

2009 DRAFTING REQUEST

Bill

Received: **08/06/2009**

Received By: **btradewe**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Council - JLC**

By/Representing: **Larry Konopacki**

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

Drafter: **btradewe**

May Contact:

Addl. Drafters: **jkreye
mshovers**

Subject: **Agriculture - other
Tax, Property - other
Nat. Res. - parks and forestry
Econ. Development - bus. dev.
Public Util. - energy
Higher Education - UW System
State Govt - miscellaneous
Tax, Business - credits
Tax, Other - fuel
Trade Regulation - other**

Extra Copies: **JTK, CTS, TKK, RNK**

Submit via email: **YES**

Requester's email: **larry.konopacki@legis.wisconsin.gov**

Carbon copy (CC:) to: **john.stolzenberg@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Combined bill for biofuels committee

Instructions:

Compile the drafts for the committee (see attached list)

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			S&L

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
				_____			Tax
/P1	btradewe 08/06/2009	wjackson 08/11/2009	mduchek 08/11/2009	_____	sbasford 08/11/2009		S&L Tax
/1	btradewe 08/20/2009	jdyer 08/21/2009	mduchek 08/21/2009	_____	sbasford 08/24/2009	mbarman 08/25/2009	
	btradewe 08/24/2009	jdyer 08/24/2009	rschluet 08/24/2009	_____			

FE Sent For: "/1" @ intro. 8/31/09

<END>

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*Please copy RT, JK, MGS, and these
drafters, but no other drafters.
RT*

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1?		<i>1/8 2/16</i>	<i>8/21</i>	<i>8/21</i>			S&L

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
				_____			Tax
/P1	btradewe 08/06/2009	wjackson 08/11/2009	mduchek 08/11/2009	_____ _____	sbasford 08/11/2009		

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May Contact:

Adtl. Drafters: **jkreye
mkunkel**

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*PA's - Please provide copies
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TKK & RNK - and not to
other drafters*

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1?		Pl Wlj 8/10	ma 8 11	JF 8 Km 11			S&L

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

Tax

/P1 btradewe lrb_editor
08/06/2009

FE Sent For:

<END>

Biofuels Recommendations 8/6/09

Final Draft	Topic	LRB #	Redraft Requested	Status
WLC: 0356/2	state financial assistance	2528/P1	----	DONE
WLC: 0357/2	use value property tax	2504/P2	----	DONE
WLC: 0358/2	feedstocks assessment	2592/P1	----	DONE
WLC: 0359/1	management practices	2507/P2	----	DONE
WLC: 0360/2	carbon offset education	2508/P2	----	DONE
WLC: 0361/1	training assessment	2593/1	----	DONE
WLC: 0362/1	regulatory burden study	2509/P1	----	DONE
WLC: 0363/1	marketing order	2510/P2	----	DONE
WLC: 0364/3	personal fuel production exemption	2505/P2	----	DONE
WLC: 0365/3 (3/11 amdt)	blender pump tax credit	2503/P3	----	DONE
WLC: 0367/2	wholesale unblended fuel	2506/1	----	DONE
WLC: 0368/5 (3/11 amdt)	renewable fuels requirement	2511/P3	----	DONE
WLC: 0369/2	state fleet	2502/P2	----	DONE (no elec. copy)
WLC: 0370/2	OEI powers & duties	2591/1	----	DONE
Letter to Cong. Delegation	w/o reference to "switchgrass"			
Letter to Gov.				

R:\STOL\draft\ + Documents

Sorted Item List

<u>Store File Name</u>	<u>Text</u>
-2507.1	15.137 (6) of the statutes is created to read:
-2502.1	16.04 (1) (a) of the statutes is amended to read:
-2502.2	16.045 (1) (cm) and (f) of the statutes are created to read:
-2502.3	16.045 (4m) and (6) of the statutes are created to read:
-2592.1	16.954 of the statutes is created to read:
-2591.1	16.956 (1) (bg) and (br) of the statutes are created to read:
-2591.2	16.956 (2) (c) of the statutes is renumbered 16.956 (2) (c) (intro.) and amended to read:
-2591.3	16.956 (2) (c) 2. and 3. of the statutes are created to read:
-2591.4	16.956 (3) (a) and (c) of the statutes are amended to read:
-2502.4	16.956 (3) (f) of the statutes is created to read:
-2591.5	16.956 (4) of the statutes is created to read:
-2511.1	20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:
-2511.2	20.115 (3) (im) of the statutes is created to read:
-2528.1	20.115 (4) (c) of the statutes is amended to read:
-2528.2	20.115 (4) (r) of the statutes is amended to read:
-2508.1	26.42 of the statutes is created to read:
-2528.3	66.1103 (2) (k) 18. of the statutes is repealed.
-2504.1	70.32 (2) (c) 1g. of the statutes is amended to read:
-2504.2	70.32 (2) (c) 1i. of the statutes is created to read:
-2504.3	70.32 (2) (c) 1k. of the statutes is created to read:
-2503.1	71.07 (5j) (a) 2d. of the statutes is created to read:
-2503.2	71.07 (5j) (a) 2m. of the statutes is created to read:
-2503.3	71.07 (5j) (b) of the statutes, as affected by 2009 Wisconsin Act 28, is amended to read:
-2503.4	71.28 (5j) (a) 2d. of the statutes is created to read:
-2503.5	71.28 (5j) (a) 2m. of the statutes is created to read:
-2503.6	71.28 (5j) (b) of the statutes is amended to read:
-2503.7	71.47 (5j) (a) 2d. of the statutes is created to read:
-2503.8	71.47 (5j) (a) 2m. of the statutes is created to read:

-2503.9 71.47 (5j) (b) of the statutes is amended to read:
-2505.1 73.03 (50) (intro.) of the statutes is amended to read:
-2505.2 73.0303 of the statutes is created to read:
-2505.3 78.005 (13j) of the statutes is created to read:
-2505.4 78.01 (2n) of the statutes is created to read:
-2505.5 78.07 (5) of the statutes is created to read:
-2502.5 93.07 (26) of the statutes is created to read:
-2508.2 93.46 (1) (d) of the statutes is renumbered 93.46 (1) (d) (intro.) and amended to read:
-2508.3 93.46 (1) (d) 1. to 4. of the statutes are created to read:
-2508.4 93.46 (1e) of the statutes is created to read:
-2528.4 93.46 (2) (a) of the statutes is amended to read:
-2528.5 93.46 (2) (b) 4m. and 5m. and (dm) of the statutes are created to read:
-2528.6 93.46 (3) of the statutes is repealed.
-2507.2 93.47 of the statutes is created to read:
-2510.1 96.01 (3) of the statutes is amended to read:
-2510.2 96.01 (4m) of the statutes is created to read:
-2510.3 96.02 of the statutes is amended to read:
-2510.4 96.05 (1m) of the statutes is created to read:
-2506.1 100.51 (6) of the statutes is created to read:
-2511.3 100.60 of the statutes is created to read:
-2505.6 168.05 (6) of the statutes is created to read:
-2505.7 168.12 (2) of the statutes is created to read:
-2528.7 560.126 (1) of the statutes is renumbered 560.126 (1s), and 560.126 (1s) (d), as renumbered, is amended to read:
-2528.8 560.126 (1d) of the statutes is created to read:
-2509.1 Nonstatutory provisions.
-2593.1 Nonstatutory provisions.
-2506.2 Initial applicability.
-2504.4 Initial applicability.
-2505.8 Effective date.
-2503.10 Initial applicability.



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-3254/P1
All RCT...:ph
all

Wanted Tues

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

LPS: Please
check auto-refs.

