

1999 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB218)

Received: 05/18/99

Received By: traderc

Wanted: Soon

Identical to LRB:

For: Legislative Fiscal Bureau

By/Representing: Kendra Bonderud

This file may be shown to any legislator: NO

Drafter: traderc

May Contact:

Alt. Drafters: hubliks

Subject: Environment - env. cleanup

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Joint finance PECFA changes

Instructions:

See Attached

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Reauired</u> |
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| I? | traderc 06/1/99 | chanaman 06/1/99 | | _____ | | | |
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FE Sent For:

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FE Sent For:

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Representative Duff
 Senator Burke
 Representative Gard

COMMERCE -- BUILDING AND ENVIRONMENTAL REGULATION

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

Motion:

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

1. **&venue. Bonding.** [LFB Paper #308] Authorize \$270 million in bonding. In addition, direct that no more than \$170 million in authority may be released upon enactment of the bill. Direct that before the Building Commission issues the remaining \$100 million in revenue obligations, DQA, Commerce and DNR submit a report to the Joint Committee on Finance for approval of the Committee at 3 regularly scheduled meeting under s. 13.10. Direct that the report include information about: (a) the proposed bonding issuance; (b) the amount of PECFA claims received during the prior six months; (c) the number and dollar amount of claims that have been received but not paid; and (d) the progress made by the agencies in implementing cost control strategies to reduce the costs of cleanups at PECFA sites. In addition, direct that no revenue obligation authority may be released beyond the initial \$170 million until Commerce and DNR promulgate final permanent administrative rule changes as provided in items #5 and #14.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Further, make the following changes related to site bidding:

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

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

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

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

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

12.: **Joint Agency Report. [LFB Paper #307]** Adopt Alternative A.4 (as modified to refer to high risk instead of high priority) to approve the recommendations of the Governor and the Joint Audit Committee related to reporting requirements and require submission of the report every January 1 and July 1 to the Governor, Joint Audit Committee, Joint Committee on Finance and appropriate standing committees. This would require Commerce and DNR to submit a report that includes the following information: (a) the date on which the record of the site investigation was received; (b) the environmental risk factors, as defined by Commerce rule, identified at the site; (c) the year in which DNR or Commerce expects to issue a case closure letter or written approval of the remedial action activities for the site; (d) the number of notifications of petroleum discharges received by the departments and the number of written approvals of remedial action activities provided by the departments; (e) the percentage of sites classified as high risk; (f) the name of each person providing engineering consulting services to 3 claimant and the number of claimants to whom the person has provided those services; (g) the charges for engineering consulting services for sites for which remedial action activities are approved by the departments and for other sites; (h) the charges by service providers other than engineering consultants for services for which reimbursement is provided, including excavating, hauling, laboratory testing and landfill disposal; and (i) strategies for recording and monitoring complaints of fraud in the program and for the use of Commerce employees who conduct audits to identify questionable claims and investigate complaints.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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Tradewell, Becky

From: Bonderud, Kendra
Sent: Monday, May 31, 1999 4:10 PM
To: Tradewell, Becky
Subject: PECFA Sub draft is OK

Daryl has finished reviewing the PECFA Substitute amendment **LRBs0079/1**. He and I agree that it looks great and we compliment your work. Please proceed with finalizing both the Senate and Assembly versions of these Substitute amendments. I believe both of these would be Substitute Amendment 2 wouldn't they? (I don't recall whether you attach the number or if the JFC committee clerks do that.) Would you let me know what the Assembly LRB draft number will be when it is assigned? If you send the drafts and stripes to me, I will forward them to the JFC committee clerks.

Thanks.

Kendra Bonderud
Legislative Fiscal Bureau
(608) 266-3847
Kendra.Bonderud@legis.state.wi.us

Today

Assembly

~~SENATE~~ *Assembly* **SUBSTITUTE AMENDMENT,**
TO 1999 ~~SENATE~~ *Assembly* BILL 86-218

