



## Legislative Fiscal Bureau

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May 2, 2001

Joint Committee on Finance

Paper #302

### **PECFA -- Revenue Obligation Authority (Commerce -- Building and Environmental Regulation)**

[LFB 2001-03 Budget Summary: Page 189, #1]

#### **CURRENT LAW**

The petroleum environmental cleanup fund award (PECFA) program reimburses owners for a portion of the cleanup costs of discharges from petroleum product storage tank systems and home heating oil tank systems. The program is funded from the segregated petroleum inspection fund. Revenue to the fund is generated from the 3¢ per gallon petroleum inspection fee assessed on all petroleum products that enter the state, including gasoline, diesel and heating oil. 1999 Act 9 authorized the Building Commission to issue revenue obligations of up to \$270,000,000 in principal amount (typically long-term bonds or short-term notes), to fund the payment of claims under the PECFA program. The revenue obligations are repaid from petroleum inspection fees. The PECFA program is appropriated \$94,131,700 each year in a biennial appropriation for PECFA awards. Commerce reduces expenditures from this appropriation by the amount necessary to pay revenue obligation debt service and maintain a positive balance in the petroleum inspection fund.

#### **GOVERNOR**

Provide \$100,000,000 in revenue obligation authority for the PECFA program, to increase revenue obligation authority under the program from \$270 million to \$370 million.

#### **DISCUSSION POINTS**

1. The backlog of PECFA claims that had been received and had not been paid exceeded \$200 million during the months of June, 1997, through February, 2000. By February, 2000, Commerce had reviewed but not paid almost \$210 million in claims. Prior to the 1999 Act 9

authorization of revenue obligations, Commerce used an appropriation of \$94,131,700 annually for payment of PECFA claims.

2. Issuance of revenue obligations under the 1999 Act 9 authorization allowed Commerce to pay the backlog of PECFA claims. Between March and December of 2000, \$250 million of revenue obligation proceeds were used to pay PECFA claims. Commerce and DOA anticipate that the remaining \$20 million in authorized revenue obligations will be issued in the summer of 2001.

3. Currently, claims are generally being reviewed and paid within 30 to 60 days of receipt. As of April 1, 2001, Commerce had received 401 PECFA award applications totaling \$24.1 million that had not been paid. The backlog consisted of two components, claims where review had not been completed and claims that have been reviewed and are awaiting payment. The first component consisted of 287 claims for \$18.8 million that were being reviewed by staff. The second component of the backlog consisted of 114 claims for \$5.3 million that had been reviewed and would be paid within approximately 30 days.

4. As of April 1, 2001, a total of over \$1 billion in PECFA payments have been made for partial or full cleanup at 9,105 sites. Of the total payments, \$567.5 million (55.1%) has paid for completion of cleanup at 6,297 closed sites (69.2%). The remaining \$462.5 million (44.9%) has paid for partial cleanup at 2,808 open sites (30.8%). In the fall of 2000, Commerce officials updated the estimated cumulative cost of the program to approximately \$1.8 billion to clean up a total of approximately 16,000 sites. This means that there may be unreimbursed costs of approximately \$800 million to complete cleanup at 2,808 open sites that have received at least one PECFA payment and approximately 6,900 sites for which no claims have been received.

5. The revenue obligations that were issued in 2000 were structured as a combination of \$170 million in long-term debt with an interest rate of 5.5% and \$80 million in short-term commercial paper with an interest rate of approximately 4.5 to 5%. The claimants who received PECFA reimbursement with the proceeds of the revenue obligations would have otherwise waited approximately three years for reimbursement, and many of these claimants would have received reimbursement of loan interest expense at an interest rate of 8.5% to 10.5%.

6. The amount of PECFA claims received exceeded \$160 million annually in each of 1995-96, 1996-97 and 1997-98. The amount of claims received has decreased since, with \$76 million received in 1998-99 and \$111 million in 1999-00. During 2000-01, the program received \$85.1 million in claims as of April 1, 2001, and will likely receive a total of approximately \$110 million in claims in 2000-01.

7. During the last two years, PECFA claims have been received at a rate of approximately \$8.8 million per month. If the current rate of claims continues, approximately \$210 million in claims would be received during the 2001-03 biennium. Commerce officials estimate that approximately \$190 million to \$235 million in claims might be received during 2001-03, which represents between a 10% decrease and a 30% increase in the annual rate of claims received. Commerce estimates that the amount of claims received will decrease each year beginning in 2003-04.

8. Debt service on the current \$270 million in revenue obligations is anticipated to equal approximately \$26 million in each of 2001-02 and 2002-03. Commerce estimates that if additional revenue obligations of \$100 million are issued during the 2001-03 biennium, with \$25 million of it issued in 2001-02 and \$75 million in 2002-03, debt service would increase by approximately \$2 million in 2001-02, \$9 million in 2002-03 and approximately \$9 to \$12 million annually beginning in 2003-04. The amount of debt service would vary, depending on the structure and timing of the issuance, and the amount of short-term versus long-term debt. For example, the current \$80 million in short-term obligations is structured for payments of interest only until it is either converted to long-term debt or repaid.

9. Petroleum inspection fee revenues of approximately \$110 to \$112 million annually are expected during the 2001-03 biennium. The following table shows the estimated condition of the petroleum inspection fund. Of this amount, \$13.7 million would be appropriated for: (a) Commerce petroleum tank and inspection programs; (b) Department of Revenue collection of the petroleum inspection fee; (c) petroleum inspection fee refunds to eligible airlines; and (d) brownfields, clean air and environmental programs in Commerce, the Department of Natural Resources, the Department of Transportation, the Department of Agriculture, Trade and Consumer Protection and the Department of Military Affairs. The remaining funds would be used for PECFA awards, PECFA revenue obligation debt service and Commerce and DNR PECFA administration.

**Petroleum Inspection Fund Estimated Condition**  
(\$ In Millions)

	1999-00 <u>Actual</u>	2000-01 <u>Estimated</u>	2001-02 <u>Estimated</u>	2002-03 <u>Estimated</u>
Opening Balance -- July 1	\$10.5	\$32.5	\$13.9	\$8.2
<b>Revenues</b>				
Petroleum Inspection Fee	\$110.4	\$113.3	\$111.3	\$111.9
Revenue Obligation Proceeds	233.0	20.0	45.0	75.0
Revenue Obligation Debt Service & Issuance	-7.9	-13.7	-28.0	-35.0
Interest on Revenue Bond Proceeds	1.0	0.3	0.3	0.3
Interest Income on Fund and Other	0.8	1.2	0.5	0.5
Petroleum Bulk Tank Fees	<u>0.0</u>	<u>0.0</u>	<u>1.7</u>	<u>0.3</u>
Total Revenue	\$337.4	\$121.0	\$130.8	\$152.9
Total Revenue Available	\$347.9	\$153.6	\$144.7	\$161.2
<b>Expenditures and Reserves</b>				
PECFA Awards and Administration	\$91.7	\$97.0*	\$78.3*	\$71.3*
PECFA Awards from Revenue Obligations	207.4	43.7	45.0	75.0
Other Programs	11.1	-0.5	13.7	13.7
Reserves and Lapses	0.0	-0.5	-0.5	-0.4
Encumbrances and Continuing Balances	<u>5.2</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
Total Expenditures	\$315.3	\$139.6	\$136.5	\$159.6
Closing Balance -- June 30	\$32.5	\$13.9	\$8.2	\$1.6

\*Assumes expenditures from the PECFA awards appropriation would be reduced to provide sufficient revenues to pay revenue obligation debt service costs.

10. The estimated annualized debt service costs of \$35 million, beginning in 2003-04, would represent a debt service coverage ratio of approximately 3.2:1. That is, there would be approximately \$3.20 of petroleum inspection fee revenue for every \$1 of debt service to ensure sufficient revenues to pay debt service. It is possible that obligations could be authorized in excess of the cumulative total of \$370 million under the bill if needed in the future, while maintaining a debt service ratio of between 2:1 to 3:1. A higher debt service coverage ratio generally makes the obligations more attractive in the bond market.

11. Authorized expenditures from the \$94,131,700 PECFA awards appropriation would need to be reduced to recognize funds that are dedicated to pay revenue obligation debt service costs. After payment of revenue obligation debt service costs and all other petroleum inspection fund appropriations under the bill, there would be sufficient revenues to expend from the PECFA awards appropriation approximately \$75 million in 2001-02 and \$68 million in 2002-03. The PECFA awards appropriation amount could be reduced to more accurately reflect the amounts available for awards.

12. Under the bill, there would be up to \$263 million available for PECFA awards during the 2001-03 biennium, including up to \$143 million in cash from the PECFA awards appropriation and \$120 million in revenue obligation proceeds (\$20 million of which is currently authorized). This compares to the estimated claim demand of \$190 to \$235 million during 2001-03. If demand is at the low end of the estimated range, up to \$73 million in revenue obligation proceeds will not be needed for PECFA claims until at least 2003-04. If demand is at the high end of the estimated range, approximately \$28 million in revenue obligation proceeds will not be needed until 2003-04. If demand exceeds estimates, the entire \$100 million may be needed during 2001-03.

13. If claim demand decreases after 2002-03, it is possible that \$100 million in revenue obligation proceeds might be sufficient to fund long-term bonding needs of the program. If demand increases above current estimates, it is possible that there would be a need for additional revenue obligations or review of overall funding for the program in 2003-05.