Regen

1 AN ACT ~~to repeal~~ 66.1103 (2) (k) 18. and 93.46 (3); **to renumber and amend**
2 16.956 (2) (c), 93.46 (1) (d) and 560.126 (1); **to amend** 16.04 (1) (a), 16.956 (3)
3 (a) and (c), 20.115 (4) (c), 20.115 (4) (r), 70.32 (2) (c) 1g., 71.07 (5j) (b), 71.28 (5j)
4 (b), 71.47 (5j) (b), 73.03 (50) (intro.), 93.46 (2) (a), 96.01 (3) and 96.02; and **to**
5 **create** 15.137 (6), 16.045 (1) (cm) and (f), 16.045 (4m) and (6), 16.954, 16.956
6 (1) (bg) and (br), 16.956 (2) (c) 2. and 3., 16.956 (3) (f), 16.956 (4), 20.115 (3) (im),
7 26.42, 70.32 (2) (c) 1i., 70.32 (2) (c) 1k., 71.07 (5j) (a) 2d., 71.07 (5j) (a) 2m., 71.28
8 (5j) (a) 2d., 71.28 (5j) (a) 2m., 71.47 (5j) (a) 2d., 71.47 (5j) (a) 2m., 73.0303, 78.005
9 (13j), 78.01 (2n), 78.07 (5), 93.07 (26), 93.46 (1) (d) 1. to 4., 93.46 (1e), 93.46 (2)
10 (b) 4m. and 5m. and (dm), 93.47, 96.01 (4m), 96.05 (1m), 100.51 (6), 100.60,
11 168.05 (6), 168.12 (2) and 560.126 (1d) of the statutes; **relating to:** ~~financial~~
12 assistance related to bioenergy feedstocks, biorefineries, and conversion to
13 biomass energy; ~~the definition of~~ ^{the} the term agricultural use for purposes of
14 determining the assessed value of a parcel of land and requiring the exercise
15 of rule-making authority; requiring a strategic bioenergy feedstock

13
14
15

1 assessment; creation of a bioenergy council; the agricultural and forestry
 2 diversification programs; biofuels training assessment; a study of regulatory
 3 burdens relating to biofuel production facilities; marketing orders and
 4 agreements for bioenergy feedstocks; exempting personal renewable fuel
 5 production and use from the motor vehicle fuel tax, the petroleum inspection
 6 fee, and business tax registration requirements; an income and franchise tax
 7 credit for installing or retrofitting pumps that mix motor vehicle fuels from
 8 separate storage tanks ~~and~~ requiring the exercise of rule-making authority;
 9 offering gasoline that is not blended with ethanol to motor fuel dealers; state
 10 renewable motor vehicle fuels sales goals; required sales of renewable motor
 11 vehicle fuels; use of petroleum-based transportation fuels by state vehicles; use
 12 of alternative fuels in flex fuel vehicles owned by the state; ~~and~~ use of public
 13 alternative fuel refueling facilities; duties of the Office of Energy Independence
 14 granting rule-making authority; making ~~an~~ appropriation; and providing
 15 penalties.

Analysis by the Legislative Reference Bureau

***** ANALYSIS FROM -2528/P1 *****

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

***** ANALYSIS FROM -2504/P2 *****

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

***** ANALYSIS FROM -2592/P1 *****

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

***** ANALYSIS FROM -2507/P2 *****

This bill is explained in the Notes provided by the Joint Legislative Council in the bill.

***** ANALYSIS FROM -2508/P2 *****

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

***** ANALYSIS FROM -2593/1 *****

This bill is explained in the NOTE provided by the Joint Legislative Council in the bill.

***** ANALYSIS FROM -2509/P1 *****

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

***** ANALYSIS FROM -2510/P2 *****

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***** ANALYSIS FROM -2505/P2 *****

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***** ANALYSIS FROM -2503/P3 *****

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***** ANALYSIS FROM -2506/1 *****

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

***** ANALYSIS FROM -2511/P3 *****

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

***** ANALYSIS FROM -2502/P2 *****

This bill is explained in the NOTE provided by the Joint Legislative Council in the bill.

***** ANALYSIS FROM -2591/1 *****

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the joint legislative council's special committee domestic biofuels. The bill expands the applicability of relevant state financial assistance programs, to ensure that the programs support the establishment, production, harvest, storage, and transport of bioenergy feedstocks; the conversion of ethanol production plants to biomass energy for process heat; and the development and construction of biorefineries.

The bill clarifies that the industrial revenue bond program, the agricultural diversification grant program, and the renewable energy grants and loan program apply to these types of projects, as described in the SECTION comments below.

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the joint legislative council's special committee on domestic biofuels.

Under current law, the department of revenue (DOR) is required to define the term "agricultural use" for purposes of determining whether the assessed value of a parcel of land should be determined under the use value assessment method. DOR currently defines the term "agricultural use" to exclude "growing short rotation woody trees with a growing and harvesting cycle of 10 years or less for pulp or tree stock".

This bill requires DOR to define the term "agricultural use" to include the growing of short rotation woody crops, including poplars and willows, using agronomic practices.

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Special Committee on Domestic Biofuels. The bill directs the office of energy independence (OEI) to coordinate the preparation of a strategic feedstocks assessment by the specified state agencies.

This assessment must examine the current and potential bioenergy feedstocks being produced in Wisconsin, the uses of those feedstocks, as well as the use in the state of bioenergy feedstocks produced in other states; the key factors that influence the supply of and demand for feedstocks produced in the state; and the impacts of the increased use in the state of biomass for energy production. The assessment must also recommend appropriate legislation and changes in the agencies' programs and rules.

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Special Committee on Domestic Biofuels. The bill creates a bioenergy council (council) attached to the Department of Agriculture, Trade and Consumer Protection and requires the council to report to agencies and private parties that assist biofuel feedstocks producers and biofuels producers.

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the joint legislative council's special committee on domestic biofuels. The bill expands the agricultural diversification program administered by the department of agriculture, trade and consumer protection (DATCP) to include the promotion of marketable credits for reducing emissions of greenhouse gases derived from the production of agricultural commodities (also known as carbon offset credits) and of other types of energy made from these commodities in addition to alternative fuels made from agricultural source stocks. The bill creates a comparable forestry diversification program administered by the department of natural resources (DNR). The bill also directs DATCP and DNR to promote these new products in cooperation with and with the assistance of the other department and the University of Wisconsin-Extension.

The bill does not authorize DATCP or DNR to regulate greenhouse gas emissions.

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Special Committee on Biofuels. The bill requires the UW-Extension, in cooperation with other state entities, to conduct an educational needs assessment related to the production of biofuels and educational needs in this state related to the development and production of feedstocks for the production of biofuels, and to report its findings to the governor and the legislature.

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the joint legislative council's special committee on domestic biofuels. The bill creates a 9-member Biofuels Production Facility Regulation Review Committee, with members appointed by the Governor, to review state and local regulatory burdens related to biofuels production facilities and to report its findings to the Governor and the Legislature.

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Special Committee on Domestic Biofuels.

Under the "Agricultural Marketing Act" marketing orders or agreements can be issued for agricultural commodities. [ch. 96, stats.] The purposes of these orders and agreements include promoting orderly and efficient marketing and preventing economic waste by promoting fair methods of competition, uniform grading and classification, and

market realization and development. An assessment is levied upon affected producers and handlers to defray the costs associated with a marketing order.

This bill would designate products used as bioenergy feedstocks, including timber and wood products, as "agricultural commodities" to which a marketing order or agreement may be applicable. The bill would also require the secretary of the department of agriculture, trade and consumer protection to periodically assess the development of markets for bioenergy feedstocks and determine whether the issuance of a marketing order or agreement for these products would be appropriate.

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the joint legislative council's special committee on domestic biofuels.

This bill would exempt the first 1,000 gallons of renewable fuel produced by a person each year, that the person uses in his or her personal vehicle, from the motor vehicle fuel excise tax, the petroleum inspection fee, and petroleum inspection requirements not required by federal law. The bill would also allow a person to produce this renewable fuel without a business tax registration certificate or a motor vehicle fuel tax license.

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the joint legislative council's special committee on domestic biofuels.

Under current law, an "ethanol and biodiesel fuel pump" income and franchise tax credit is available for claimants who install or retrofit equipment for dispensing motor vehicle fuel to end users that dispense fuel consisting of at least 85 percent ethanol or at least 20 percent biodiesel fuel. The amount of the credit is 25 percent of the cost to install or retrofit such equipment, but is limited to \$5,000 per service station for which the claimant has installed or retrofitted such equipment. This credit is available for taxable years beginning after December 31, 2007, and before January 1, 2018.

This bill would allow this income and franchise tax credit to be claimed for installing or retrofitting equipment that blends fuels from separate storage tanks and allows end users to choose the percentage of gasoline replacement renewable fuel or diesel replacement renewable fuel in the dispensed fuel.