No changes

referred

1 **AN ACT** *referred* **to repeal** 101.143 (3) (g) 2.; **to renumber** 18.52 (5) (c) and 18.56 (7) and
2 **(8); to renumber and amend** 18.52 (5) (intro.), 18.52 (5) (a), 18.52 (5) (b), 18.53
3 (3), 18.56 (l), 18.56 (2) to (6), 18.56 (9) (intro.), 18.56 (9) (a) to (j), 18.56 (10),
4 18.57 (4), 18.60 (5), 25.47, 101.143 (4) (c) 8. and 101.143 (4) (cm); **to**
5 **consolidate, renumber and amend** 101.143 (3) (g) (intro.) and 1.; **to amend**
6 13.485 (2), 18.51, 18.57 (1), 18.58 (1), 18.60 (1), 18.60 (2), 18.61 (2), 18.61 (3) (a),
7 18.61 (3) (b) (intro.), 18.61 (3) (b) l., 18.61 (3) (b) 3., 18.61 (3) (b) 4., 18.61 (3) (c),
8 18.61 (4), 20.143 (3) (v), 45.79 (9) (a), 84.59 (2), 85.52 (5) (c), 101.143 (3) (c) 2.,
9 101.143 (3) (cm), 101.143 (3) (d), 101.143 (4) (b) (intro.), 101.143 (4) (c) (intro.),
10 101.143 (4) (d) 2. (intro.), 101.143 (4) (dm) 2. a., 101.143 (4) (dm) 2., 101.144
11 (2) (b) l., 101.144 (2) (b) 2., 101.144 (3m) (a) 3. and 281.59 (4) (b); **to repeal and**
12 **recreate** 18.57 (title) and 101.143 (4) (ei) 2.; and **to create** 18.52 (2m) (intro.),
13 18.52 (7), 18.52 (8), 18.53 (3) (a) and (b), 18.561 (title), 18.561 (1), 18.561 (7)

(title), 18.561 (8) (title), 18.561 (9) (k), 18.562, 18.60 (5) (a) to (c), 20.143 (3) (Lm), 20.143 (3) (s), 20.143 (3) (t), 20.143 (3) (u), 20.143 (3) (vb), 25.47 (1m), 25.47 (5), 25.47 (6), 101.143 (1) (bm), 101.143 (1) (cq), 101.143 (2) (em), 101.143 (2) (h), 101.143 (2) (i), 101.143 (2) (j), 101.143 (2) (k), 101.143 (2) (L), 101.143 (2e), 101.143 (3) (cn), 101.143 (3) (cp), 101.143 (3) (cs), 101.143 (3) (cw), 101.143 (4) (b) 16., 101.143 (4) (c) 8. a. to f., 101.143 (4) (c) 10., 101.143 (4) (c) ll., 101.143 (4) (c) 12., 101.143 (4) (cm) 2., 101.143 (4) (dg), 101.143 (4) (di), 101.143 (9m), 101.143 (ll), 101.144 (1) (ae), 101.144 (1) (aq) and 101.144 (3g) of the statutes; **relating to:** the petroleum storage remedial action program; authority over discharges of petroleum products; authorizing revenue obligations to fund payment of claims under the petroleum storage remedial action program; authorizing a new type of revenue obligation; granting revenue bonding authority; providing an exemption from emergency rule procedures, granting rule-making authority; and making appropriations.

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

SECTION 1. 13.485 (2) of the statutes is amended to read:

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

SECTION 2. 18.51 of the statutes is amended to read:

1 **18.51 Provisions applicable.** The following sections apply to this
2 subchapter, except that all references to “public debt” or “debt” ~~are deemed~~ shall be
3 read to refer to a “revenue obligation” and all references to “evidences of
4 indebtedness” shall be read to refer to “evidences of revenue obligations”: ss. 18.02,
5 18.03, 18.06 (8), 18.07, 18.10 (l), (2), (4) to (9) and (11) and 18.17.

6 **SECTION 3.** 18.52 (2m) (intro.) of the statutes is created to read:

7 18.52 **(2m)** (intro.) “Enterprise obligation” means every undertaking by the
8 state to repay a certain amount of borrowed money that is all of the following:

9 **SECTION 4.** 18.52 (5) (intro.) of the statutes is renumbered 18.52 (5) and
10 amended to read:

11 18.52 (5) “Revenue obligation” means ~~every undertaking by the state to repay~~
12 ~~a certain amount of borrowed money which is:~~ an enterprise obligation or a special
13 fund obligation. A revenue obligation map be both an enterprise obligation and a
14 special fund obligation.

15 **SECTION 5.** 18.52 (5) (a) of the statutes is renumbered 18.52 (2m) (a) and
16 amended to read:

17 18.52 **(2m)** (a) Created for the purpose of purchasing, acquiring, leasing,
18 constructing, extending, expanding, adding to, improving, conducting, controlling,
19 operating or managing a revenue-producing enterprise or program;.