14. If the Committee chooses to approve a level of revenue obligation authority sufficient for PECFA needs during the 2001-03 biennium, it could authorize \$72 million instead of \$100 million in revenue obligations, and review the need for revenue obligation authority during 2003-05 biennial budget deliberations. However, it is likely that if the remaining \$28 million of requested authority is not needed during the 2001-03 biennium, it would be utilized in 2003-04. If authorized at this time, it could be issued for PECFA payments as needed by Commerce.

## ALTERNATIVES TO BASE

### A. Revenue Obligation Authority

1. Approve the Governor's recommendation to provide \$100,000,000 in revenue obligation authority for the PECFA program.

<u>Alternative A1</u>	<u>BR</u>
2001-03 BONDING (Change to Base)	\$100,000,000
[Change to Bill]	\$0]

2. Approve \$72 million in revenue obligation authority for the PECFA program.

<u>Alternative A2</u>	<u>BR</u>
2001-03 BONDING (Change to Base)	\$72,000,000
[Change to Bill]	- \$28,000,000]

3. Maintain current law.

<u>Alternative A3</u>	<u>BR</u>
2001-03 BONDING (Change to Base)	\$0
[Change to Bill]	- \$100,000,000]

#### **B. PECFA Awards Appropriation**

1. Decrease the PECFA awards appropriation by \$19,131,700 in 2001-02 to provide \$75,000,000 and by \$26,131,700 in 2002-03 to provide \$68,000,000 to reflect the reduction in amounts available for awards due to allocation of petroleum inspection funds to revenue obligation bond debt service.

<u>Alternative B1</u>	<u>SEG</u>
2001-03 FUNDING (Change to Base)	- \$45,263,400
[Change to Bill]	- \$45,263,400]

2. Maintain current law. (Commerce would have to reduce award expenditures to recognize funds dedicated for revenue obligation bond debt service.)

Prepared by: Kendra Bonderud

MO# A-2, B-1

BURKE	Y	N	A
DECKER	Y	N	A
MOORE	Y	N	A
SHIBILSKI	Y	N	A
PLACHE	Y	N	A
WIRCH	Y	N	A
DARLING	Y	N	A
WELCH	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
ALBERS	Y	N	A
DUFF	Y	N	A
WARD	Y	N	A
HUEBSCH	Y	N	A
COGGS	Y	N	A
HUBER	Y	N	A

AYE 16 NO 0 ABS 0

**Agency:** Commerce

**Paper #:** 303

**Issue :** PECFA Staff

**Recommendation :** A(3) & B(2) & C(1) & D2 (NOTE: Part D deals with DOJ)

Draft - A-2 b  
B-2  
C-1  
D-1

**Summary:**

Part A: any alternative, except alt 4, is ok, but there is an appeals backlog and these attorney spots should just be made permanent. Part B: Ask Lang if B(1) is included in B(2) or not. I'm confused. Part C: whatever. Part D. This one is IMPORTANT. We've given out over \$1 billion so far under PECFA and fraud could be a huge problem. DOJ needs the resources to address it. Alt. 2 provides the most definitive and stable source of funding for the fraud investigators.

**By:** Barry

A3, B2 C1 D2



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May 2, 2001

Joint Committee on Finance

Paper #303

### PECFA Staff (Commerce -- Building and Environmental Regulation)

[LFB 2001-03 Budget Summary: Page 189, #2]

#### CURRENT LAW

In 2000-01, Commerce is authorized \$3,575,500 and 48.8 positions to administer its responsibilities under the Petroleum Environmental Cleanup Fund Award (PECFA) program related to processing and paying PECFA claims and administering cleanup of medium- and low-risk sites. Commerce funding includes: (a) \$2,699,900 SEG and 34.8 positions (2.0 of which are project) from the petroleum inspection fund; (b) \$763,400 PR and 12.0 PR positions (3.0 of which are project) from the Federal Leaking Underground Storage Tank (LUST) program grant received through an interagency agreement with DNR; and (c) \$112,200 PR with 2.0 PR project positions that end June 30, 2001, from petroleum tank plan review and installation inspection fees.

#### GOVERNOR

Provide \$276,500 SEG in 2001-02 with 3.0 SEG positions from the petroleum inspection fund and \$328,600 SEG and \$131,300 PR in 2002-03 with 4.0 SEG positions and 3.0 PR positions for the following staff changes in the PECFA program.

a. Provide \$44,400 SEG in 2002-03 with 1.0 SEG project position to extend an attorney position to four years and extend the expiration date from September 1, 2002, to September 1, 2004. Further, provide \$49,000 SEG in 2001-02 and \$56,700 SEG in 2002-03 for 1.0 two-year project attorney position. The positions would work on PECFA appeals and other PECFA-related legal matters.

b. Provide \$131,300 PR in 2002-03 to convert 3.0 project hydrogeologist positions to permanent for administration of cleanup provisions at PECFA sites. Program revenue for the positions comes from a federal LUST program grant received through an interagency agreement

with the Department of Natural Resources (DNR).

c. Provide \$82,500 SEG annually to convert the funding source for 2.0 PR project claim review positions that expire July 1, 2001, from program revenue in the safety and buildings general operations appropriation to SEG petroleum inspection fund and to extend the expiration date of the project positions by two years to July 1, 2003.

d. Provide \$145,000 SEG annually to pay for contractual services with the Department of Justice for two special investigators to investigate fraud under the program.

## DISCUSSION POINTS

### A. Attorneys to Handle Appeals

1. Claimants are authorized to file an administrative appeal of a Commerce decision related to a PECFA claim. Under the bill, the PECFA program would have the following attorney positions to handle PECFA appeals: (a) one permanent attorney who is allocated 70% of time to PECFA appeals and 30% to other responsibilities of the Environmental Regulatory Services Division; (b) one four-year project attorney whose term expires on January 13, 2002 and is deleted under standard budget adjustments; (c) one project attorney whose two-year term would be extended from September 1, 2002 to September 1, 2004 (the two-year project position was authorized by the Joint Committee on Finance under s. 13.10 on July 12, 2000); and (d) one new project attorney with a two-year term from approximately November, 2001, to November, 2003.

2. In the 14 months prior to the availability of revenue bond proceeds for payment of PECFA claims (January, 1999 through February, 2000), Commerce paid 1,677 claims, averaging 120 payments per month. Of this total, approximately 20% of the claim decisions were appealed, or an average of 24 per month. Bond proceeds were first available on March 15, 2000. During the three months March through May, 2000, Commerce used revenue bond proceeds to pay \$219.5 million for 3,759 PECFA claims. During the six months April, through September, 2000, Commerce received 887 appeals, an average of 148 per month. This continued a trend of an appeals rate of approximately 20% of claims.

3. In calendar year 2000, the Department received 1,092 appeals and closed 618 appeals. As of March 1, 2001, there was a backlog of 699 appeals received and pending final action. Commerce currently notifies claimants who submit appeals that the Department anticipates that by the end of 2001 it will schedule hearings for appeals filed prior to March 15, 2000. Commerce has reduced the time required to settle many appeals by referring the appeal back to the claim reviewer at the same time legal staff acknowledge receipt of the appeal so that the claim reviewer can review any new information submitted with the appeal. However, with the currently authorized legal staff the appeals backlog would be at least two to three years.

4. Commerce recently updated a detailed analysis that estimates the attorney workload between now and 2004. The original analysis assumed an experienced attorney can complete 100 "work units" per month, consisting of either 100 quick appeals settlements, 10 settlements that

involve more substantial work or five appeal hearings. The updated analysis showed that the original June, 2000, methodology demonstrated a reasonable approach to estimating the appeals workload between that date and now.

5. The extension of one project position from September 1, 2002, to September 1, 2004, and a new two-year project position provided in the bill would result in an estimated appeals backlog on June 30, 2003, that would take 2.7 attorneys approximately 1.8 years to resolve. The two project attorneys would likely shorten the appeals backlog from the current level of 700 to approximately 400 to 500 by June 30, 2003. The backlog would begin to increase after the recommended two-year project position expires in late 2003. This analysis does not include any appeals that would result from issuance of \$100 million in revenue obligation bonding authority under the bill. Appeals resulting from \$100 million in revenue obligation proceeds could add approximately one year to the appeals backlog.

6. The backlog would likely extend beyond the expiration dates of the project positions in the bill and represents long-term workload for the PECFA program of four or more years. It is likely that the ongoing nature of the appeals workload will be at least one full time position greater than the 0.7 position that is provided through the permanent attorney position. When workload is of an ongoing nature that continues beyond four years, it is appropriate to provide permanent position authority. Both of the attorney positions could be provided as permanent rather than project, to reflect the ongoing workload. Alternatively, the existing project attorney position that expires on September 1, 2002 could be converted to permanent and the new project position could be provided for a four-year instead of two-year term.

7. Commerce may be more likely to attract and retain experienced and qualified candidates if it offered permanent, rather than project position employment. The two current project attorneys began employment with Commerce in February, 2001. It is possible that the program could minimize turnover and time lost to training new attorneys if a permanent position would be available.

#### **B. Hydrogeologists**

8. On May 3, 2000, the Joint Committee on Finance approved 9.0 PR permanent and 3.0 PR, two-year project positions. The project positions expire on July 1, 2002. The three positions were approved as project instead of permanent because during 1999-01, Commerce reallocated some of the federal leaking underground storage tank (LUST) funds received from the interagency agreement with DNR to support existing Commerce staff funded from SEG petroleum inspection funds, in order to free up SEG funds to pay for two Department of Justice positions (described in section "D" of this paper) through June 30, 2001.