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the joint legislative council's special committee on domestic biofuels. This bill would require a motor fuel grantor (grantor) to offer unblended gasoline, suitable for subsequent blending with ethanol and subsequent sale, to any motor fuel dealer (dealer) with which it has a motor fuel dealership agreement (agreement). This bill would also prevent an agreement or contract between a dealer and grantor requiring the dealer to purchase ethanol from the grantor exclusively. This bill does not prohibit agreements from requiring the subsequent blending of unblended gasoline received by a dealer prior to sale to an end user, and does not prohibit grantors and dealers from entering into agreements with respect to the transfer of renewable fuels credits under the federal renewable fuels standard.

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the joint legislative council's special committee on domestic biofuels.

The bill creates annual sales goals for renewable fuels in this state equaling 110% of the state's share of renewable fuel sales required nationally under the federal renewable fuel standard (F-RFS). The bill groups the categories of renewable fuel under the F-RFS into two categories for purposes of the state goals: gasoline-replacement renewable fuels and diesel-replacement renewable fuels. The state's share of renewable fuels under the F-RFS is determined based on the total volume of motor vehicle fuel sold in this state as compared to the total volume of motor vehicle fuel sold nationally over the three years preceding the year for which the calculation is made. Fuels must meet or exceed F-RFS greenhouse gas reduction requirements to be included in state sales calculations.

The bill requires the department of agriculture, trade and consumer protection (department), in cooperation with and assistance from the department of commerce, the department of revenue, and the office of energy independence, to collect information needed to determine whether these annual renewable fuels sales goals are met for each year following enactment of this bill. If an annual sales goal is not met, the department is also required to collect information necessary to assess the cause and to conduct an assessment and report its findings to the legislature and governor. This assessment must include determinations related to renewable fuels systems and markets, regulatory obstacles, and the effect of potential specific individual sales requirements. If an annual sales goal is not met for gasoline-replacement renewable fuels or diesel-replacement renewable fuels and the department has previously assessed and reported on the cause, the department may determine that the new assessment will not further the purposes of the program and is then not required to repeat the assessment and reporting process.

If the department determines in an assessment that individual sales requirements would likely result in renewable fuel sales that would meet the annual goals, the department must require such sales by rule. In addition to annual sales requirements, these rules may include reporting, record-keeping, or testing requirements, quarterly or monthly sales requirements in certain situations, a credit trading system, procedures for the department to temporarily suspend a sales requirement, and fees for the administration and enforcement of the program.

The bill creates a program revenue appropriation to the department that funds the administration and enforcement of the renewable fuel program. This appropriation is funded by fees that the department establishes by rule as part of the implementation of the program.

The bill provides penalties for violations of any renewable fuel program rules adopted by the department and for violations of any of the reporting requirements authorized by the bill.

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Special Committee on Domestic Biofuels. The bill codifies Executive Order #141, relating to increased utilization of renewable fuels and vehicles owned and operated by the State of Wisconsin.

The text of Executive Order #141 and the main statute amended by this bill, s. 16.045, stats., are contained in attachments IV and I, respectively, in the Wisconsin Biofuels and Alternative Fuels Use Report, 2008 Annual Report, Office of Energy Independence (OEI) (April 30, 2008).

In particular, the bill directs the Department of Administration to require state agencies to reduce the amount of gasoline and diesel fuels they use that are petroleum-based by specified percentages within certain time periods, requires OEI to promote the use of alternative fuels in flex fuel vehicles owned by the state, and directs OEI and the Department of Agriculture, Trade and Consumer Protection to cooperatively promote public alternative fuel refueling facilities.

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Special Committee on Domestic Biofuels. The bill directs the office of energy independence (OEI) to work on initiatives that have the goals of ensuring that Wisconsin is a national leader in developing biorefineries and advancing the sale and use of intermediate blends of gasoline and a biofuel.

The bill clarifies that OEI shall serve as the central unit of state government to coordinate the activities of all state agencies in connection with the initiatives specified in the office's enabling statute and that the other state agencies shall assist the office in fulfilling its duties.

(CS) Not Bohl

1 15.137 (6) **Bioenergy Council**. There is created a bioenergy council which is
2 attached to the department of agriculture, trade and consumer protection under s.
3 15.03. The secretary of agriculture, trade and consumer protection shall appoint the
4 members of the council, to serve at the pleasure of the secretary.

5 SECTION 2. 16.04 (1) (a) of the statutes is amended to read:

6 16.04 (1) (a) Develop uniform state policies and guidelines for vehicle and
7 aircraft acquisition, use, maintenance, recording of operational and other costs,
8 performance evaluation and replacement of vehicles and aircraft. The department
9 shall incorporate the fuel usage requirements under s. 16.045 (4m) in any policies
10 or guidelines developed adopted under this paragraph.

11 SECTION 3. 16.045 (1) (cm) and (f) of the statutes are created to read:

12 16.045 (1) (cm) "Flex fuel vehicle" means a vehicle designed to operate on
13 gasoline, a blend of a fuel marketed as gasoline and 85 percent ethanol or a higher
14 percentage of ethanol, or a mixture of gasoline and that blend.

15 (f) "Office" means the office of energy independence.

16 SECTION 4. 16.045 (4m) and (6) of the statutes are created to read:

17 16.045 (4m) The department shall require all agencies to collectively reduce
18 the usage of gasoline and diesel fuel in state-owned vehicles that is petroleum-based
19 below the total amount that the agencies used in 2006 by at least the following
20 percentages:

21 (a) For gasoline:

- 22 1. Twenty percent by 2010.
- 23 2. Fifty percent by 2015.

24 (b) For diesel fuel:

- 25 1. Ten percent by 2010.

1 2. Twenty-five percent by 2015.

2 (6) The office shall adopt, revise as necessary, and implement a plan designed
3 to facilitate usage of alternative fuels in the flex fuel vehicles and other vehicles
4 owned by the state. The plan shall ensure all of the following:

5 (a) That all flex fuel vehicles and other vehicles powered by an alternative fuel
6 other than gasohol that are owned by the state are identifiable.

7 (b) That all state employees driving flex fuel vehicles and other vehicles
8 powered by an alternative fuel other than gasohol are made aware of the alternative
9 fuel refueling stations in the vicinity of their route of travel.

10 (c) That all state employees strive to use alternative fuels when operating state
11 flex fuel and diesel-powered vehicles.

12 **SECTION 5.** 16.954[✓] of the statutes is created to read:

13 **16.954 Strategic bioenergy feedstock assessment.** (1) In this section:

14 (a) "Affected agencies" means the department of administration, the
15 department of agriculture, trade and consumer protection, the department of
16 natural resources, the office ^{of energy independence}, and the public service commission.

17 (b) "Bioenergy feedstock" means biomass used to produce energy, including
18 transportation fuel, heat, or electricity.

19 (c) "Office" means the office of energy independence.

20 (2) The office shall coordinate among affected agencies the preparation of a
21 biennial strategic bioenergy feedstock assessment that assists producers and users
22 of bioenergy feedstocks and state and local government policy makers in
23 understanding trends in the production and use of bioenergy feedstocks in this state
24 and the effects of that production and use. Using readily available information, each
25 assessment shall do all of the following:

1 (a) Summarize the bioenergy feedstocks currently and projected to be produced
2 in the state by region.

3 (b) Identify the current and projected significant markets for bioenergy
4 feedstocks produced in the state and major facilities located or likely to be located in
5 the state that use bioenergy ^{energy} feedstocks produced in or outside the state.

6 (c) Identify key factors that influence the supply of and demand for major
7 bioenergy feedstocks in the state, including the types and amounts of land devoted
8 to producing these feedstocks.

9 (d) Assess whether any of the factors identified under par. (c) [✓] are likely to
10 change during the period covered by the assessment and, if so, how those changes
11 may affect the availability of future bioenergy feedstocks.

12 (e) Assess the impacts of the increased use in the state of biomass for energy
13 production on all of the following:

- 14 1. Other consumers of that biomass.
- 15 2. Land use.
- 16 3. Environmental quality.
- 17 4. Other benefits and services derived from the natural systems in which the
18 biomass is produced.

19 (f) Recommend, as appropriate, legislation or changes in programs or rules of
20 affected agencies, including whether the assessment should be continued.