20 **SECTION 6.** 18.52 (5) (b) of the statutes is renumbered 18.52 (2m) (b) and
21 amended to read:

22 18.52 **(2m)** (b) Payable ~~solely~~ from and secured ~~solely~~ by the property or income
23 or both of the enterprise or program; ~~and.~~

24 **SECTION 7.** 18.52 (5) (c) of the statutes is renumbered 18.52 (2m) (c).

25 **SECTION 8.** 18.52 (7) of the statutes is created to read:

1 18.52 (7) "Special fund obligation" means every undertaking by the state to
2 repay a certain amount of borrowed money that is all of the following:

3 (a) Payable from a special fund consisting of fees, penalties or excise taxes.

4 (b) Not public debt under s. 18.01 (4).

5 **SECTION 9.** 18.52 (8) of the statutes is created to read:

6 18.52 (8) "Special fund program" means a state program or purpose with
7 respect to which the legislature has determined that financing with special fund
8 obligations is appropriate and will serve a public purpose.

9 **SECTION 10.** 18.53 (3) of the statutes is renumbered 18.53 (3) (intro.) and
10 amended to read:

11 18.53 (3) (intro.) The commission shall authorize money to be borrowed and
12 evidences of revenue obligation to be issued ~~therefor up to the amounts specified by~~
13 ~~the legislature to purchase, acquire, lease, construct, extend, expand, add to,~~
14 ~~improve, conduct, control, operate or manage such revenue-producing enterprises~~
15 ~~or programs as are specified by the legislature as the funds are required.~~ The
16 requirements for funds shall be established by the state department or agency head
17 carrying out program responsibilities for which the revenue obligations have been
18 authorized by the legislature+ but shall not exceed the following:

19 **SECTION 11.** 18.53 (3) (a) and (b) of the statutes are created to read:

20 18.53 (3) (a) In the case of enterprise obligations, the amounts specified by the
21 legislature to purchase, acquire, lease, construct, extend, expand, add to, improve,
22 conduct, control, operate or manage such revenue-producing enterprises or
23 programs as are specified by the legislature.

24 (b) In the case of special fund obligations, the amount specified by the
25 legislature for such expenditures to be paid from special fund obligations.

1 **SECTION 12.** 18.56 (1) of the statutes is renumbered 18.56 and amended to read:

2 **18.56 Revenue ~~bonds~~ obligations.** The commission may authorize, for any
3 of the purposes described in s. 18.53 (3), the issuance of ~~revenue obligation bonds~~
4 revenue obligations. The bonds ~~revenue obligations~~ shall mature at any time not
5 exceeding 50 years from the date thereof as the commission shall determine. The
6 ~~bonds~~ revenue obligations shall be payable only out of the redemption fund provided
7 under ~~sub. s. 18.561~~ (5) or 18.562 (3) and each ~~bond~~ revenue obligation shall contain
8 on its face a statement to that effect. ~~Any such bonds~~ A revenue obligation may
9 contain a provision authorizing redemption, in whole or in part, at stipulated prices,
10 at the option of the commission and shall provide the method of redeeming the ~~bonds~~.
11 ~~The state and a contracting party may provide in any contract for purchasing or~~
12 ~~acquiring a revenue-producing enterprise or program, that payment shall be made~~
13 ~~in such bonds~~ revenue obligations.

14 **SECTION 13.** 18.56 (2) to (6) of the statutes are renumbered 18.561 (2) to (6) and
15 amended to read:

16 18.561 (2) SECURITY INTERESTS OF OWNERS OF ENTERPRISE OBLIGATIONS. There
17 ~~shall be~~ is a mortgage lien upon or security interest in the income and property of
18 each revenue-producing enterprise or program ~~to~~ for the benefit of the holders
19 owners of the related ~~bonds and to the holders of the coupons of the bonds.~~ The note
20 ~~or other instrument evidencing the security interest of a bondholder in a loan made~~
21 ~~or purchased with revenue obligation bonds shall constitute a statutory lien on the~~
22 revenue enterprise obligations. No physical delivery, recordation or other action is
23 required to perfect the security interest. The income and property of the
24 revenue-producing enterprise or program shall remain subject to the lien until
25 provision for payment in full of the principal and interest of the ~~bonds~~ enterprise