9. In federal grant year 2000, DNR was the Wisconsin recipient of a \$1,661,000 LUST grant from EPA. After approval of a funding allocation by the Joint Committee on Finance in May, 2000, EPA, DNR and Commerce agreed that DNR would provide Commerce with \$798,200 of the grant. DNR and Commerce have applied for separate LUST grants for 2001. EPA approved a separate grant for Commerce, effective April, 2001.

10. Commerce has recently requested DOA authorization under s. 16.54 for 12.0 federal positions to be funded from the federal LUST grant. Legislative authorization is not needed for the federal positions. With the creation of the federal positions, the 12.0 PR positions and associated funding will not be needed and could be deleted as noncontinuing items.

### C. Claim Reviewers

11. 1999 Act 9 provided Commerce with \$84,200 SEG in 1999-00 for 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. Fees collected under the provision would have funded the two claim review staff.

12. Any fees charged by Commerce or DNR after October 29, 1999, for the approval of case closure and other requested assistance are not reimbursable expenses under the PECFA program. Since September 19, 1998, DNR has charged fees related to case closures and much of the technical and redevelopment assistance provided by DNR for various brownfields initiatives. Prior to Act 9, the DNR fees were reimbursable under the PECFA program.

13. On May 3, 2000, the Joint Committee on Finance approved 2.0 PR one-year project positions funded from petroleum tank review and inspection fees in the safety and buildings general operations appropriation and deleted 2.0 PR project positions under the appropriation for petroleum storage remedial action fees. The Governor's 2001-03 budget includes a separate recommendation to deposit the petroleum tank review and inspection fees in the SEG petroleum inspection fund instead of in the safety and buildings program revenue appropriation.

14. In May, 2000, Commerce argued that it did 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. Commerce has not promulgated fees under the Act 9 authority. At the March, 2001, Joint Committee on Finance agency budget briefings, the Commerce Secretary indicated the Department would be willing to review the issue.

15. Under the bill, Commerce would receive an additional two years of position authority for two claim review staff. Further, under the bill Commerce would not utilize the Act 9 provision to collect fees from PECFA claimants to pay for a portion of program costs. While this would be less burdensome to the 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. The DNR fee for a closeout determination on a PECFA site is currently \$750. Further, had Commerce complied with the Act 9 provisions, the Governor and Legislature could have evaluated whether fee

revenues were adequate to support additional program costs in the 2001-03 biennium.

16. Currently, the two project positions are vacant. One of the individuals formerly in the positions filled a permanent claim reviewer position funded from the PECFA SEG appropriation, and the other individual moved on to another job. There are 11 permanent claim reviewer positions, one of which is vacant and going through the recruitment process.

17. If the Governor's recommendation is not approved, Commerce could choose to promulgate rules to establish fees under the Act 9 provision to fund claim reviewer activities. This would also encourage more equal treatment of PECFA claimants. Commerce could request PR position and expenditure authority from the Joint Committee on Finance under section 16.505/515 once it begins to assess fees.

18. Further, the Committee could consider requiring DNR and Commerce to charge uniform fees to ensure equal treatment of petroleum tank owners.

#### **D. Department of Justice Contract**

19. On May 3, 2000, the Joint Committee on Finance approved a Department of Justice (DOJ) section 16.505 request for 2.0 PR permanent special agent positions to investigate criminal activity under the PECFA program. The positions are funded from an interagency agreement with Commerce. The positions have investigated several issues of potential fraud under PECFA.

20. During the 1999-01 biennium, Commerce paid for the DOJ staff by reallocating some of the federal LUST funds received from the interagency agreement with DNR to support existing Commerce staff funded from SEG petroleum inspection funds, thus freeing up SEG funds to pay for the two DOJ positions through June 30, 2001. In addition, in 2000-01, Commerce received DOA approval to release \$51,500 from unallotted reserve that is authorized for contracts for field audit of the remediation work at PECFA sites, and to use those funds for a portion of the DOJ investigator costs. Commerce has determined that it can accomplish the original goals of the field audit activities with existing staff.

21. The DOJ contract will cost Commerce \$202,700 in 2000-01, and will cost approximately \$204,300 in 2001-02 and \$206,000 in 2002-03 (depending on DOJ staff salary increases). The \$145,000 provided in the bill, combined with the reallocated \$51,500, would provide Commerce with \$196,500 to pay DOJ costs. This would require Commerce to reallocate approximately \$7,300 during the 2001-03 biennium from existing resources to pay the remainder of DOJ costs.

22. Another option for paying for the DOJ PECFA fraud investigators would be to transfer SEG funding from the petroleum inspection fund to a DOJ investigations appropriation and convert the DOJ positions from PR to SEG. However, it could be argued that funding the DOJ costs through an interagency agreement would allow Commerce more involvement in PECFA investigation decisions by DOJ than may occur if the DOJ costs are funded through a separate appropriation.

23. If the \$145,000 is not provided, Commerce could continue to reallocate SEG funds currently allocated to PECFA audit, claim review or administration of cleanup activities.

**ALTERNATIVES TO BASE**

**A. Attorneys to Handle Appeals**

1. Approve the Governor's recommendation to (a) provide \$44,400 SEG in 2002-03 with 1.0 SEG project position to extend an attorney position to four years and extend the expiration date from September 1, 2002, to September 1, 2004; and (b) provide \$49,000 SEG in 2001-02 and \$56,700 SEG in 2002-03 for 1.0 two-year project attorney position.

<b>Alternative A1</b>	<b>SEG</b>
<b>2001-03 FUNDING</b> (Change to Base)	\$150,100
[Change to Bill]	\$0]
<b>2002-03 POSITIONS</b> (Change to Base)	2.00
[Change to Bill]	0.00]

2. Approve the Governor's recommendation with one or both of the following modifications:

- a. Convert the existing project attorney position that expires on September 1, 2002, to permanent.
- b. Provide a new project attorney position with a four-year instead of two-year term.

3. Instead of approving the Governor's recommendation, provide \$49,000 SEG in 2001-02 and \$101,100 SEG in 2002-03 for 2.0 permanent attorney positions.

<b>Alternative A3</b>	<b>SEG</b>
<b>2001-03 FUNDING</b> (Change to Base)	\$150,100
[Change to Bill]	\$0]
<b>2002-03 POSITIONS</b> (Change to Base)	2.00
[Change to Bill]	0.00]

4. Maintain current law. (The PECFA program would maintain the existing permanent attorney, the existing project attorney that expires on January 13, 2002 and the existing project attorney that expires on September 1, 2002.)

<u>Alternative A4</u>	<u>SEG</u>
2001-03 FUNDING (Change to Base)	\$0
[Change to Bill]	- 150,100]
2002-03 POSITIONS (Change to Base)	0
[Change to Bill]	- 2.0]

## B. Hydrogeologists

1. Approve the Governor's recommendation to provide \$131,300 PR in 2002-03 to convert 3.0 project hydrogeologist positions to permanent for administration of cleanup at PECFA sites.

<u>Alternative B1</u>	<u>PR</u>
2001-03 FUNDING (Change to Base)	\$131,300
[Change to Bill]	\$0]
2002-03 POSITIONS (Change to Base)	3.00
[Change to Bill]	0.00]

2. Delete \$612,100 PR in 2001-02 and \$655,700 PR in 2002-03 with 12.0 PR positions to reflect that ongoing funding for the positions will be provided through a direct federal LUST grant to Commerce instead of through an interagency agreement with DNR.

<u>Alternative B2</u>	<u>PR</u>
2001-03 FUNDING (Change to Base)	- \$1,226,600
[Change to Bill]	- 1,267,800]
2002-03 POSITIONS (Change to Base)	- 12.00
[Change to Bill]	- 12.00]

## C. Claim Reviewers

1. Approve the Governor's recommendation to provide \$82,500 SEG annually to convert the funding source for 2.0 PR project claim review positions from program revenue in the safety and buildings general operations appropriation to SEG petroleum inspection fund and to extend the expiration date of the project positions by two years to July 1, 2003.

<u>Alternative C1</u>	<u>SEG</u>
2001-03 FUNDING (Change to Base)	\$165,000
[Change to Bill]	\$0]
2002-03 POSITIONS (Change to Base)	2.00
[Change to Bill]	0.00]

2. Provide \$41,200 PR in 2001-02 and \$82,500 PR in 2002-03 and 2.0 PR positions and require Commerce and DNR to charge uniform fees for case closure and providing other assistance requested by claimants at petroleum sites.

<u>Alternative C2</u>	<u>PR</u>
2001-03 FUNDING (Change to Base) [Change to Bill]	\$123,700 \$123,700]
2002-03 POSITIONS (Change to Base) [Change to Bill]	2.00 2.00]

3. Maintain current law. (Commerce could seek program revenue staff after administrative rules are promulgated to assess fees under 1999 Act 9.)

<u>Alternative C3</u>	<u>SEG</u>
2001-03 FUNDING (Change to Base) [Change to Bill]	\$0. - \$165,000]
2002-03 POSITIONS (Change to Base) [Change to Bill]	0.00 - 2.00]

**D. Department of Justice Contract**

1. Approve the Governor's recommendation to provide \$145,000 SEG annually to pay for contractual services with the Department of Justice for two special investigators to investigate fraud under the program.

