission funded staff to their Clean Air Act implementation duties. This position has been vacant for a few years because DNR can't find someone to take a 2-year project position.

Staff Recommendation:

Alternative 1
(note: alternative 2 is also ok)

Prepared by: Barry



Legislative Fiscal Bureau

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May 3, 2000

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Natural Resources: Section 16.505/515 Request Related to Air Asbestos Management Staff -- Agenda Item XVII

REQUEST

On March 16, 2000, the Department of Administration (DOA) forwarded a s. 16.505/515 request to the Joint Committee on Finance from the Department of Natural Resources (DNR) for 1.0 PR position with \$55,000 PR in 2000-01 in the air management appropriation s. 20.370(2)(bi) to perform asbestos management activities. On April 5, 2000, the Committee Co-Chairs notified DOA that a meeting would be scheduled to consider the request.

BACKGROUND

DNR is responsible for administering asbestos abatement regulations in conformance with federal Environmental Protection Agency (EPA) requirements. Persons who perform demolition or certain renovations including the removal of asbestos-containing material must follow asbestos abatement regulations to minimize the release of asbestos fibers into the air. Persons must notify DNR before they perform asbestos abatement and must pay an asbestos inspection fee of \$50, \$100 or \$200 and a construction permit exemption review fee of \$50 or \$125, depending on the project size. DNR is authorized to initiate enforcement action against persons who do not comply with asbestos abatement regulations and to issue citations for violations of asbestos abatement laws.

In 1999-00, the Department is authorized 1.0 permanent asbestos coordinator from asbestos abatement fees to maintain notification and inspection databases, manage consistency and compliance efforts and respond to complaints. One two-year project position was authorized from April, 1998, to April, 2000, to be an asbestos liaison with DOA to assist DOA in maintaining

compliance with federal asbestos abatement regulations at demolition or renovation activities conducted at state-owned facilities. DNR and DOA entered into a memorandum of understanding on January 5, 1998, regarding asbestos abatement at state facilities. On March 5, 1998, the Joint Committee on Finance approved a s. 16.505 request for a DNR two-year project position to serve as the asbestos liaison with DOA. DNR was unable to fill the project position. The agency believes a permanent position would be more attractive in the current employment market for asbestos abatement workers. DNR reallocated the time of the asbestos coordinator to act as the asbestos liaison with DOA until February 22, 2000, and utilized limited-term and existing employees to review submitted asbestos notifications, process fees and enter data into an EPA-mandated database. Currently, DNR is providing liaison assistance to DOA as workload permits, but this has resulted in a minimal time commitment.

1999 Act 9 (the 1999-01 biennial budget act), increased the statutory limit of \$200 per project to \$210 for the inspection of nonresidential asbestos demolition and renovation projects. DNR would have to promulgate administrative rule changes in order to implement the higher fee. The higher fee would generate approximately \$4,300 annually if implemented only to raise the highest category inspection fee from \$200 to \$210 but not change the other categories. The Department would receive higher revenues if the fees for all of the asbestos fee categories were raised. Act 9 directed DNR to submit a request under s. 16.505/515, after administrative rules are promulgated, to fund asbestos abatement and construction permit activities from available revenues.

ANALYSIS

The requested DNR position would be an asbestos specialist in Madison who would spend 60% to 80% of his or her time as the asbestos liaison with DOA. In addition, the position would assist the DNR asbestos coordinator in ensuring that asbestos notifications are submitted, tracked, evaluated and entered into an EPA-mandated database.

DNR indicates that implementation of the asbestos management memorandum continues to be a high priority for the two agencies. During the last two years, the asbestos liaison participated in at least 25 asbestos abatement projects that DOA contracted for at state-owned buildings. In 1999-01, DOA will spend approximately \$3.8 million for asbestos-related activities at 106 state-owned buildings. DNR indicates that without the requested position, the Department will be unable to continue providing a liaison to DOA to increase state compliance with EPA asbestos abatement requirements.