1 obligations has been made, as provided in the authorizing resolution. Any holder
2 owner of such ~~bonds or attached coupons~~ enterprise obligations may either at law or
3 in equity protect and enforce the lien and compel performance of all duties required
4 by this section. If there is any default in the payment of the principal or interest of
5 any of such ~~bonds~~ enterprise obligations, any court having jurisdiction of the action
6 may appoint a receiver to administer the revenue-producing enterprise or program
7 on behalf of the state and the ~~bondholders~~ owners of the enterprise obligations, with
8 power to charge and collect rates sufficient to provide for the payment of the
9 operating expenses and also to pay any ~~bonds or~~ enterprise obligations outstanding
10 against the revenue-producing enterprise or program, and to apply the income and
11 revenues thereof in conformity with this subchapter and the authorizing resolution,
12 or the court may declare the whole amount of the ~~bonds~~ enterprise obligations due
13 and payable, if such relief is requested, and may order and direct the sale of the
14 revenue-producing enterprise or program. Under any sale so ordered, the purchaser
15 shall be vested with an indeterminate permit to maintain and operate the
16 revenue-producing enterprise or program. The legislature may provide for
17 additions, extensions and improvements to a revenue-producing enterprise or
18 program to be financed by additional issues of ~~bonds~~ enterprise obligations as
19 provided by this section. Such additional issues of ~~bonds~~ enterprise obligations shall
20 be subordinate to all prior related issues of ~~bonds~~ enterprise obligations which may
21 have been made under this section, unless the legislature, in the statute authorizing
22 the initial issue of ~~bonds~~ enterprise obligations, permits the issue of additional ~~bonds~~
23 enterprise obligations on a parity therewith.

24 (3) **DEDICATION OF REVENUES.** As accurately as possible in advance, the
25 commission and the state department or agency carrying out program

1 responsibilities for which bonds enterprise obligations are to be issued shall
2 determine, and the commission shall fix in the authorizing resolution for such bonds
3 enternrise obligations: the proportion of the revenues of the revenue-producing
4 enterprise or program which shall be necessary for the reasonable and proper
5 operation and maintenance thereof; the proportion of the revenues which shall be set
6 aside as a proper and adequate replacement and reserve fund; and the proportion of
7 the revenues which shall be set aside and applied to the payment of the principal and
8 interest of the bonds enternrise obligations, and shall provide that the revenues be
9 set aside in separate funds. At any time after one year's operation, the state
10 department or agency and the commission may recompute the proportion of the
11 revenues which shall be assignable under this subsection based upon the experience
12 of operation or upon the basis of further financing.

13 (4) REPLACEMENT AND RESERVE FUND. The proportion set aside to the
14 replacement and reserve fund shall be available and shall be used, whenever
15 necessary, to restore any deficiency in the redemption fund for the payment of the
16 principal and interest due on bonds enterprise obligations and for the creation and
17 maintenance of any reserves established by the authorizing resolution to secure such
18 payments. At any time when the redemption fund is sufficient for said purposes,
19 moneys in the replacement and reserve fund may, subject to available
20 appropriations, be expended either in the revenue-producing enterprise or program
21 or in new acquisitions, constructions, extensions ~~or~~, additions, expansions or
22 imnrovements. Any accumulations of the replacement and reserve fund may be
23 invested as provided in this subchapter, and if invested, the income from the
24 investment shall be carried in the replacement and reserve fund.

1 (5) REDEMPTION FUND. The proportion which shall be set aside for the payment
2 of the principal and interest ~~of such bonds on the enterprise obligations~~ shall from
3 month to month as they accrue and are received, be set apart and paid into a separate
4 fund in the treasury or in an account maintained by a trustee under sub. (9) (j) to be
5 identified as "the . . . redemption fund". Each redemption fund shall be expended, and
6 all moneys from time to time on hand therein are irrevocably appropriated, in sums
7 sufficient, only for the payment of principal and interest on the revenue enterprise
8 obligations giving rise to it and premium, if any, due upon ~~refunding~~ redemption of
9 any such obligations. Moneys in the redemption funds may be commingled only for
10 the purpose of investment with other public funds, but they shall be invested only
11 in investment instruments permitted in s. 25.17 (3) (dr). All such investments shall
12 be the exclusive property of the fund and all earnings on or income from such
13 investments shall be credited to the fund.

14 (6) REDEMPTION FUND SURPLUS. If any surplus is accumulated in any of the
15 redemption funds, subject to any contract rights vested in holders owners of revenue
16 enterprise obligations secured thereby, it shall be paid over to the treasury.