21 (3) No later than April 30, 2013, and no later than April 30 of each
22 odd-numbered year thereafter, the office shall submit a copy of an assessment
23 prepared under sub. (2) [✓] to the governor and the appropriate standing committees of
24 the legislature under s. 13.172 (3) and shall post a copy of the assessment on the
25 office's Internet Web site.

1 SECTION 6. 16.956 (1) (bg) and (br) of the statutes are created to read:

2 16.956 (1) (bg) "Biorefinery" means a facility, including equipment and
3 processes, that converts biomass into fuels and products and may produce electricity.

NOTE: This definition is based on the definition of "biorefinery" in 7 USC 8101 (7), which was created in s. 9001 (a) of the federal Food, Conservation, and Energy Act of 2008, 110 P.L. 246.

4 (br) "Executive branch agency" has the meaning given in s. 16.70 (4).

NOTE: The reference in this provision is to the definition of "executive branch agency" in state procurement law. This definition excludes the building commission.

5 SECTION 7. 16.956 (2) (c) of the statutes is renumbered 16.956 (2) (c) (intro.) and
6 amended to read:

7 16.956 (2) (c) (intro.) Ensuring that Wisconsin is a national leader in
8 groundbreaking all of the following:

9 1. Groundbreaking research that will make alternative energies more
10 affordable and create well-paying jobs in this state.

NOTE: Current s. 16.956 (2) directs OEI to work on initiatives with the specified goals, including the goal in par. (c).

11 SECTION 8. 16.956 (2) (c) 2. and 3. of the statutes are created to read:

12 16.956 (2) (c) 2. Developing biorefineries.

13 3. Advancing the sale and use in all types of motor vehicles of blends of gasoline
14 and a biofuel that contain more than 10 percent of the biofuel.

15 SECTION 9. 16.956 (3) (a) and (c) of the statutes are amended to read:

16 16.956 (3) (a) Ensure and facilitate the implementation of the initiatives
17 specified in sub. (2) and identify barriers to the implementation of such initiatives.

18 The office shall serve as the central unit of state government to coordinate the
19 activities of all executive branch agencies in connection with these initiatives.

20 (c) Develop energy independence policy options for consideration by the
21 governor, ^{the} legislature, and ^{the} state executive branch agencies.

1 **SECTION 10.** 16.956 (3) (f) of the statutes is created to read:

2 16.956 (3) (f) Pursue, in cooperation with the department of agriculture, trade
3 and consumer protection, the establishment and maintenance of sufficient
4 alternative fuel refueling facilities at public retail outlets to meet the traveling needs
5 of the public.

6 **SECTION 11.** 16.956 (4) of the statutes is created to read:

7 16.956 (4) Other state agencies shall assist the office in fulfilling its duties
8 under this section to the fullest extent possible.

9 **SECTION 12.** 20.005 (3) (schedule) of the statutes: at the appropriate place,
10 insert the following amounts for the purposes indicated:

11		2009-10	2010-11
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12 **20.115 Agriculture trade and consumer**
13 **protection, department of**

14 (3) AGRICULTURAL DEVELOPMENT SERVICES

15	(im) Renewable fuel program	PR	A	-0-	-0-
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16 **SECTION 13.** 20.115 (3) (im) of the statutes is created to read:

17 20.115 (3) (im) *Renewable fuel program.* The amounts in the schedule for the
18 administration and enforcement of the renewable fuel program under s. 100.60 (5).
19 All monies received from the fees authorized by s. 100.60 (5) (f) shall be credited to
20 this appropriation account.

21 **SECTION 14.** 20.115 (4) (c) of the statutes is amended to read:

22 20.115 (4) (c) *Agricultural investment aids.* Biennially, the amounts in the
23 schedule for agricultural research and development grants under s. 93.46 (2) and (3).

24 **SECTION 15.** 20.115 (4) (r) of the statutes is amended to read:

1 20.115 (4) (r) *Agricultural investment aids, agrichemical management fund.*
2 Biennially, from the agrichemical management fund, the amounts in the schedule
3 for agricultural research and development grants under s. 93.46 (2) and (3).

4 **SECTION 16.** 26.42 of the statutes is created to read:

5 **26.42 Forestry diversification.** (1) The department shall establish a
6 forestry diversification program and shall promote and assist the development and
7 use of industrial and commercial products from forestry products, including all of the
8 following:

9 (a) Alternative fuels, including fuels that are considered to be renewable fuels
10 under the renewable fuel program under 42 USC 7545 (o).

11 (b) Heat.

12 (c) Electricity, including electricity that satisfies the requirements in s. 196.378
13 (2).

14 (d) Marketable credits for reducing emissions of greenhouse gases, as defined
15 in s. 285.78 (1) (c), derived from appropriate management practices used in the
16 production of timber.

17 (2) The department shall promote and assist the development and use of the
18 products identified in sub. (1) (a) to (d) in cooperation with and with the assistance
19 of the department of agriculture, trade and consumer protection and the University
20 of Wisconsin-Extension.

21 **SECTION 17.** 66.1103 (2) (k) 18. of the statutes is repealed.

NOTE: This provision affects the definition of "projects" eligible for financing with industrial revenue bonds. Current subd. 18. includes in these projects "alcohol fuel production facilities". The repeal of subd. 18. clarifies that biorefineries that produce other types of fuel are eligible "projects", as all biorefineries are included in the projects covered under current subd. 1.

****NOTE: I'm not sure the explanatory note clearly follows from the repeal of s. 66.1103 (2) (k) 18. I have a couple of questions and a suggestion:

Is alcohol fuel necessarily a product of "agriculture, forestry, mining or manufacture?" I just don't know. For that matter, are biorefineries necessarily "assembling, fabricating, manufacturing, mixing or processing facilities?" Perhaps it would make more sense to amend this subdivision to add the word, "biorefineries" rather than ~~deleting~~ the subdivision entirely, which could give the impression that alcohol fuel production facilities no longer qualify.

delete

1 **SECTION 18.** 70.32 (2) (c) 1g. of the statutes is amended to read:

2 70.32 (2) (c) 1g. "Agricultural land" means land, exclusive of buildings and
3 improvements and the land necessary for their location and convenience, that is
4 devoted primarily to agricultural use, ~~as defined by rule.~~

5 **SECTION 19.** 70.32 (2) (c) 1i. of the statutes is created to read:

6 70.32 (2) (c) 1i. "Agricultural use" means agricultural use as defined by the
7 department of revenue by rule and includes the growing of short rotation woody
8 crops, including poplars and willows, using agronomic practices.

9 **SECTION 20.** 70.32 (2) (c) 1k. of the statutes is created to read:

10 70.32 (2) (c) 1k. "Agronomic practices" means agricultural practices generally
11 associated with field crop production, including soil management, cultivation, and
12 row cropping.

13 **SECTION 21.** 71.07 (5j) (a) 2d. of the statutes is created to read:

14 71.07 (5j) (a) 2d. "Diesel replacement renewable fuel" includes biodiesel and
15 any other fuel derived from a renewable resource that meets all of the applicable
16 requirements of the American Society for Testing and Materials for that fuel and that
17 the department of commerce designates by rule as a diesel replacement renewable
18 fuel.

19 **SECTION 22.** 71.07 (5j) (a) 2m. of the statutes is created to read:

20 71.07 (5j) (a) 2m. "Gasoline replacement renewable fuel" includes ethanol and
21 any other fuel derived from a renewable resource that meets all of the applicable
22 requirements of the American Society for Testing and Materials for that fuel and that

1 the department of commerce designates by rule as a gasoline replacement renewable
2 fuel.

3 **SECTION 23.** 71.07 (5j) (b) of the statutes, as affected by 2009 Wisconsin Act 28,
4 is amended to read:

5 71.07 (5j) (b) *Filing claims.* Subject to the limitations provided in this
6 subsection, for taxable years beginning after December 31, 2007, and before January
7 1, 2018, a claimant may claim as a credit against the taxes imposed under ss. 71.02
8 and 71.08, up to the amount of the taxes, an amount that is equal to 25 percent of the
9 amount that the claimant paid in the taxable year to install or retrofit pumps located
10 in this state that dispense motor vehicle fuel ~~consisting of at least~~ marketed as
11 gasoline and 85 percent ethanol or a higher percentage of ethanol or at least motor
12 vehicle fuel marketed as diesel fuel and 20 percent biodiesel fuel or that mix fuels
13 from separate storage tanks and allow the end user to choose the percentage of
14 gasoline replacement renewable fuel or diesel replacement renewable fuel in the
15 motor vehicle fuel dispensed.