<u>Alternative D1</u>	<u>SEG</u>
2001-03 FUNDING (Change to Base) [Change to Bill]	\$290,000 \$0]

2. Instead of providing funds to Commerce to pay the DOJ contract, provide a direct appropriation to DOJ from the petroleum inspection fund to pay for the positions. Provide DOJ with \$204,300 SEG in 2001-02 and \$206,000 SEG in 2002-03 with 2.0 SEG positions. In DOJ, delete \$157,200 PR and 2.0 PR positions annually. In Commerce, delete \$196,500 SEG annually (\$145,000 provided in the bill to pay the DOJ contract and \$51,500 annually in base authority that would be reallocated under the bill to pay DOJ costs).

<u>Alternative D2</u>	<u>PR</u>	<u>SEG</u>	<u>TOTAL</u>
2001-03 FUNDING (Change to Base)	\$0	\$307,300	\$307,300
[Change to Bill]	-\$314,400	\$17,300	-\$297,100]
2002-03 POSITIONS (Change to Base)	-2.00	2.00	0.00
[Change to Bill]	-2.00	2.00	0.00]

3. Maintain current law. (Commerce would have to reallocate existing resources to pay for any contract with DOJ.)

<u>Alternative D3</u>	<u>SEG</u>
2001-03 FUNDING (Change to Base)	\$0
[Change to Bill]	-\$290,000]

Prepared by: Kendra Bonderud

MO# Alt. 1-2(b), B-2  
C-1, D-1

2 BURKE	<input checked="" type="checkbox"/>	N	A
DECKER	<input checked="" type="checkbox"/>	N	A
MOORE	<input checked="" type="checkbox"/>	N	A
SHIBILSKI	<input checked="" type="checkbox"/>	N	A
PLACHE	<input checked="" type="checkbox"/>	N	A
WIRCH	<input checked="" type="checkbox"/>	N	A
DARLING	<input checked="" type="checkbox"/>	N	A
WELCH	<input checked="" type="checkbox"/>	N	A
GARD	<input checked="" type="checkbox"/>	N	A
KAUFERT	<input checked="" type="checkbox"/>	N	A
ALBERS	<input checked="" type="checkbox"/>	N	A
DUFF	<input checked="" type="checkbox"/>	N	A
WARD	<input checked="" type="checkbox"/>	N	A
HUEBSCH	<input checked="" type="checkbox"/>	N	A
COGGS	<input checked="" type="checkbox"/>	N	A
HUBER	<input checked="" type="checkbox"/>	N	A

AYE 16 NO 0 ABS 0

**Agency:** Commerce

**Paper #:** 304

**Issue:** PECFA, High Cost Sites

Alt.  
Duff - 4

**Recommendation:** Alternative 2(a) & 3

**Summary:**

This is a fairly big deal. The governor is attempting to transfer more PECFA cases to Commerce and away from DNR - even ones that Commerce doesn't really have legal authority to handle (i.e. non-petroleum spills). The governor's proposal also conflicts with the state's hazardous substance spills law. Alt. 2(a) & 3 make needed changes but still implement the guts of the governor's proposal.

**By:** Barry

2a + 3



## Legislative Fiscal Bureau

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May 2, 2001

Joint Committee on Finance

Paper #304

### **PECFA -- High-Cost Sites (Commerce -- Building and Environmental Regulation)**

[LFB 2001-03 Budget Summary: Page 190, #3]

#### **CURRENT LAW**

DNR administers remedial actions and completion of cleanup at high-risk petroleum storage tank discharge sites and at medium- and low-risk petroleum storage tank discharge sites that also have contamination from non-petroleum hazardous substances. Commerce administers remedial actions and completion of cleanup at low- and medium-risk petroleum storage tank discharge sites.

#### **GOVERNOR**

Create a definition of "high-cost site" to mean the site of a discharge of a petroleum product from a petroleum storage tank at which more than \$200,000 in eligible PECFA costs have been incurred. Create a definition of "category one high-cost site" to mean a site of a discharge that is a high-cost site on November 30, 2001, for which written approval of the completion of remedial action activities has not been issued on or before that date by DNR or Commerce, whichever agency has jurisdiction. The two Departments would be required to oversee the remedial action activities at these sites in a manner that remedial action activities are completed for at least 15% of those sites in each 12-month period and that remedial action activities are completed at all category one high-cost sites no later than December 1, 2006, or 10 years after the site investigation is completed, whichever is later.

Create a definition of "category 2 high-cost site" to mean a site of a discharge that becomes a high-cost site after November 30, 2001, if either more than \$400,000 in eligible PECFA costs have been incurred or remedial action activities have not been completed within seven years after the site investigation is completed. Commerce would be required to oversee the remedial action activities for category 2 high-cost sites. This means that sites classified as

category 2 high-cost sites under the bill that are currently high-risk sites under the jurisdiction of DNR would be transferred to Commerce. Under the bill, Commerce would be required to administer the remedial action activities at category 2 high-cost sites so that remedial action activities are completed within three years after the site becomes a category 2 high-cost site.

The requirement that DNR and Commerce administer the remedial action activities at PECFA sites so that remediation is completed within a certain period of time would not apply to a PECFA claimant that: (a) is a local government, if federal or state financial assistance other than from PECFA, has been provided for that expansion or redevelopment; or (b) is engaged in the expansion or redevelopment of brownfields, if federal or state assistance other than PECFA, has been provided for that expansion or redevelopment.

## DISCUSSION POINTS

1. DOA officials indicate that the intent of the provision is to place more emphasis on directly managing the cleanup of high-cost PECFA sites within a reasonable time frame and thus reducing overall costs to the program.

2. As the PECFA program matures, most of the site owners or operators who are able or willing to complete a site cleanup will have done so. The remaining sites are more likely to have owners who are unwilling or unable to complete the cleanup, or owners who are not credit worthy and can not obtain financing to complete the cleanup, or may have complex cleanups that may take a long time to complete. Commerce and DNR administration of cleanup at these sites might involve increased enforcement actions, active review of the cost of sites and increased bidding of remediation proposals.

3. Not all sites that incur more than \$200,000 in eligible PECFA costs would be "category one" or "category 2" high-cost sites. High-cost sites would include the following types of sites:

a. Sites that have incurred more than \$200,000 in eligible PECFA costs on or before November 30, 2001, would be category one high-cost sites. This would be a fixed group of sites. Commerce estimates that there are at least 1,000 open sites that fit this definition, based on data submitted by lenders about unreimbursed outstanding loan balances and Commerce data about reimbursed costs. However, this includes data from approximately two-thirds of lenders and does not include data from the two largest lenders, so the number of category one high-cost sites is probably higher. (Commerce estimated that as of December, 2000, there were approximately 500-600 open active sites where one or more claims have been paid totaling more than \$200,000, but this does not include sites where a claim has been paid for less than \$200,000 but total incurred costs are more than \$200,000.) DNR and Commerce would have to oversee the remedial action activities at these sites so that the remedial action activities are completed for at least 15% of the sites in each 12-month period and for all of the sites no later than December 1, 2006, or 10 years after the site investigation is completed, whichever is later.

b. Sites that incurred \$200,000 or less in eligible PECFA costs on or before November

30, 2001, would not be category one high-cost sites. If the eligible costs at such a site exceed \$200,000 after November 30, 2001, it would not become a category 2 high-cost site until it incurs more than \$400,000 in eligible PECFA costs or if more than seven years elapse after the investigation with no completion of remedial action activities. Thus, some sites would eventually incur over \$200,000 in eligible PECFA costs but would not be a category one or category 2 high-cost site and Commerce and DNR would not be required to oversee the remedial action activities at these sites to reach completion within a specific amount of time.

c. Sites that incurred \$200,000 or less in eligible PECFA costs on or before November 30, 2001, would become category 2 high-cost sites if eligible costs incurred exceed \$400,000 after November 30, 2001, or if the costs incurred at the site exceed \$200,000 after November 30, 2001, and remedial action activities have not been completed within seven years after the investigation is completed. Any of these sites currently under the jurisdiction of DNR would be transferred to Commerce when they become a category 2 high-cost site. This would include high-risk petroleum tank sites and any site under the jurisdiction of DNR (including medium- or low-risk sites) because of contamination from a hazardous substance other than petroleum in addition to contamination from a petroleum product discharge. Commerce would be required to administer the remedial action activities at the portion of the site contaminated by petroleum so that the remedial action activities are completed within the three years after the site becomes a category 2 high-cost site. Under the bill, DNR would retain jurisdiction for the non-petroleum portion of the contamination at a category 2 high-cost site.

4. The requirement in the bill that DNR and Commerce oversee the remedial action activities at certain high-cost sites so that the remedial action activities are completed within a specified period of time is in potential conflict with the compliance requirements under the hazardous substance spills law. The bill could be amended to specify that the requirement that DNR and Commerce oversee completion of remedial action activities within certain periods of time does not exempt Commerce and DNR from complying with the hazardous substances spills law.

5. The proposed inclusion within the definition of category 2 high-cost sites under Commerce jurisdiction of some sites that have contamination from a hazardous substance other than petroleum in addition to the petroleum product discharge, represents a change in current policy that retains jurisdiction for all non-petroleum sites under DNR. The statutes specify that DNR has jurisdiction for sites with contamination from non-petroleum sources in addition to petroleum sources. If the Committee wishes to maintain the current policy, the bill could be amended to exempt sites with contamination from a hazardous substance other than petroleum from the definition of category 2 high-cost sites.