17 **SECTION 14.** 18.56 (7) and (8) of the statutes are renumbered 18.561 (7) and (8).

18 **SECTION 15.** 18.56 (9) (intro.) of the statutes is renumbered 18.561 (9) (intro.)
19 and amended to read:

20 18.561 (9) AUTHORIZING RESOLUTION. (intro.) The commission may provide in
21 the authorizing resolution for bonds enterprise obligations or by subsequent action
22 all things necessary to carry into effect this section. Any authorizing resolution shall
23 constitute a contract with the holder owners of any bonds enterprise obligations
24 issued pursuant to ~~such the~~ resolution. Any authorizing resolution may contain such
25 provisions or covenants, without limiting the generality of the power to adopt the

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

4 **SECTION 16.** 18.56 (9) (a) to (j) of the statutes are renumbered 18.561 (9) (a) to
5 (j), and 18.561 (9) (i) and (j), as renumbered, are amended to read:

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

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

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

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

1 to time, be issued to an amount sufficient with the amount then in the sinking fund,
2 to pay and retire the secured obligation or charge or any portion thereof. The bonds
3 enterprise obligation may be issued in exchange for or satisfaction of the secured
4 obligation or charge, or may be sold in the manner provided in this subchapter, and
5 the proceeds applied in payment of the same at maturity or before maturity by
6 agreement with the ~~holder~~ owner of the secured obligation or charge. The
7 commission and the owners of any revenue-producing enterprise or program
8 acquired or purchased may, upon such terms and conditions as are satisfactory,
9 contract that binds enterprise obligations to provide for the discharge of the secured
10 obligation or charge, or for the whole purchase price shall be deposited with a trustee
11 or depository and released from the deposit from time to time on such terms and
12 conditions as are necessary to secure the payment of the secured obligation or charge.

13 **SECTION 18.** 18.561 (title) of the statutes is created to read:

14 **18.561** (title) **Enterprise obligations.**

15 **SECTION 19.** 18.561 (1) of the statutes is created to read:

16 18.561 **(1) PAYMENT WITH REVENUE OBLIGATIONS.** The state and a contracting
17 party may provide, in any contract for purchasing or acquiring a revenue-producing
18 enterprise or program, that payment shall be made in revenue obligations.

19 **SECTION 20.** 18.561 (7) (title) of the statutes is created to read:

20 18.561 (7) (title) **PAYMENT FOR SERVICES.**

21 **SECTION 21.** 18.561 (8) (title) of the statutes is created to read:

22 18.561 (8) (title) **RATES FOR SERVICES.**

23 **SECTION 22.** 18.561 (9) (k) of the statutes is created to read:

24 18.561 (9) (k) **Defeasance of the obligations.**

25 **SECTION 23.** 18.562 of the statutes is created to read:

1 **18.562 Special fund obligations. (1) SECURITY INTEREST IN SPECIAL FUND.**

2 There is a security interest, for the benefit of the owners of the special fund
3 obligations, in the amounts that arise after the creation of the special fund program
4 in the special fund related to the special fund obligations. For this purpose, amounts
5 in the special fund shall be accounted for on a first-in, first-out basis. No physical
6 delivery, recordation or other action is required to perfect the security interest. The
7 special fund shall remain subject to the security interest until provision for payment
8 in full of the principal and interest of the special fund obligations has been made, as
9 provided in the authorizing resolution. An owner of special fund obligations may
10 either at law or in equity protect and enforce the security interest and compel
11 performance of all duties required by this section.

12 **(2) USE OF SPECIAL FUND MONEYS.** The commission and the state agency carrying
13 out the special fund program responsibilities shall jointly determine, and the
14 commission shall fix in the authorizing resolution for the obligations, the conditions
15 under which money in the special fund shall be set aside and applied to the payment
16 of the principal and interest of the obligations, deposited in funds established under
17 the authorizing resolution or made available for other purposes.