16 **SECTION 24.** 71.28 (5j) (a) 2d. of the statutes is created to read:

17 71.28 (5j) (a) 2d. "Diesel replacement renewable fuel" includes biodiesel and
18 any other fuel derived from a renewable resource that meets all of the applicable
19 requirements of the American Society for Testing and Materials for that fuel and that
20 the department of commerce designates by rule as a diesel replacement renewable
21 fuel.

22 **SECTION 25.** 71.28 (5j) (a) 2m. of the statutes is created to read:

23 71.28 (5j) (a) 2m. "Gasoline replacement renewable fuel" includes ethanol and
24 any other fuel derived from a renewable resource that meets all of the applicable
25 requirements of the American Society for Testing and Materials for that fuel and that

1 the department of commerce designates by rule as a gasoline replacement renewable
2 fuel.

3 **SECTION 26.** 71.28 (5j) (b) of the statutes is amended to read:

4 71.28 (5j) (b) *Filing claims.* Subject to the limitations provided in this
5 subsection, for taxable years beginning after December 31, 2007, and before January
6 1, 2018, a claimant may claim as a credit against the taxes imposed under s. 71.23,
7 up to the amount of the taxes, an amount that is equal to 25 percent of the amount
8 that the claimant paid in the taxable year to install or retrofit pumps located in this
9 state that dispense motor vehicle fuel ~~consisting of at least~~ marketed as gasoline and
10 85 percent ethanol or a higher percentage of ethanol or at least motor vehicle fuel
11 marketed as diesel fuel and 20 percent biodiesel fuel or that mix fuels from separate
12 storage tanks and allow the end user to choose the percentage of gasoline
13 replacement renewable fuel or diesel replacement renewable fuel in the motor
14 vehicle fuel dispensed.

15 **SECTION 27.** 71.47 (5j) (a) 2d. of the statutes is created to read:

16 71.47 (5j) (a) 2d. “Diesel replacement renewable fuel” includes biodiesel and
17 any other fuel derived from a renewable resource that meets all of the applicable
18 requirements of the American Society for Testing and Materials for that fuel and that
19 the department of commerce designates by rule as a diesel replacement renewable
20 fuel.

21 **SECTION 28.** 71.47 (5j) (a) 2m. of the statutes is created to read:

22 71.47 (5j) (a) 2m. “Gasoline replacement renewable fuel” includes ethanol and
23 any other fuel derived from a renewable resource that meets all of the applicable
24 requirements of the American Society for Testing and Materials for that fuel and that

1 the department of commerce designates by rule as a gasoline replacement renewable
2 fuel.

3 **SECTION 29.** 71.47 (5j) (b) of the statutes is amended to read:

4 71.47 (5j) (b) *Filing claims.* Subject to the limitations provided in this
5 subsection, for taxable years beginning after December 31, 2007, and before January
6 1, 2018, a claimant may claim as a credit against the taxes imposed under s. 71.43,
7 up to the amount of the taxes, an amount that is equal to 25 percent of the amount
8 that the claimant paid in the taxable year to install or retrofit pumps located in this
9 state that dispense motor vehicle fuel consisting of at least marketed as gasoline and
10 85 percent ethanol or a higher percentage of ethanol or at least motor vehicle fuel
11 marketed as diesel fuel and 20 percent biodiesel fuel or that mix fuels from separate
12 storage tanks and allow the end user to choose the percentage of gasoline
13 replacement renewable fuel or diesel replacement renewable fuel in the motor
14 vehicle fuel dispensed.

15 **SECTION 30.** 73.03 (50) (intro.) of the statutes is amended to read:

16 73.03 (50) (intro.) With the approval of the joint committee on finance, to
17 establish fees for obtaining a business tax registration certificate, which, except as
18 provided in s. 73.0302, is valid for 2 years, and for renewing that certificate and,
19 except as provided in s. ~~73.0302~~ ^{plain} ~~ss. 73.0302~~ and 73.0303, shall issue and renew those
20 certificates if the person who wishes to obtain or renew a certificate does all of the
21 following:

22 **SECTION 31.** 73.0303 of the statutes is created to read:

23 **73.0303 Personal renewable fuel production.** The department may not
24 require a person to obtain a business tax registration certificate related to the

1 production or use of renewable fuel that is exempt under s. 78.01 (2n) from the tax
2 imposed under s. 78.01 (1).

3 **SECTION 32.** 78.005 (13j) of the statutes is created to read:

4 78.005 (13j) "Renewable fuel" means fuel that is produced from renewable
5 biomass and that is used to replace or reduce the quantity of fossil fuel used in motor
6 vehicle fuel. "Renewable fuel" includes biodiesel fuel, as defined in s. 168.14 (2m).

7 **SECTION 33.** 78.01 (2n) of the statutes is created to read:

8 78.01 (2n) PERSONAL RENEWABLE FUEL PRODUCER EXEMPTION. No tax is imposed
9 under sub. (1) on the first 1,000 gallons of renewable fuel produced or converted from
10 another purpose each year by an individual and used by that individual in his or her
11 personal motor vehicle, if the individual does not sell any such renewable fuel during
12 that year.

13 **SECTION 34.** 78.07 (5) of the statutes is created to read:

14 78.07 (5) Renewable fuel exempt under s. 78.01 (2n) from the tax under s. 78.01
15 (1) is not received for the purposes of this section.

16 **SECTION 35.** 93.07 (26) of the statutes is created to read:

17 93.07 (26) ALTERNATIVE FUEL REFUELING FACILITIES. To pursue in cooperation
18 with the office of energy independence, the establishment and maintenance of
19 sufficient alternative fuel refueling facilities at public retail outlets to meet the
20 traveling needs of the public.

21 **SECTION 36.** 93.46 (1) (d) of the statutes is renumbered 93.46 (1) (d) (intro.) and
22 amended to read:

23 93.46 (1) (d) (intro.) Promote and assist the development and use of industrial
24 and commercial products from agricultural commodities ~~and forestry products~~ and

1 ~~from the production of these commodities, including alternative fuels produced from~~
2 ~~agricultural source stocks.~~ all of the following:

3 SECTION 37. 93.46 (1) (d) 1. to 4. of the statutes are created to read:

4 93.46 (1) (d) 1. Alternative fuels, including fuels that are considered to be
5 renewable fuels under the renewable fuel program under 42 USC 7545 (o).

6 2. Heat.

7 3. Electricity, including electricity that satisfies the requirements in s. 196.378
8 (2).

9 4. Marketable credits for reducing emissions of greenhouse gases, as defined
10 in s. 285.78 (1) (c), derived from appropriate management practices used in the
11 production of the agricultural commodity.

12 SECTION 38. 93.46 (1e) of the statutes is created to read:

13 93.46 (1e) The department shall promote and assist the development and use
14 of the products identified in sub. (1) (d) 1. to 4. in cooperation with and with the
15 assistance of the department of natural resources and the University of
16 Wisconsin-Extension.

17 SECTION 39. 93.46 (2) (a) of the statutes is amended to read:

18 93.46 (2) (a) The department shall make agricultural and forestry research and
19 development grants. The department may provide grants to fund demonstration
20 projects, feasibility analyses and applied research directed toward new or
21 alternative technologies and practices that will stimulate agricultural and forestry
22 development and economic activity.

NOTE: This provision expands the agricultural diversification grant program to include forestry-related research and development grants and authority. The department of agriculture, ~~trade and consumer protection (DATCP)~~ may only award grants under this subsection if the grant is for a project conducted in this state that meets one or more of the purposes specified in sub. (2) (b).

1 **SECTION 40.** 93.46 (2) (b) 4m. and 5m. and (dm) of the statutes are created to
2 read:

3 93.46 (2) (b) 4m. Diversification and expansion of the production, processing,
4 and distribution of forestry products that are used to produce alternative fuels, heat,
5 or electricity.

6 5m. Commercial application of new technologies or practices related to the
7 production of alternative fuels, heat, or electricity from forestry products.