The asbestos program is not meeting EPA requirements for timely submittal of information to EPA's national asbestos database. As the program has focused on liaison with DOA and review of notifications by persons performing asbestos abatement, the input of data into EPA's database has been slower than required. The requested position would provide staff support to that process and to providing timely response to persons performing asbestos abatement. DNR officials

anticipate that the requested position would allow the Department to come into compliance with EPA record-keeping requirements.

The asbestos management program is authorized \$327,400 PR in 1999-00 and \$289,400 PR in 2000-01. The 2000-01 expenditure authority includes \$60,300 for the permanent position, \$139,300 for current and anticipated contracts with several local governments to perform asbestos inspections and \$89,800 in unallocated supplies and services funding. In the 1997-99 biennium, DNR held expenditures to less than authorized levels (\$208,200 was spent in 1998-99). DNR indicates that it may use the unallocated expenditure authority primarily to increase contracts with local governments and may spend most of the authorized expenditure level in 1999-01. The new position may generate additional fees through increased customer outreach. Revenue for the appropriation was \$244,500 in 1998-99 and averaged \$235,500 annually for the past three years.

If revenue continues at the \$235,500 three-year average rate, or increases as a result of the work of the requested position, the appropriation may have a sufficient balance to fund the two positions through 2001-03 under the current fee structure. If future revenues are less than the three-year average, the Department may have to increase fees and/or reduce expenditures to maintain a positive balance in the account. Under the request, in 2000-01 expenditure authority plus reserves would be approximately \$350,000, which would exceed the \$235,500 three-year average revenue.

If the position is authorized, a portion of the existing unallocated expenditure authority could be transferred to salaries and fringe benefits instead of providing new expenditure authority. This would align authorized expenditures more closely with anticipated revenue. However, it would also limit DNR's ability to utilize the unallocated expenditure authority for additional asbestos inspection contracts with local governments or other asbestos-related expenditures.

DNR did not promulgate administrative rules to increase asbestos permit fees before submitting the s. 16.505/515 request because of the relatively small estimated revenue increase (\$4,300 annually) if the \$200 fee were increased to the \$210 maximum. Until recently, DNR planned to promulgate asbestos fee changes in 2001 when it proposes statutorily required changes to air emission fee rules. Given the limited revenue to be realized, this could be considered a more efficient use of staff resources than to promulgate a separate rule. Department officials recently indicated that they may propose a separate asbestos fee rule earlier than 2001, and may consider increasing the fee in additional categories to generate more than the previously estimated \$4,300 annual increase.

In 1997-98, DNR devoted 3.8 full-time equivalent staff to asbestos management activities and increased efforts in 1998-99 to 4.3 FTE. The staff efforts provided in excess of the two authorized positions were funded primarily from federal air program grants, but also from air emission tonnage fees. Approval of the requested position would allow the agency to more closely align fee revenues with the workload in the asbestos management account and restore air emission funded staff to their Clean Air Act implementation duties.

ALTERNATIVES

1. Approve the request to provide DNR with \$55,000 PR in 2000-01 with 1.0 PR position to perform asbestos management activities.
2. Provide DNR with 1.0 PR position in 2000-01 for asbestos management activities. (DNR could reallocate existing unallocated expenditure authority to pay the costs of the position.)
3. Deny the request.

Prepared by: Kendra Bonderud

MO#				
	BURKE	Y	N	A
	DECKER	Y	N	A
	JAUCH	Y	N	A
	MOORE	Y	N	A
	SHIBILSKI	Y	N	A
	PLACHE	Y	N	A
	COWLES	Y	N	A
	DARLING	Y	N	A
	GARD	Y	N	A
	PORTER	Y	N	A
	KAUFERT	Y	N	A
	ALBERS	Y	N	A
	DUFF	Y	N	A
	WARD	Y	N	A
	HUBER	Y	N	A
	RILEY	Y	N	A
	AYE	16	NO	0
			ABS	