18 **(3) REDEMPTION FUND.** The special fund revenues that are to be set aside for the
19 payment of the principal and interest of the special fund obligations shall be paid into
20 a separate fund in the treasury or in an account maintained by a trustee under sub.
21 (5) (e) to be identified as “the . . . redemption fund”. Each redemption fund shall be
22 expended, and all moneys from time to time on hand therein are irrevocably
23 appropriated, in sums sufficient, only for the payment of principal and interest on
24 the special fund obligations giving rise to it and premium, if any, due upon
25 redemption of any such obligations. Moneys in the redemption funds may be

1 commingled only for the purpose of investment with other public funds, but they
 2 shall be invested only in investment instruments permitted in s. 25.17 (3) (dr). All
 3 such investments shall be the exclusive property of the fund and all earnings on or
 4 income from such investments shall be credited to the fund.

5 (4) **SURPLUS.** If any surplus is accumulated in any of the redemption funds,
 6 subject to contract rights vested in the owners of special fund obligations secured
 7 thereby, it shall be paid over to the treasury.

8 (5) **AUTHORIZING RESOLUTION.** The commission may provide in the authorizing
 9 resolution for special fund obligations or by subsequent action all things necessary
 10 to carry into effect this section. Any authorizing resolution shall constitute a
 11 contract with the owners of any special fund obligations issued pursuant to the
 12 resolution. An authorizing resolution may contain such provisions or covenants,
 13 without limiting the generality of the power to adopt the resolution, as are deemed
 14 necessary or desirable for the security of owners of the obligations or the
 15 marketability of the obligations, including provisions as to:

- 16 (a) Employment of consultants.
- 17 (b) Records and accounts.
- 18 (c) Establishment of reserve or other funds.
- 19 (d) Issuance of additional obligations.
- 20 (e) Deposit of the proceeds of the sale of the obligations or revenues of the
 21 special fund in trust, including the appointment of depositories or trustees.
- 22 (f) Defeasance of the obligations.

23 **SECTION 24.** 18.57 (title) of the statutes is repealed and recreated to read:

24 18.57 (title) **Funds established for revenue obligations.**

25 **SECTION 25.** 18.57 (1) of the statutes is amended to read:

1 18.57 (1) A separate and distinct fund shall be established in the state treasury
2 or in an account maintained by a trustee under s. ~~18.56~~ 18.561 (9) (j) with respect to
3 each revenue-producing enterprise or program the income from which is to be
4 applied to the payment of any ~~revenue enterprise~~ obligation. A separate and distinct
5 fund shall be established in the state treasury or in an account maintained by a
6 trustee under s. 18.562 (5)(e) with respect to any special fund that is created by the
7 imposition of fees, penalties or excise taxes and is applied to the payment of special
8 fund obligations. All moneys resulting from the issuance of evidences of revenue
9 obligation shall be credited to the appropriate fund or applied for refunding or note
10 renewal purposes, except that moneys which represent premium or accrued interest
11 received on the issuance of evidences shall be credited to the appropriate redemption
12 fund.

13 **SECTION 26.** 18.57 (4) of the statutes is renumbered 18.57 (4) (intro.) and
14 amended to read:

15 18.57 (4) (intro.) If, after all outstanding related revenue obligations have been
16 paid or payment provided for, moneys remain in ~~any such a fund, they created under~~
17 sub. (1), all of the following: shall occur:

18 (a) If the fund created under sub. (1) is in an account maintained by a trustee
19 under s. 18.561 (9)(j) or 18.562 (5) (e), the moneys shall be paid over to the treasury
20 and the,

21 (b) The fund created under sub. (1) shall be closed.

22 **SECTION 27.** 18.58 (1) of the statutes is amended to read:

23 18.58 (1) **MANAGEMENT OF FUNDS AND RECORDS.** All funds established under this
24 subchapter which are deposited in the state treasury shall be managed as provided
25 by law for other state funds, subject to any contract rights vested in ~~holders~~ owners

1 of evidences of revenue obligation secured by such fund. The department of
2 administration shall maintain full and correct records of each fund. The legislative
3 audit bureau shall audit each fund as of January 1 of each year reconciling all
4 transactions and showing the fair market value of all property on hand. All records
5 and audits shall be public documents. All funds established under this subchapter
6 which are deposited with a trustee under s. ~~18.56~~ 18.561 (9) (j) or 18.562 (5) (e) shall
7 be managed in accordance with resolutions authorizing the issuance of revenue
8 obligations, agreements between the commission and the trustee and any contract
9 rights vested in ~~holders of evidence~~ owners of revenue obligations secured by such
10 fund.