NOTE: This SECTION establishes two types of forestry-related projects that are eligible for an agricultural diversification grant. These new purposes are based on the following two purposes for grants under this program under current law relating to agricultural products:

93.46 (2) (b) (intro.) The department may not award a grant under this subsection unless the grant is for a project conducted in this state that has at least one of the following purposes:

...

4. Diversification and expansion of the production, processing and distribution of agricultural products.

5. Commercial application of new technologies or practices related to agricultural products.

8 (dm) If the department receives an application under this subsection for a grant
9 for a forestry-related project, analyses or applied research, the department shall do
10 all of the following:

11 1. Consult with the department of natural resources in evaluating the grant
12 application.

13 2. If the department of agriculture, trade and consumer protection awards the
14 grant, require the grant recipient to coordinate its activities under the grant with
15 any forestry-related programs identified by the department of natural resources in
16 the consultation under subd. 1.

NOTE: This SECTION requires DATCP to engage in the specified activities if an application under the agricultural diversification grant program is for a forestry-related purpose.

1 **SECTION 41.** 93.46 (3) of the statutes is repealed.

NOTE: This SECTION repeals s. 93.46 (3), as agricultural diversification grants are no longer made under this subsection.

2 **SECTION 42.** 93.47 of the statutes is created to read:

3 **93.47 Bioenergy council.** (1) The bioenergy council shall identify voluntary
4 best management practices for sustainable biomass and biofuels production, which
5 may include consideration of practices related to choosing biomass species, where to
6 plant, crop management, harvest, and processing and transport, and factors such as
7 soil management, chemical inputs, carbon sequestration in soil and root mass, plant
8 and animal biodiversity, and other factors at the discretion of the council. The council
9 shall consider efforts relating to sustainable biomass and biofuels production
10 conducted by other entities, including the council on forestry.

11 (2) The council shall report its findings, at least biennially, to agencies and
12 private parties that assist producers of biofuel feedstocks and biofuels, as
13 determined by the council.

14 **SECTION 43.** 96.01 (3) of the statutes is amended to read:

15 96.01 (3) "Agricultural commodity" means any agricultural, horticultural
16 (excepting floricultural), viticultural, vegetable, poultry, and livestock products
17 produced in this state, including for use as a bioenergy feedstock, including milk and
18 milk products, bees and honey, or any class, variety or utilization thereof, either in
19 their natural state or as processed by a producer for the purpose of marketing such
20 product or by a processor, but not including timber and wood products, except timber
21 and wood products used as a bioenergy feedstock.

22 **SECTION 44.** 96.01 (4m) of the statutes is created to read:

1 96.01 (4m) “Bioenergy feedstock” means biomass used to produced energy,
2 including transportation fuel, heat, or electricity.

3 **SECTION 45.** 96.02 of the statutes is amended to read:

4 **96.02 Policy.** It is declared to be the policy of this state to promote orderly and
5 efficient marketing of agricultural commodities and to prevent economic waste of the
6 agricultural wealth of this state. Unfair methods of competition, lack of uniform
7 grading and classification of agricultural commodities, and the inability of
8 individual producers to obtain present markets or to develop new or larger markets
9 for Wisconsin agricultural commodities result in disorderly marketing of such
10 commodities. As a result agricultural producers are prevented from receiving a fair
11 return for the products which they market. Such conditions jeopardize the continued
12 production of ~~an~~ adequate food supply and energy supplies for this and other states,
13 and may result in unemployment with its attendant burdens on the citizens of this
14 state. The production, processing and marketing of agricultural commodities within
15 this state is hereby declared to be affected with a public interest and this chapter is
16 enacted for the purpose of protecting the health, peace, safety and general welfare
17 of the people of this state.

18 **SECTION 46.** 96.05 (1m) of the statutes is created to read:

19 96.05 (1m) If the secretary, based on periodic assessments of markets for
20 bioenergy feedstocks, determines that the issuance of a marketing order or
21 agreement for bioenergy feedstocks will effectuate the declared policy of this chapter,
22 the secretary shall propose the issuance of a marketing order or agreement under
23 sub. (1) for bioenergy feedstocks.

24 **SECTION 47.** 100.51 (6) of the statutes is created to read:

1 100.51 (6) UNBLENDED GASOLINE SALES REQUIREMENT. (a) A motor fuel grantor
2 that provides gasoline to a motor fuel dealer under a motor fuel dealership
3 agreement shall offer gasoline to the motor fuel dealer that is not blended with
4 ethanol and that is suitable for subsequent blending with ethanol and for resale. For
5 purposes of this subsection, gasoline that is not blended with ethanol is not suitable
6 for subsequent sale if the price charged for the unblended gasoline by the motor fuel
7 grantor does not fairly reflect the average posted terminal price, as defined in s.
8 100.30 (2) (a).[✓]

9 (b) No motor fuel dealership agreement or contract between a motor fuel dealer
10 and a motor fuel grantor may require a motor fuel dealer to purchase ethanol for
11 blending purposes only from the motor fuel grantor.

12 (c) Nothing in this subsection prohibits a motor fuel dealership agreement from
13 requiring the motor fuel dealer to blend gasoline received under par. (a)[✓] with a
14 specified amount of ethanol by volume prior to the sale of the gasoline to the end user.

15 (d) Nothing in this subsection prohibits a motor fuel dealership agreement from
16 providing for the transfer of credits under 42 USC 7545 (o) (2) between the motor fuel
17 dealer and the motor fuel grantor.[✓]

Insert from p. 33
SECTION 48. 100.60 of the statutes is created to read:

NITE:
19 **100.60 State renewable fuels goal.** (1) DEFINITIONS. In this section:

20 (a) "Biodiesel" means a fuel that is comprised of monoalkyl esters of long chain
21 fatty acids derived from vegetable oils or animal fats and that meets all of the
22 applicable requirements of the American Society for Testing and Materials.

23 (b) "Diesel-replacement renewable fuel" means any of the following:
24

1. Biodiesel.

1 2. Any other fuel that can substitute for petroleum-based diesel fuel, that is
2 derived from a renewable resource, that meets all of the applicable requirements of
3 the American Society for Testing and Materials for that fuel, and that the
4 department of commerce designates as a diesel-replacement renewable fuel under
5 sub. (7) (a). ✓

6 (c) "Gasoline-replacement renewable fuel" means any of the following: ✓

7 1. Ethanol.

8 2. Any other fuel that can substitute for gasoline, that is derived from a
9 renewable resource, that meets all of the applicable requirements of the American
10 Society for Testing and Materials for that fuel, and that the department of commerce
11 designates as a gasoline-replacement renewable fuel under sub. (7) (b). ✓

12 (d) "Motor vehicle fuel" means any substance used to fuel motor vehicles used
13 for transportation on public roadways. ✓

14 (e) "Renewable fuel" means a gasoline-replacement renewable fuel or a
15 diesel-replacement renewable fuel. ✓

16 (2) GOALS. (a) *Definitions.* In this subsection:

17 1. "Federal advanced biofuel volume" means the volume for the year listed in
18 42 USC 7545 (o) (2) (B) (i) (II) or determined by the federal environmental protection
19 agency under 42 USC 7545 (o) (2) (B) (ii) for advanced biofuel, except as provided
20 under par. (d). ✓

21 2. "Federal biomass-based diesel volume" means the volume for the year listed
22 in 42 USC 7545 (o) (2) (b) (i) (IV) or determined by the federal environmental
23 protection agency under 42 USC 7545 (o) (2) (B) (ii) for biomass-based diesel, except
24 as provided under par. (d). ✓

1 3. "Federal cellulosic biofuel volume" means the volume for the year listed in
2 42 USC 7545 (o) (2) (B) (i) (III) or determined by the federal environmental protection
3 agency under 42 USC 7545 (o) (2) (B) (ii) for cellulosic biofuel, except as provided
4 under par. (d).

5 4. "Federal diesel-replacement renewable fuel percentage" means the number
6 calculated as follows:

7 a. Subtract the sum of the federal cellulosic biofuel volume and the federal
8 biomass-based diesel volume from the federal advanced biofuel volume.

9 b. Subtract the amount determined under subd. 4. a. from the federal
10 renewable fuel volume.

11 c. Divide the federal biomass-based diesel volume by the amount determined
12 under subd. 4. b.