6. Commerce is currently authorized to administer remedial actions at sites with discharges of a petroleum product from a petroleum product storage tank and is not authorized to respond to discharges of non-petroleum product. While the bill would transfer some category 2 high-cost sites from DNR to Commerce that have contamination from a non-petroleum hazardous substance, the bill does not authorize Commerce to administer remedial action activities at such sites. Under the bill, some category 2 high-cost sites transferred from DNR to Commerce have petroleum and non-petroleum contamination, so Commerce would administer the petroleum

cleanup but DNR would retain responsibility for administering the cleanup of the non-petroleum contamination at the site. DNR has been given jurisdiction for these sites to avoid having two agencies responsible for one site. If the Committee wishes to provide Commerce with the authority to administer cleanup of hazardous substances other than petroleum product discharges at category 2 high-cost sites, the bill could be amended to do so.

7. The bill does not contain any penalties for DNR, Commerce or site owners if cleanup at less than 15% of category one high-costs is completed each year. For example, if one or both of the agencies oversee remedial action activities so as to complete 14.9% of cleanups at category one high-cost sites in a year, the agencies would not be in compliance with the law but there would be no penalties for the agencies or the owners of open active category one high-cost sites. DOA officials indicate that the 15% requirement could be viewed as a goal. However, the bill includes it as a requirement. DOA indicates that if DNR and Commerce do not close 15% of sites in each of the next two years, DOA would offer alternative solutions in the 2003-05 biennial budget.

8. Commerce has implemented an Internet-based method for collecting information about costs incurred from lenders and is in the process of implementing an Internet-based method for collecting information from consultants about future costs and the status of site remediations. It is unclear how Commerce and DNR will determine whether the costs incurred exceed \$200,000 on November 30, 2001, to meet the definition of a category one high-cost site. It is also unclear how the agencies will determine the point in time after November 30, 2001, that the costs incurred at a site exceed \$400,000. The databases of the two agencies should have sufficient information to determine the point in time that seven years has elapsed since the investigation was completed.

9. Administrative rule Comm 47.338 has a process, effective January 1, 1999, that allows Commerce to require a redetermination of costs for any existing site to establish a total cost, excluding interest but including all closure costs, to achieve the status of a closed remedial action. After reviewing the total cost, Commerce may approve and establish a cap on total costs, excluding interest; deny approval of costs; approve system enhancements; bundle the site with another remediation; or direct the site through a public bid process to establish a lower site cost. Commerce and DNR are beginning to implement this provision. Commerce and DNR are also beginning to receive annual reports from sites about the status of cleanup and, during 2001, to develop the process of an annual review of sites as required under 1999 Act 9. Under both of these provisions, the maximum reimbursement for a specific site can be limited.

10. The proposed exemption of certain local governments or persons engaged in brownfields redevelopment with other state or federal financial assistance from the requirement that DNR and Commerce administer the cleanup within specified periods of time could be viewed as a recognition that these projects sometimes take a longer period than projects managed by the responsible party. The exemption would recognize that local governments or persons engaged in brownfields projects often get involved only after a property has been abandoned or has sat idle with contamination identified but no remediation work being accomplished for a long period of time. However, since the requirement is placed on DNR and Commerce to oversee cleanups within specified times rather than for an individual site to complete a cleanup within a specified time, it is

unclear what effect the exemption would have on specific sites.

11. It could be argued that the current statutes and administrative rules contain sufficient provisions to establish a maximum reimbursable site cost, excluding interest, and that the proposed definitions of high-cost sites do not enhance that authority. Further, the proposed directive for Commerce and DNR to oversee cleanups of certain sites within a specified time may be difficult to administer for specific sites, may be largely unenforceable and is in potential conflict with the hazardous substance spills law.

## **ALTERNATIVES TO BASE**

1. Approve the Governor's recommendation to: (a) create the definitions of high-cost sites; (b) direct Commerce and DNR to oversee cleanup at category one high-cost sites so that cleanup is completed for at least 15% of those sites is completed in each 12-month period and is completed at all category one high-cost sites no later than December 1, 2006, or 10 years after the site investigation is completed, whichever is later; (c) direct Commerce to oversee cleanup at category 2 high-cost sites; (d) direct Commerce to oversee cleanup at category 2 high-cost sites so that cleanup is completed within three years after the site becomes a category 2 high-cost site; and (e) specify that the requirement that DNR and Commerce administer cleanup activities so that they are completed within a specified period of time would not apply to certain local governments and persons engaged in the expansion or redevelopment of brownfields.

2. Approve the Governor's recommendation and modify authority over sites contaminated by hazardous substances other than petroleum in one of the following ways:

a. Specify that category 2 high-cost sites would not include sites contaminated by a hazardous substance other than the petroleum product that was discharged from the petroleum product storage tank. (These sites would remain under DNR jurisdiction as they are under current law.)

b. Specify that if a category 2 high-cost site is transferred from DNR to Commerce under the bill and has contamination from a hazardous substance other than the petroleum product that was discharged from a petroleum product storage tank, Commerce would be authorized to administer the cleanup of both the petroleum and non-petroleum hazardous substances.

3. Approve the Governor's recommendation as modified to specify that as DNR and Commerce oversee the remedial action activities at category one high-cost sites, or as Commerce oversees the remedial action activities at category 2 high-cost sites, the current requirement to follow the hazardous substances spills law takes precedence over the requirement to oversee remedial action activities so that the remedial action activities are completed within specified periods.

4. Maintain current law.

Prepared by: Kendra Bonderud

MO#

no motion

BURKE	Y	N	A
DECKER	Y	N	A
MOORE	Y	N	A
SHIBILSKI	Y	N	A
PLACHE	Y	N	A
WIRCH	Y	N	A
DARLING	Y	N	A
WELCH	Y	N	A

GARD	Y	N	A
KAUFERT	Y	N	A
ALBERS	Y	N	A
DUFF	Y	N	A
WARD	Y	N	A
HUEBSCH	Y	N	A
COGGS	Y	N	A
HUBER	Y	N	A

AYE \_\_\_\_\_ NO \_\_\_\_\_ ABS \_\_\_\_\_

**Agency:** Commerce

**Paper #:** 305

**Issue:** PECFA, Interest Cost Reimbursement

**Recommendation:** A(1)(b) & 2  
B(3) & (5)  
C(1)  
D(1)

Duff - A(1)(b) + 2  
B-7  
C-1  
D-1

**Summary:**

Don't really care what happens here. The governor's recommendations are ok, but some of FB's suggestions seem a little more fair for existing claimants.

**By:** Barry

OK



## Legislative Fiscal Bureau

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May 2, 2001

Joint Committee on Finance

Paper #305

### **PECFA -- Interest Cost Reimbursement (Commerce -- Building and Environmental Regulation)**

[LFB 2001-03 Budget Summary: Page 191, #4]

#### **CURRENT LAW**

Under the Petroleum Environmental Cleanup Fund Award (PECFA) program, the maximum reimbursable interest costs are 1% above the prime rate for loans secured on or after October 17, 1997, and before November 1, 1999. For loans secured on or after November 1, 1999, reimbursement for interest costs is limited based on the applicant's gross revenues in the most recent tax year as follows: (a) if gross revenues are up to \$25 million, interest reimbursement is limited to the prime rate minus 1%; and (b) if gross revenues are over \$25 million, interest reimbursement is limited to 4%.

#### **GOVERNOR**

Limit interest cost reimbursement for PECFA claimants as follows: (a) if an applicant submits the final PECFA claim for reimbursement of cleanup costs under the program later than the 60<sup>th</sup> day after receiving written notification from DNR or Commerce that no further remedial action is necessary with respect to the discharge, the applicant is ineligible for reimbursement for interest costs incurred after that day; (b) if cleanup activities are not completed within 10 years (the first day of the 121<sup>st</sup> month) after the investigation of the petroleum storage tank discharge was completed, the applicant is ineligible for reimbursement for interest costs incurred after the 10-year period; and (c) if the site investigation was completed more than five years (the first day of the 61<sup>st</sup> month) after the applicant notified DNR or Commerce about the discharge or more than two years (the first day of the 25<sup>th</sup> month) after the effective date of the bill, whichever is later, the applicant is ineligible for reimbursement for interest costs incurred after the later of those periods.

Create a definition of "category one high-cost sites" that have incurred more than \$200,000 in PECFA costs on November 30, 2001, for which written approval of the completion of remedial action activities has not been issued on or before that date. Specify that for category one high-cost sites, if the 121<sup>st</sup> month after completion of the investigation happens before December 1, 2006, and the site cleanup has not been completed, interest costs would be ineligible after December 1, 2006, rather than being ineligible costs after the 121<sup>st</sup> month as for sites that are not category one high-cost sites.

The interest cost reimbursement limits under the bill would not apply to: (a) local government applicants who receive federal or state financial assistance other than PECFA for the expansion or redevelopment; and (b) applicants engaged in the expansion or redevelopment of brownfields, if federal or state financial assistance other than PECFA was provided for the expansion or redevelopment.

## DISCUSSION POINTS

1. The provisions would end loan interest cost reimbursement after specific dates for PECFA sites that do not complete specified activities after the date. The effect of the bill would vary for individual PECFA sites, depending on the time that elapses: (a) between notification of the discharge and completion of the site investigation; (b) between completion of the site investigation and completion of the remedial action activities; and (c) after completion of remedial action activities until submittal of the final PECFA claim. The effect would also vary depending on whether a site has incurred more than \$200,000 in PECFA costs on November 30, 2001.