11 **SECTION 28.** 18.60 (1) of the statutes is amended to read:

12 18.60 (1) The commission may authorize, for any one or more of the purposes
13 described in s. 18.53 (1), the issuance of revenue-obligation refunding bonds.
14 Refunding bonds may be issued, subject to any contract rights vested in ~~holders~~
15 owners of bonds or notes being refinanced, to refinance more than one issue of bonds
16 or notes notwithstanding that the bonds or notes may have been issued at different
17 times for different purposes and may be secured by the property or income of more
18 than one enterprise or program or may be public debt or building-corporation
19 indebtedness. The principal amount of refunding bonds shall not exceed the sum of:
20 the principal amount of the bonds or notes being refinanced; applicable redemption
21 premiums; unpaid interest on the bonds or notes to the date of delivery or exchange
22 of the refunding bonds; in the event the proceeds are to be deposited in trust as
23 provided in sub. (3), interest to accrue on the bonds or notes from the date of delivery
24 to the date of maturity or to the redemption date selected by the commission,
25 whichever is earlier; and the expenses incurred in the issuance of the refunding

1 bonds and the payment of the bonds or notes. A determination by the commission
2 that a refinancing is advantageous or that any of the amounts provided in the
3 preceding sentence should be included in the refinancing shall be conclusive.

4 **SECTION 29.** 18.60 (2) of the statutes is amended to read:

5 18.60 (2) If the commission determines to exchange refunding bonds, they may
6 be exchanged privately for and in payment and discharge of any of the outstanding
7 bonds or notes being refinanced. Refunding bonds may be exchanged for a like or
8 greater principal amount of the bonds or notes being exchanged therefor except that
9 the principal amount of the refunding bonds may exceed the principal amount of the
10 bonds or notes being exchanged therefor only to the extent determined by the
11 commission to be necessary or advisable to pay redemption premiums and unpaid
12 interest to the date of exchange not otherwise provided for. The holders owners of
13 the bonds or notes being refunded who elect to exchange need not pay accrued
14 interest on the refunding bonds if and to the extent that interest is accrued and
15 unpaid on the bonds or notes being refunded and to be surrendered. If any of the
16 bonds or notes to be refinanced are to be called for redemption, the commission shall
17 determine which redemption dates shall be used, if more than one date is applicable
18 and shall, prior to the issuance of the refunding bonds, provide for notice of
19 redemption to be given in the manner and at the times required by the proceedings
20 authorizing the outstanding bonds or notes.

21 **SECTION 30.** 18.60 (5) of the statutes is renumbered 18.60 (5) (intro.) and
22 amended to read:

23 18.60 (5) (intro.) All of the following provisions ~~of s. 18.56~~ that are not
24 inconsistent with the express provisions of this section shall apply to refunding

1 bonds, except that the maximum permissible term shall be 50 years from the date
2 of original issue of the oldest note or bond issue being refunded,:

3 **SECTION 31.** 18.60 (5) (a) to (c) of the statutes are created to read:

4 18.60 (5) (a) Section 18.56.

5 (b) In the case of enterprise obligations, s. 18.561.

6 (c) In the case of special fund obligations, s. 18.562.

7 **SECTION 32.** 18.61 (2) of the statutes is amended to read:

8 18.61 (2) The state pledges and agrees with the ~~holders~~ owners of any evidences
9 of revenue ~~obligation~~ obligations that the state will not limit or alter its powers to
10 fulfill the terms of any agreements made with the ~~holders~~ owners or in any way
11 impair the rights and remedies of the ~~holders~~ owners until the revenue obligations,
12 together with interest including interest on any unpaid instalments of interest, and
13 all costs and expenses in connection with any action or proceeding by or on behalf of
14 the holders owners, are fully met and discharged. The commission may include this
15 pledge and agreement of the state in any agreement with the ~~holders of notes or~~
16 ~~bonds and in any evidence~~ owners of revenue obligation.

17 **SECTION 33.** 18.61 (3) (a) of the statutes is amended to read:

18 18.61 (3) (a) If the state fails to pay any revenue obligation in accordance with
19 its terms, and default continues for a period of 30 days or if the state fails or refuses
20 to comply with this subchapter or defaults in any agreement made with the holders
21 owners of any issue of revenue obligations, the ~~holders~~ owners of 25% in aggregate
22 principal amount of the revenue obligations of the issue then outstanding by
23 instrument recorded in the office of the register of deeds of Dane county and approved
24 or acknowledged in the same manner as a deed to be recorded may appoint a trustee

1 to represent the ~~holders~~ owners of the ~~notes or bonds~~ revenue obligations for the
2 purposes specifically provided in the instrument.