13 5. "Federal diesel-replacement renewable fuel volume" means the volume
14 calculated as follows:

15 a. Subtract the sum of the federal cellulosic biofuel volume and the federal
16 biomass-based diesel volume from the federal advanced biofuel volume.

17 b. Multiply the federal diesel-replacement renewable fuel percentage by the
18 amount determined under subd. 5. a.

19 c. Add the federal biomass-based diesel volume to the amount determined
20 under subd. 5. b.

21 6. "Federal gasoline-replacement renewable fuel volume" means the volume
22 calculated by subtracting the federal diesel-replacement renewable fuel volume
23 from the federal renewable fuel volume.

24 7. "Federal renewable fuel volume" means the volume for the year listed in 42
25 USC 7545 (o) (2) (B) (i) (I) or determined by the federal environmental protection

1 agency under 42 USC 7545 (o) (2) (B) (ii) for renewable fuel, except as provided under
2 par. (d).

3 8. "State percentage of motor vehicle fuel sold nationally" for a year means the
4 number calculated as follows:

5 a. For each of the 3 years that preceded the year, divide the total volume of
6 motor vehicle fuel sold in this state by the total volume of motor vehicle fuel sold
7 nationally. If complete information for the most recent year is unavailable, the
8 department may estimate sales for that year.

9 b. Add the quotients calculated in subd. 8. a. and divide by 3.

10 9. "Year" means the year for which the gasoline-replacement renewable fuel
11 goal or diesel-replacement renewable fuel goal is being determined.

12 (b) *Gasoline-replacement renewable fuels sales volume.* The state goal for the
13 minimum annual volume of gasoline-replacement renewable fuels sold in motor
14 vehicle fuel in the state for a year is an amount calculated as follows:

15 1. Multiply the federal gasoline-replacement renewable fuel volume for the
16 year by 1.1.

17 2. Multiply the amount determined under subd. 1. by the state percentage of
18 motor vehicle fuel sold nationally for the year.

19 (c) *Diesel-replacement renewable fuels sales volume.* The state goal for the
20 minimum annual volume of diesel-replacement renewable fuels sold in motor
21 vehicle fuel in the state for a year is an amount calculated as follows:

22 1. Multiply the federal diesel-replacement renewable fuel volume for the year
23 by 1.1.

24 2. Multiply the amount determined under subd. 1. by the state percentage of
25 motor vehicle fuel sold nationally for the year.

1 (d) *Federal volume adjustments.* 1. The department shall adjust a volume
2 specified in par. (a) 1., 2., 3., or 7., in accordance with any waiver to the volume
3 granted by the federal environmental protection agency under 42 USC 7545 (o) (7).

4 2. The department shall adjust a volume specified in par. (a) 1., 2., 3., or 7., by
5 rule if the department determines that the regulations of the federal environmental
6 protection agency adopted under 42 USC 7545 (o), other than 42 USC 7545 (o) (7),
7 result in the actual volume of one of these types of fuel that is required to be sold
8 under 42 USC 7545 (o) differing from the corresponding volume specified under par.
9 (a) 1., 2., 3., or 7.

10 (3) ANNUAL SALES DETERMINATION. (a) Annually, beginning in the year after the
11 year in which this paragraph takes effect [LRB inserts date], the department, in
12 cooperation with and with assistance from the department of commerce, the
13 department of revenue, and the office of energy independence, shall determine
14 whether the annual goals for sales of renewable fuels in sub. (2) (b) and (c), for the
15 previous year, were met in the state in that year.

16 (b) The department may not include sales of gasoline-replacement renewable
17 fuel or diesel-replacement renewable fuel in making the determination under par.
18 (a) unless the fuel meets or exceeds applicable requirements for greenhouse gas
19 emissions reduction under 42 USC 7545 (o) (1) (B) (i), (D), (E) or (2) (A) (i) or under
20 42 USC 7545 (o) (4).

21 (4) ASSESSMENT. (a) Except as provided in par. (b), if the department
22 determines under sub. (3) (a) that an annual goal for sales of renewable fuels in sub.
23 (2) (b) or (c), was not met, the department shall assess the cause and report its
24 findings to the governor and, under s. 13.172 (3), to the standing committees of the

1 legislature that oversee issues related to renewable fuel. The department shall
2 include all of the following in the assessment:

3 1. A determination of whether renewable fuels are available in sufficient
4 quantities and at prices comparable to the type of fuel that they replace, and if so,
5 whether fluctuations in demand for renewable fuels are a cause of sales below the
6 goal.

7 2. A determination of whether state or federal laws prevent or impede the sale
8 of the renewable fuels in volumes that meet the goals in sub. (2).

9 3. An assessment of the motor vehicle fuel production, distribution, and
10 marketing systems in this state to determine how practices could be changed to
11 increase the volume of renewable fuel sold in this state.

12 4. A determination of whether requirements for renewable fuel sales by
13 individual refiners, wholesalers, suppliers, distributors, retailers, or any other
14 persons involved in the production, distribution, or marketing of motor vehicle fuel,
15 would likely result in sales of volumes of renewable fuels that meet the goals in sub.
16 (2).

17 5. If the department has promulgated rules under sub. (5), a determination of
18 the effectiveness of the rules in stimulating renewable fuel sales in this state that
19 meet or exceed the goals in sub. (2) and an assessment of whether changes to the
20 rules would better promote the purposes of this section.

21 (b) If the department determines under sub. (3) (a) that an annual goal for sales
22 of gasoline-replacement renewable fuels or diesel-replacement renewable fuels in
23 sub. (2) (b) or (c), was not met in a year, the department has conducted an assessment
24 under par. (a) for a previous year for the same category of renewable fuels, and the
25 department determines that another assessment for the same category of renewable

1 fuels will not further the purposes of this section, an assessment and report to the
2 governor and the legislature under par. (a) are not required.

3 (5) RENEWABLE FUEL SALES REQUIREMENTS. If the department determines under
4 sub. (4) (a) 4. or 5. that requirements for renewable fuel sales would likely result in
5 sales of volumes of renewable fuels that meet the goals in sub. (2), the department
6 shall prescribe requirements by rule to accomplish this purpose. The department
7 may include any of the following in rules promulgated under this subsection:

8 (a) Reporting, record-keeping, or testing requirements.

9 (b) Annual requirements for sales of renewable fuels in this state.

10 (c) Quarterly or monthly requirements for sales of a renewable fuel if the
11 department determines that these requirements are necessary to maintain the
12 availability of the renewable fuel in the state and to prevent harm to markets for the
13 renewable fuel in the state caused by fluctuations in demand for the renewable fuel.

14 (d) A system for persons subject to the requirements to trade credits for
15 prescribed sales of renewable fuel.

16 (e) Procedures for the department to temporarily suspend a sales requirement.

17 (f) Fees for the administration and enforcement of this subsection.

18 (6) REPORTING. (a) The department shall consult with the department of
19 commerce, the department of revenue, and the office of energy independence to
20 determine if information necessary to make a determination under sub. (3) (a) or an
21 assessment under sub. (4) or required to be reported under a rule promulgated under
22 sub. (5) is being collected by these agencies under laws in effect on the effective date
23 of this paragraph [LRB inserts date]. If the information is not being collected, the
24 department may request the department of commerce, the department of revenue,
25 or the office of energy independence to collect the information if collection by one of

1 these agencies is more cost-effective for state government and less burdensome for
2 the persons subject to the reporting requirements than collection of the information
3 by the department.

4 (b) The department may require refiners, wholesalers, suppliers, distributors,
5 retailers, or any other person involved in the production, distribution, or marketing
6 of motor vehicle fuel to report information necessary to make a determination under
7 sub. (3) (a) or an assessment under sub. (4).

8 (c) If the department requires the reporting of information under par. (b) or sub.
9 (5) (a), the department shall require the reporting of information relating to the
10 feedstocks used to produce a renewable fuel sold in this state unless the department
11 determines that this information is not reasonably available.

12 (d) The department of revenue may collect information requested by the
13 department under par. (a) in the reports under s. 78.12 (1) to (3).

14 **(7) DEPARTMENT OF COMMERCE AUTHORITY.** (a) The department of commerce may
15 promulgate a rule designating a fuel that can substitute for petroleum-based diesel
16 fuel, that is derived from a renewable resource, and that meets all of the applicable
17 requirements of the American Society for Testing and Materials for that fuel as a
18 diesel-replacement renewable fuel for the purposes of this section.