2. The administration indicates that the intent of the provision is to encourage owners and consultants to complete site cleanup, and that the potential to lose interest cost reimbursement should compel them to bring their sites to closure in a timely manner. Further, the provision would limit state PECFA reimbursement for interest costs at sites where cleanups may be proceeding slowly.

3. Most sites would have five years between the notification of the discharge and completion of the site investigation, 10 years between completion of the site investigation and completion of the remedial action activities and 60 days between completion of the cleanup and submittal of the final claim before the owners lose any interest cost reimbursement.

4. In comparison, the agricultural chemical cleanup program administered by the Department of Agriculture, Trade and Consumer Protection specifies that applicants lose program eligibility if they do not submit a claim within three years of completing the investigation and cleanup of the agricultural chemical spill. The program does not reimburse loan interest costs incurred before the applicant submits the claim to DATCP, but pays interest reimbursement at the prime rate from the date DATCP receives a complete application to the date DATCP pays the claim.

### **Submittal of a Final Claim**

5. Under the bill, PECFA claimants would have 60 days after receiving written notification that no further action is necessary with respect to the discharge, to submit the final PECFA claim. Claimants would be ineligible for reimbursement of interest costs after that date. Eligible costs and interest costs incurred before the 60 days would continue to be eligible costs. The provision would encourage claimants to submit the final PECFA claim in a timely fashion after completion of the cleanup. The provision would also limit state expense for interest costs incurred after a cleanup is completed.

6. Commerce and industry officials note that it may be difficult in some cases for claimants to gather the necessary paperwork in 60 days. It might take 90 to 180 days for claimants to receive all invoices from contractors and consultants, pay invoices, obtain required canceled checks from lenders and assemble documentation of expenses before submitting a claim to Commerce. The bill could be amended to provide a longer deadline to assemble required documentation for submittal of a claim, yet retain the bill's incentive to submit a claim in a timely manner. However, the administration indicates that 60 days should be adequate in most cases.

7. If written notification that no further remedial action is necessary occurred more than 60 days before the effective date of the bill, claimants could lose reimbursement of interest costs on the effective date of the bill. In addition, while it might be difficult for Commerce to impose the interest cost limitation retroactively, the bill does not prohibit Commerce from doing so if the 60 days happens before the effective date of the bill. It could be argued that claimants should not potentially lose interest cost reimbursement retroactively. The bill could be amended to clarify this.

8. It could also be argued that all claimants should have time after the effective date of the bill to submit their final claim before losing interest cost reimbursement. The bill could be amended to allow a claimant who received written notification before the effective date of the bill the same number of days to submit a claim as a claimant who receives written notification on or after the effective date of the bill. For example, if the Governor's recommendation would be adopted to require that interest costs incurred after the 60<sup>th</sup> day after receiving the written notification would be ineligible costs, the bill could also be amended to provide that if the written notification occurred before the effective date of the bill, interest costs incurred after the 60<sup>th</sup> day after the effective date of the bill would be ineligible costs.

### **Time Period after Completion of a Site Investigation**

9. Under the bill, if the remedial action activities are not completed within 10 years after the site investigation was completed, the claimant would be ineligible for reimbursement for interest costs incurred after the 10-year period. However, "category one high-cost sites" that have incurred more than \$200,000 in PECFA costs on November 30, 2001, would have at least until December 1, 2006, to complete the remedial action activities before losing interest cost reimbursement.

10. It could be argued that 10 years is a sufficiently long period of time for a site to be in the cleanup phase after the site investigation is completed, and that the provision would provide an incentive for a site owner or operator to hasten the cleanup to closure. However, it is likely that many sites that take more than 10 years to finish the cleanup take a long time because they have complex environmental issues, affect groundwater or drinking water supplies, have contamination from petroleum and non-petroleum sources, have complicated business or ownership issues, or have a responsible party that is unable or unwilling to finance a cleanup. Site owners for some of these sites may have requested DNR or Commerce to approve the completion of the remedial action activities and may have been told to complete additional activities before the approval will be granted.

11. DNR officials estimate that there are 3,534 open sites in the databases of both DNR and Commerce that have site investigations. In the database of DNR sites that have not been reconciled with the Commerce database, there are an additional 227 sites that have site investigations. Out of these two groups of sites, approximately 80-110 sites will have site investigations older than 10 years old in the fall of 2001. If remedial action activities are not completed at these sites between now and the effective date of the bill, these sites would lose interest cost reimbursement for costs incurred on the effective date of the bill (if the site investigation is 10 years on the effective date). Additional sites will reach the 10-year milestone after the effective date of the bill.

12. The bill does not prohibit Commerce from limiting interest cost reimbursement retroactively if the date that the site investigation reaches 10 years old happens before the effective date of the bill. It could be argued that claimants should not lose interest cost reimbursement retroactively. The bill could be amended to specify that if 10 years after the completion of the site investigation occurred before the effective date of the bill, interest cost reimbursement would end on (not before) the effective date.

13. A "category one high-cost site" that incurs more than \$200,000 in eligible costs on November 30, 2001, with a site investigation older than December 1, 1996 (approximately five years before the effective date of the bill) would have approximately five years after the effective date of the bill to complete the cleanup (fall of 2001 to December 1, 2006). If a category one high-cost site has a site investigation that was completed since December 1, 1991, it would have 10 years after the date of the site investigation to complete the cleanup before losing interest cost reimbursement.

14. If a site incurs \$200,000 or less in costs on or before November 30, 2001, it may or may not incur more than \$200,000 in costs after November 30, 2001, and would lose interest cost reimbursement at whatever date it reaches 10 years after the site investigation. This distinction could cause three sites with similar costs and similar site investigation completion dates to lose interest cost reimbursement on very different dates. For example, if hypothetical Site "A", Site "B" and Site "C" all had site investigations completed on January 1, 1992, their eligibility for interest cost reimbursement could end on different dates. If Site A incurs \$201,000 in eligible costs by November 30, 2001, it would lose interest cost reimbursement if the cleanup is not completed by December 1, 2006. If Site B incurs \$199,000 in costs by November 30, 2001, and no costs after that

date (but does not receive a site closeout authorization until 2002), it would lose interest cost reimbursement if the cleanup is not completed by January 1, 2002. If Site C incurs \$199,000 in costs by November 30, 2001, and an additional \$2,000 in costs in December, 2001, it would have the same total costs as Site A but would lose interest cost reimbursement on January 1, 2002.

15. It could be argued that all sites with 10-year old site investigations, not just category one high-cost sites that have incurred more than \$200,000 in eligible costs on or before November 30, 2001, should have time after the effective date of the bill to move their site from investigation to completion of cleanup. An alternative to the bill would be to allow all sites until December 1, 2006, to complete the cleanup. Another alternative would be to delete the provision that category one high-cost sites have until December 1, 2006, and instead allow all sites a specified time after the effective date of the bill. For example, the bill could be amended to allow the applicant 10 years after completion of the site investigation, or two years after the effective date of the bill, whichever is later, to complete the cleanup before losing interest cost reimbursement. This would allow such sites two construction seasons to complete the cleanup. Another alternative would be to allow three years instead of two years after the effective date of the bill.

#### **Time Period After Notification About the Discharge**

16. Under the bill, an applicant that notified DNR or Commerce about a discharge before the effective date of the bill would have between two and five years after the effective date of the bill to complete a site investigation before losing interest cost reimbursement. An application with a discharge notification date at three or more years before the effective date of the bill would have two years after the effective date to complete the site investigation. An applicant who notified the agencies about a discharge less than three years before the effective date of the bill would have five years after the effective date of the bill to complete the site investigation. Similarly, an applicant who notifies the agencies about a discharge on or after the effective date of the bill would have five years after the notification date to complete a site investigation.

17. DNR officials estimate that there are 1,354 open sites in the databases of both DNR and Commerce that have not yet completed site investigations. Of this total, approximately 974 of the sites would have a discharge notification date more than three years old as of the fall of 2001 and would have two years to complete their site investigation. In the database of DNR sites that have not been reconciled with the Commerce database, there are an additional 1,155 sites that have not completed site investigations, of which 691 have a discharge notification date more than three years before the fall of 2001.

18. It could be argued that it is reasonable to require owners to complete the site investigation within five years after the owner notifies DNR or Commerce about the discharge. Every owner of a site with a notice over three years old would have two years to complete the site investigation.

#### **Exemptions from the Interest Cost Limitations**

19. The exemption from the interest cost reimbursement limitations of certain local

governments and persons engaged in the expansion or redevelopment of brownfields would provide that such parties would not face the same time limits as other parties to complete the PECFA cleanup. It could be argued that the exemption would recognize that local governments or persons engaged in brownfields projects often get involved only after a property has been abandoned or has sat idle with contamination identified but no remediation work being accomplished for a long period of time.

## **ALTERNATIVES TO BASE**

### **A. Submittal of Claim**

1. Provide an applicant with one of the following numbers of days after receiving written notification that no further remedial action is necessary, to submit a final PECFA claim for reimbursement of cleanup costs before becoming ineligible for interest cost reimbursement after that date.

- a. 60 days (the Governor's recommendation).
- b. 90 days.
- c. 120 days.
- d. 180 days.

2. In addition to approving Alternative A1, specify that if an applicant received written notification that no further action is necessary before the effective date of the bill, he or she would have the specified alternate number of days after the effective date of the bill to submit a final claim.