19 (b) The department of commerce may promulgate a rule designating a fuel that
20 can substitute for gasoline, that is derived from a renewable resource, and that meets
21 all of the applicable requirements of the American Society for Testing and Materials
22 for that fuel as a gasoline-replacement renewable fuel for the purposes of this
23 section.

24 **(8) PENALTIES.** (a) Any person who violates a rule promulgated under sub. (5)
25 shall forfeit not more than \$5,000 for each violation.

1 (b) Any person who fails to provide to the department information required
2 under sub.(6) (b) shall forfeit not more than \$1,000 for each violation.

3 (c) Each violation of a rule promulgated under sub. (5) or a requirement to
4 provide information under sub. (6) (b) constitutes a separate offense, and each day
5 of continued violation is a separate offense.

6 (d) 1. In lieu of any other penalty under this subsection, the department may
7 directly assess a forfeiture by issuing an order against any person who violates a rule
8 promulgated under sub. (5) or a requirement to provide information under sub. (6)

9 (b). The department may not assess a forfeiture exceeding \$5,000 for each violation.

10 2. The department shall promulgate rules specifying the procedures governing
11 the assessment of forfeitures under this paragraph including all of the following:

12 a. The procedure for issuing an order for an alleged violation.

13 b. The amount of a forfeiture that the department may assess for an alleged
14 violation, subject to the limit in subd. 1. and the considerations in par. (e).

15 c. The procedure for contesting an order issued for an alleged violation.

16 d. The procedure for contesting the assessment of a forfeiture for an alleged
17 violation.

18 3. The department shall remit all forfeitures paid under this paragraph to the
19 secretary of administration for deposit in the school fund.

20 4. All forfeitures that are not paid as required under this paragraph shall
21 accrue interest at the rate of 12 percent per year.

22 5. The attorney general may bring an action in the name of the state to collect
23 any forfeiture imposed, or interest accrued, under this paragraph if the forfeiture or
24 interest has not been paid after the exhaustion of all administrative and judicial
25 reviews.

1 (e) A court imposing a forfeiture under par. (a) or (b) or the department
2 imposing a forfeiture under par. (d) shall consider all of the following in determining
3 the amount of the forfeiture:

4 1. The appropriateness of the amount of the forfeiture considering the volume
5 of business of the person subject to the forfeiture.

6 2. The gravity of the violation.

7 3. Any good faith attempt to achieve compliance after the person receives notice
8 of the violation.

9 **SECTION 49.** 168.05 (6) of the statutes is created to read:

10 168.05 (6) This section does not apply to a petroleum product that is a
11 renewable fuel exempt under s. 78.01 (2n) from the tax under s. 78.01 (1) unless
12 inspection is required by federal law.

13 **SECTION 50.** 168.12 (2) of the statutes is created to read:

14 168.12 (2) The fee under sub. (1) is not imposed on a petroleum product that
15 is a renewable fuel exempt under s. 78.01 (2n) from the tax under s. 78.01 (1).

16 **SECTION 51.** 560.126 (1) of the statutes is renumbered 560.126 (1s), and
17 560.126 (1s) (d), as renumbered, is amended to read:

18 560.126 (1s) (d) The construction of one or more ~~cellulosic ethanol production~~
19 plants biorefineries.

NOTE: This provision establishes that the construction of any type of biorefinery
is eligible for a grant or loan under the program, irrespective of the type of fuel produced
or if fuel production is not the primary purpose of the facility.

20 **SECTION 52.** 560.126 (1d) of the statutes is created to read:

21 560.126 (1d) In this section, "biorefinery" means a facility, including
22 equipment and processes, that converts biomass into fuels and products and may
23 produce electricity.

NOTE: This definition is added to the renewable energy grants and loans program, a.k.a., the Wisconsin energy independence fund. It is based on the definition of "biorefinery" in sec. 9001 (7) in the 2008 Farm Bill.

1 **SECTION 53. Nonstatutory provisions.**

2 (1) BIOFUELS PRODUCTION FACILITY ^{CS REGULATORY} ~~REGULATION~~ REVIEW.

3 (a) There is created a biofuels production facility regulatory review committee
4 consisting of 9 members appointed by the governor.

5 ^{Create ARZ} (b) The biofuels production facility regulatory review committee shall identify
6 state and local regulatory burdens relating to the siting, construction, operation, and
7 expansion of facilities for the production of biofuels and shall identify opportunities
8 for streamlining regulations related to these processes. The committee shall submit
9 a report on its findings to the governor and the standing committees of the legislature
10 that oversee issues related to renewable energy no later than 2 years after the
11 effective date of this paragraph.

12 (c) The biofuels production facility regulatory review committee terminates
13 upon submission of the report under paragraph (b). ^{Use ARZ}

14 (d) The department of administration shall assist the biofuels production
15 facility regulatory review committee in the performance of its functions.

16 (2) BIOFUELS TRAINING ASSESSMENT.

17 ^{Create ARX} (a) In this subsection:

18 1. "Extension" means the community outreach, public service, and extension
19 services of the system.

20 2. "Board" means the Board of Regents of the University of Wisconsin System.

21 3. "System" means the University of Wisconsin System.

22 (b) The extension, in cooperation with other programs in the system designated
23 by the board and with the department of workforce development, the office of energy

1 independence, and the technical college system board, shall assess educational
2 needs in this state related to the production of biofuels and educational needs in this
3 state related to the development and production of feedstocks for the production of
4 biofuels.

5 (c) The extension shall report the findings from its assessment under
6 paragraph (a) no later than the first day of the 18th month beginning after the
7 effective date of this paragraph to the governor and the standing committees of the
8 legislature that oversee issues related to renewable energy and agriculture under
9 section 13.172 (3) of the statutes.

10 **SECTION 54. Initial applicability.**

11 (1) This act first applies to a motor vehicle fuel dealership agreement created,
12 renewed, extended, or modified on the effective date of this subsection.

NOTE: There is not a specific penalty that applies to the existing motor fuel dealership requirements under s. 100.51, stats. Therefore, the default statutory penalty, a forfeiture of \$200, would apply to violations of the requirements in this bill [s. 939.61, stats.]. Other penalties in ch. 100, stats., range from forfeitures to crimes. The default penalty for this chapter, which does not apply to s. 100.51, stats., is a fine of \$200 or imprisonment in the county jail for up to 6 months or both. [s. 100.26 (1), stats.]

13 (2) This act first applies to the property tax assessments as of January 1, 2011.

14 **SECTION 55. Effective date.**

15 (1) This act takes effect on the first day of the third month beginning after
16 publication.

17 **SECTION 56. Initial applicability.**

18 (1) This act first applies to taxable years beginning on January 1 of the year
19 in which this subsection takes effect, except that if this subsection takes effect after
20 July 31 this treatment first applies to taxable years beginning on January 1 of the
21 year following the year in which this subsection takes effect.

22 The treatment of sections 7607 (5;) (a) 2do and 2mo and (b), 7628 (5;) (a) 2do and 2mo and (b), and 7647 (5;) (a) 2do and 2mo and (b) of the statutes

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The treatment of section 100.51 (6) of the statutes

The treatment of section 70.32 (2) (c) 1g, 1j and 1k of the statutes

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(END)

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EFFECTIVE DATE

1. In the component bar: For the action phrase, execute: ... create → action: → *NS: → effdate
For the text, execute: create → text: → *NS: → effdateA
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

SECTION # _____ . Effective date.

(#1) () This act takes effect
on

1. In the component bar: For the action phrase, execute: .. create → action: → *NS: → effdateE
For the text, execute: create → text: → *NS: → effdate
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

SECTION # _____ . Effective dates;

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

(#1) () The treatment of

sections 7300.3 (sol. intro), 7303.3, 7800.5 (13), 7801 (2n), 7807 (5), 10805 (6)

of the statutes takes effect on

1. In the component bar: For the budget action phrase, execute: .. create → action: → *NS: → 94XX
For the text, execute: create → text: → *NS: → effdate
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the 9400 department code.

SECTION 94 _____ . Effective dates;

(#1) () The treatment of

sections

of the statutes takes effect on

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Note:
This is for
09-2505/P2

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(2)