3. Maintain current law.

### **B. Completion of Cleanup after Site Investigation**

1. Adopt the Governor's recommendation to provide that: (a) if the remedial action activities were completed more than 10 years after the investigation was completed, the applicant is ineligible for reimbursement for interest costs incurred after the 10-year period; and (b) category one high-cost sites that incur more than \$200,000 in eligible PECFA costs on November 30, 2001, would have until the later of 10 years after the investigation or December 1, 2006, to complete the cleanup before losing interest cost reimbursement.

2. Approve Alternative B1 and in addition, specify that if cleanup activities are not completed within 10 years after the investigation of the petroleum storage tank discharge was completed, or before the effective date of the bill, the applicant is ineligible for reimbursement for interest costs incurred after the later of those periods.

3. Approve Alternative B1 and in addition, specify that if cleanup activities are not

completed within 10 years after the investigation of the petroleum storage tank discharge was completed, or within two years after the effective date of the bill, the applicant is ineligible for reimbursement for interest costs incurred after the later of those periods.

4. Approve Alternative B1 and in addition, specify that if cleanup activities are not completed within 10 years after the investigation of the petroleum storage tank discharge was completed, or within three years after the effective date of the bill, the applicant is ineligible for reimbursement for interest costs incurred after the later of those periods.

5. Modify Alternative B2, B3 or B4 to delete the Governor's recommendation that would provide category one high-cost sites that incur more than \$200,000 in eligible PECFA costs on November 30, 2001, until the later of 10 years after the investigation or December 1, 2006, to complete the cleanup before losing interest cost reimbursement.

6. Specify that: (a) if the remedial action activities were completed more than 10 years after the investigation was completed, the applicant is ineligible for reimbursement for interest costs incurred after that date or December 1, 2006, whichever is later; and (b) delete the separate interest cost reimbursement limitation for category one high-cost sites.

7. Maintain current law.

#### **C. Completion of Site Investigation After Notification of Discharge**

1. Adopt the Governor's recommendation to provide that if the site investigation was completed more than five years after the applicant notified DNR or Commerce about the discharge or more than two years after the effective date of the bill, whichever is later, the applicant would be ineligible for reimbursement for interest costs incurred after the later of those periods.

2. Maintain current law.

#### **D. Exemptions from Interest Cost Limitations**

1. Approve the Governor's recommendation to provide that the interest cost reimbursement limits would not apply to: (a) local government applicants who receive federal or state financial assistance other than PECFA for the expansion or redevelopment; and (b) applicants engaged in the expansion or redevelopment of brownfields, if federal or state financial assistance other than PECFA was provided for the expansion or redevelopment.

2. Maintain current law.

Prepared by: Kendra Bonderud

MO#

Alt. A-1 (c), A-2

C-1, D-1

BURKE	Y	N	A
DECKER	Y	N	A
MOORE	Y	N	A
SHIBILSKI	Y	N	A
PLACHE	Y	N	A
WIRCH	Y	N	A
DARLING	Y	N	A
WELCH	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
ALBERS	Y	N	A
DUFF	Y	N	A
WARD	Y	N	A
HUEBSCH	Y	N	A
COGGS	Y	N	A
HUBER	Y	N	A

AYE 10 NO 0 ABS 0

**Agency:** Commerce  
**Paper #:** 306  
**Issue :** PECFA, Farm Tank Eligibility  
**Recommendation:** Alternative 1

*Duff - Att. 3*

**Summary:**

Apparently Commerce paid a bunch of ineligible claims and now doesn't want to try and re-collect the money. Some of the beneficiaries are probably farmers and developers who conspired to clean up the property and then sell it for sprawl. But, the governor's proposal seems to be the best of a few bad options. Or, you could just keep current law.

**By:** Barry

*Att 1*



## Legislative Fiscal Bureau

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

May 2, 2001

Joint Committee on Finance

Paper #306

### **PECFA -- Farm Tank Eligibility (Commerce -- Building and Environmental Regulation)**

[LFB 2001-03 Budget Summary: Page 192, #5]

#### **CURRENT LAW**

Farm petroleum product storage tanks of 1,100 gallons or less capacity are eligible for reimbursement of cleanup costs under the PECFA program if the owner or operator owns at least 35 acres of contiguous land devoted primarily to agricultural use that produced gross farm profits of at least \$6,000 in the year before the owner or operator submits a claim for PECFA reimbursement or gross farm profits of at least \$18,000 during the three years before application, and if the owner or operator received a letter from DNR or Commerce indicating that the owner must conduct a cleanup. The maximum award for farm tanks is \$100,000, with a deductible of \$2,500 plus 5% of eligible costs.

#### **GOVERNOR**

Specify that: (a) an owner or operator who formerly owned at least 35 acres of contiguous land devoted primarily to agricultural use would be eligible to submit a PECFA claim if the owner or operator submits a PECFA claim within one year after he or she transferred ownership of the land, and the land produced gross farm profits of at least \$6,000 in the year before the owner or operator transferred ownership or gross farm profits of at least \$18,000 during the three years before the transfer of ownership; and (b) the current or former owner or operator of the farm tank, whichever is applying for PECFA reimbursement under the bill, is eligible only if the farm tank is located on the parcel that meets the gross profits eligibility test.

#### **DISCUSSION POINTS**

1. The current PECFA coverage for small farm tanks is intended to cover active farms

that meet specific criteria related to farm acreage and farm income. Farm tank claimants must own the required 35 contiguous acres at the time of submittal of the PECFA claim and must have met the farm income test in the year (\$6,000 of farm profits) or three years (\$18,000 of farm profits) before submitting the claim. The criteria have the general effect of prohibiting PECFA eligibility for farms that are being subdivided or have been taken out of agricultural use.

2. As of April 1, 2001, Commerce had paid 139 farm tank claims totaling \$5,334,771. Commerce recently performed a field audit of 120 farm tank claims, including 111 claims paid totaling \$4,581,170 and nine claims disqualified before payment of \$282,834 in submitted costs. The Department found that 46 of the 111 paid claims (41%) were ineligible but that PECFA payments of \$1,850,836 had been made for these claims. Under current law, Commerce would have to seek cost recovery of the ineligible amounts.

3. Commerce officials indicate that 44 of the 46 paid but ineligible claims are ineligible because the owner transferred ownership of the property before submitting the PECFA claim. Commerce paid \$1,813,398 for these claims and may have to seek cost recovery of this amount. Commerce also disqualified six claims before payment of \$264,128 because the claimants transferred ownership of the property before submitting the claim. If the ownership provision were modified to make some or all of these claims eligible, Commerce would need to check additional information for some of these claims to determine whether other program criteria were met, such as related to the 35 contiguous acre and farm income requirements.

4. Commerce officials indicate that there has been confusion among owners, consultants and PECFA staff about the specific ownership criteria required for farm tank eligibility. In addition, several claims were processed without having all ownership documents in possession of Commerce at the time of the claim review. Apparently, there may also be sites where all remedial action activities were done in accordance with PECFA requirements but the claim was not submitted before the property was sold.

5. Commerce audit data shows that 15 of the paid but ineligible farm tank claims, with \$444,613 in paid PECFA costs, might become eligible under the bill's provision to allow submittal of the claim within one year of transfer of ownership. If the bill would be amended to allow submittal of the claim within two years of transfer of ownership, 19 additional paid but ineligible claims, with \$830,082 in paid costs, might become eligible (34 total for \$1.3 million). If the bill would be amended to allow submittal of the claim within three years of transfer of ownership, seven additional paid but ineligible claims, with \$274,575 in paid costs, might become eligible (41 total for \$1.5 million). If the bill would be amended to allow submittal of the claim anytime after the transfer of ownership, three additional paid but ineligible claims, with \$264,128 in paid cost could become eligible (44 total for \$1.8 million). The actual number and amount of claims that would become eligible would depend on the results of additional Commerce review of acreage and farm income requirements.

6. Most of the 44 paid but ineligible farm tank claims and six denied claims would be eligible if the ownership eligibility standard would be amended to allow PECFA eligibility if the

owner and property met the program definition of farm tank at the time the claimant notified the Commerce of the discharge. It is likely that there are potential claims that have not been submitted because of the ownership criteria but could be submitted and paid if the statute would be amended.

7. In its 2001-03 budget request, Commerce suggested that farm tank eligibility be changed to allow submittal of a claim within three years of the ownership transfer or if the owner met the eligibility criteria at the time of the initial eligibility determination (at the time of notification of the discharge). Industry representatives have recommended that the bill allow PECFA eligibility if the owner and property met the program definition of farm tank at the time of the initial notification of the discharge. While amending the bill to do this would be an expansion of coverage beyond current law and the bill, it would allow a number of paid claims to be restored to eligibility and would provide eligibility to farm tank owners who did not submit claims because they are currently ineligible.

8. Under current law, Commerce will have to undertake cost recovery of 44 paid farm tank claims. Under the bill, some, but not all of these claims will become eligible, and Commerce will have to undertake cost recovery of other paid but ineligible claims. It is likely that the provision in the bill would allow payment of a few claims that had been submitted and denied before being paid, and payment of claims that have not been submitted because they are ineligible under current law.

9. The bill's requirement that the farm tank be located on the parcel of 35 or more contiguous land that meets the gross profits eligibility test appears to be a reasonable clarification. Thus, the tank would have to be located on the eligible land rather than other land. Commerce officials indicate that change would simplify and clarify coverage.

## **ALTERNATIVES TO BASE**

1. Approve the Governor's recommendation to: (a) allow an owner or operator who formerly owned a PECFA-eligible farm tank to submit a PECFA claim within one year after he or she transferred ownership of the land, and the land met the gross farm profits test in the year (\$6,000 of gross farm profits) or three years (\$18,000) before the transfer of ownership; and (b) specify that a farm tank must be located on the parcel that meets the gross profits eligibility test, in order for the current or former owner or operator to be eligible for PECFA reimbursement.

2. Modify the Governor's recommendation to allow an owner or operator who formerly owned a PECFA-eligible farm tank to submit a PECFA claim within two years after he or she transferred ownership of the land, if the land met the acreage test and the gross farm profits test before the transfer of ownership.

3. Modify the Governor's recommendation to allow an owner or operator who formerly owned a PECFA-eligible farm tank to submit a PECFA claim within three years after he or she transferred ownership of the land, if the land met the acreage test and the gross farm profits test before the transfer of ownership.

4. Modify the Governor's recommendation to allow an owner or operator who formerly owned a PECFA-eligible farm tank to submit a PECFA claim at any time after he or she transferred ownership of the land, if the land meets other program criteria, including the acreage test and the gross farm profits test on the date of the initial notification of the discharge.

5. Maintain current law.

Prepared by: Kendra Bonderud

MO# 111.4

2 BURKE	Y	N	A
DECKER	Y	N	A
MOORE	Y	N	A
SHIBILSKI	Y	N	A
PLACHE	Y	N	A
WIRCH	Y	N	A
DARLING	Y	N	A
WELCH	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
ALBERS	Y	N	A
DUFF	Y	N	A
WARD	Y	N	A
HUEBSCH	Y	N	A
COGGS	Y	N	A
HUBER	Y	N	A

AYE 16 NO 0 ABS 0

COMMERCE -- BUILDING AND ENVIRONMENTAL REGULATION

PECFA Program Changes

Motion:

Move to make the following changes to the Petroleum Environmental Cleanup Fund Award (PECFA) program:

1. *Appeals process.*
  - a. Modify the current provision that allows a person to choose arbitration rather than an administrative hearing for an appeal of a decision of Commerce related to PECFA if the amount at issue would be \$100,000 or less (instead of \$20,000 or less currently).
  - b. Direct Commerce to submit permanent administrative rules to the Legislature under s. 227.19 no later than May 1, 2002, to implement the voluntary arbitration provision.
  - c. Direct Commerce to submit a plan to the Joint Committee on Finance no later than March 1, 2002, that includes recommendations for development of a mediation process for appeals of Department decisions related to PECFA.
2. *Maximum Interest Cost Reimbursement.* Change the maximum reimbursable interest cost reimbursement for loans secured on or after the effective date of the bill to the prime rate minus 1%. (Currently, if gross revenues are up to \$25 million, interest reimbursement is limited to the prime rate minus 1% and if gross revenues are over \$25 million, interest reimbursement is limited to 4%.)
3. *Annual Progress Payments.* Allow an owner or operator to submit a claim annually if the owner or operator has incurred \$50,000 or more in eligible PECFA costs and at least one year has elapsed since submission of the last claim.

MO# \_\_\_\_\_

2 BURKE	Y	N	A
DECKER	Y	N	A
MOORE	Y	N	A
SHIBILSKI	Y	N	A
PLACHE	Y	N	A
WIRCH	Y	N	A
DARLING	Y	N	A
WELCH	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
ALBERS	Y	N	A
DUFF	Y	N	A
WARD	Y	N	A
HUEBSCH	Y	N	A
COGGS	Y	N	A
HUBER	Y	N	A

AYE 16 NO 0 ABS 0

**Agency:** Commerce

**Paper #:** 307

**Issue:** Groundwater Monitoring Near Onsite Treatment Systems

**Recommendation :** Alternative 1

**Summary:**

I'm sure this will be an unbiased review of the new systems permitted by COMM 83. Maybe the money should come from the department's PR & Lies Bureau. Too much sarcasm?

**By:** Barry

Alt 1



## Legislative Fiscal Bureau

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

May 2, 2001

Joint Committee on Finance

Paper #307

### Groundwater Monitoring Near Onsite Wastewater Treatment Systems (Commerce -- Building and Environmental Regulation)

[LFB 2001-03 Budget Summary: Page 196, #10]

#### CURRENT LAW

The Safety and Buildings Division administers provisions related to the design and installation of private, on-site wastewater treatment systems (POWTS) contained in Chapter 145 of the Statutes and Chapter Comm 83 of the administrative code. Commerce is authorized \$75,000 PR annually for POWTS research.

#### GOVERNOR

Provide \$250,000 PR annually in one-time funding in unallotted reserve for the Safety and Buildings Division to conduct a groundwater monitoring program to provide information about the long-term performance of private, on-site wastewater treatment systems and long-term compliance with groundwater standards. Program revenue would be provided from building and private sewage system plan review and inspection activities.

#### DISCUSSION POINTS

1. Several changes to administrative rule Comm 83, related to regulation of private onsite wastewater treatment systems (POWTS), went into effect on July 1, 2000. The rule requires that Commerce maintain an ongoing performance-monitoring program for the various POWTS methods and technologies. Comm 83 also requires the Department to prepare an annual report of performance-monitoring activities undertaken and the results of the activities, provide it to the Groundwater Coordinating Council, and to prepare the first report by December 31, 2001. The Council advises state agencies on implementation of the state groundwater law contained in Chapter 160 of the Statutes.

2. The Governor's Executive Budget Book indicates that the funds would be released from unallotted reserve by DOA following development of a monitoring plan by Commerce. Commerce indicates that it would work with the POWTS technical advisory committee (POWTS TAC) to develop the monitoring program in the summer and fall of 2001 for submittal to DOA for approval. Commerce anticipates conducting a pilot of the project in the fall of 2001 and beginning the full-scale monitoring program in the spring of 2002.

3. Commerce indicates that the University of Wisconsin currently conducts POWTS research for the Department and would be a potential provider of groundwater monitoring services. If Commerce contracts with the University, it could do so within a few weeks after DOA approves the monitoring plan. Other potential providers of the service would be engineering firms and testing labs. A bidding process would have to be followed if Commerce pursues a contract with a private sector entity.

4. The Department indicates that the monitoring would focus on potential contaminants from onsite systems, such as bacteria. Possible types of monitoring costs might be: (a) testing of drinking water wells at \$50 per test; and (b) sampling of soil cores at private on-site wastewater treatment systems at \$4,000 to \$4,500 per site. Commerce plans to review with the POWTS TAC what the appropriate number of data collection points and level of detail should be to obtain useful research results. They will also make decisions about what parts of the state should be part of the monitoring program. The exact cost of the monitoring would be determined after those decisions are made.

5. Commerce anticipates that its first report to the Groundwater Coordinating Council under the new Comm 83 provisions would report on the anticipated pilot under the bill. The Department will not have a full-scale monitoring program during the summer of 2001. The first full year of monitoring would be in 2002 and the results of that program would be included in a 2002 report.

6. Commerce had requested ongoing monitoring funding. It could be argued that the funding should be provided as ongoing because the Department will have a continuing need to perform monitoring. However, it could also be argued that providing the funding on a one-time basis would allow the development and evaluation of a plan. The monitoring plan and program could be evaluated during the 2003-05 biennial budget deliberations after initial monitoring is completed.

7. There are sufficient funds in the Safety and Buildings Division program revenue appropriation for the recommended \$250,000 in each year of the 2001-03 biennium.

8. If the funding is not provided, Commerce could reallocate existing funds, including some portion of the \$75,000 in current POWTS research funding. The current funding focuses on POWTS technologies and experimentation, rather than on monitoring. Commerce currently contracts with the University of Wisconsin and has in the past. Currently, the \$75,000 is being used to evaluate pathogen and nitrogen movement beneath POWTS that use sand filters. Past research

has focused on validating the performance of POWTS components.

### ALTERNATIVES TO BASE

1. Approve the Governor's recommendation to provide \$250,000 PR annually in one-time funding in unallotted reserve for a groundwater monitoring program to provide information about the long-term performance of private on-site wastewater treatment systems and long-term compliance with groundwater standards.

<u>Alternative 1</u>	<u>PR</u>
2001-03 FUNDING (Change to Base)	\$500,000
[Change to Bill]	\$0

2. Approve the Governor's recommendation, as modified to provide ongoing instead of one-time funding.

<u>Alternative 2</u>	<u>PR</u>
2001-03 FUNDING (Change to Base)	\$500,000
[Change to Bill]	\$0

3. Approve the Governor's recommendation, as modified to provide \$175,000 PR annually as follows (instead of \$250,000 PR annually under the bill):

- a. On a one-time basis
- b. Ongoing

<u>Alternative 3</u>	<u>PR</u>
2001-03 FUNDING (Change to Base)	\$350,000
[Change to Bill]	- \$150,000

4. Maintain current law.

<u>Alternative 4</u>	<u>PR</u>
2001-03 FUNDING (Change to Base)	\$0
[Change to Bill]	- \$500,000

Prepared by: Kendra Bonderud

MO#

Alt. 3(a)

2	BURKE	Y	N	A
	DECKER	Y	N	A
	MOORE	Y	N	A
	SHIBILSKI	Y	N	A
	PLACHE	Y	N	A
	WIRCH	Y	N	A
	DARLING	Y	N	A
	WELCH	Y	N	A
	GARD	Y	N	A
	KAUFERT	Y	N	A
	ALBERS	Y	N	A
	DUFF	Y	N	A
	WARD	Y	N	A
	HUEBSCH	Y	N	A
	COGGS	Y	N	A
	HUBER	Y	N	A

AYE 16 NO 0 ABS 0