3 **SECTION 34.** 18.61 (3) (b) (intro.) of the statutes is amended to read:

4 18.61 (3) (b) (intro.) The trustee may, and upon written request of the ~~holders~~
5 owners of 25% in aggregate principal amount of the revenue obligations of the issue
6 then outstanding shall, in the trustee's own name:

7 **SECTION 35.** 18.61 (3) (b) 1. of the statutes is amended to read:

8 18.61 (3) (b) 1. By action or proceeding, enforce all rights of all ~~holders~~ owners
9 of the issue of revenue obligations, including the right to require the state to collect
10 enterprise or program income adequate to carry out any agreement as to, or pledge
11 of, such income and to require the state to carry out any other agreements with the
12 ~~holders~~ owners of the revenue obligations and to perform its duties under this
13 subchapter;

14 **SECTION 36.** 18.61 (3) (b) 3. of the statutes is amended to read:

15 18.61 (3) (b) 3. By action, require the state to account as if it were the trustee
16 of an express trust for the ~~holders~~ owners of the revenue obligations;

17 **SECTION 37.** 18.61 (3) (b) 4. of the statutes is amended to read:

18 18.61 (3) (b) 4. By action, enjoin any acts or things which may be unlawful or
19 in violation of the rights of the ~~holders~~ owners of the revenue obligations; and

20 **SECTION 38.** 18.61 (3) (c) of the statutes is amended to read:

21 18.61 (3) (c) The trustee shall have all of the powers necessary or appropriate
22 for the exercise of any functions specifically set forth in this subchapter or incident
23 to the general representation of the ~~holders~~ owners of revenue obligations in the
24 enforcement and protection of their rights.

25 **SECTION 39.** 18.61 (4) of the statutes is amended to read:

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

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

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

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

11 20.143 (3) (u) *Revenue obligation debt service -petroleum inspection fund.*

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

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

22 20.143 (3) (v) *Petroleum storage environmental remedial action; awards.*

23 Biennially, from the petroleum inspection fund, the amounts in the schedule to pay
24 awards under s. 101.143 ~~and~~, legal costs incurred under s. 101.143 (7m), amounts
25 to reduce principal of outstanding revenue obligations issued pursuant to s. 101.143

1 (9m) and, if the department promulgates rules under s. 101.143 (2) (em) 1., to
2 purchase, or provide funding to purchase, insurance described in s. 101.143 (2) (em)
3 2.

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

5 *20.143 (3) (vb) Petroleum storage environmental remedial action revenue*
6 *bonding; awards.* From the petroleum inspection fund, a sum sufficient not to exceed
7 the net proceeds of special fund obligations issued pursuant to s. 101.143 (9m) to pay
8 awards under s. 101.143 (4) and legal costs incurred under s. 101.143 (7m).
9 Estimated disbursements under this paragraph shall not be included in the schedule
10 under s. 20.005.

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

13 **25.47 Petroleum inspection fund.** (intro.) There is established a separate
14 nonlapsible trust fund designated as the petroleum inspection fund, to consist of ~~the~~:

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

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

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

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

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

20 25.47 (1m) Any fees imposed under s. 101.143 (2) (em) 1.

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

22 25.47 (5) The moneys transferred from the appropriation account under s.
23 20.143 (3) (s).

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

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

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

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

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

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

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

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

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

7 **SECTION 54.** 101.143 (1) (bm) of the statutes is created to read:

8 101.143 (1) (bm) "Enforcement standard" has the meaning given in s. 160.01
9 (2).

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

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

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

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

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

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

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

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

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

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

12 **SECTION 58.** 101.143 (2) (i) of the statutes is created to read:

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

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

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

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

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

2 **SECTION 59.** 101.143 (2) (j) of the statutes is created to read:

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

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

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

9 **SECTION 60.** 101.143 (2) (k) of the statutes is created to read:

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

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

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

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

3 **SECTION 62.** 101.143 (2e) of the statutes is created to read:

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

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

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

23 **SECTION 63.** 101.143 (3) (c) 2. of the statutes is amended to read:

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

4 **SECTION 64.** 101.143 (3) (cm) of the statutes is amended to read:

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

11 **SECTION 65.** 101.143 (3) (cn) of the statutes is created to read:

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

16 **SECTION 66.** 101.143 (3) (cp) of the statutes is created to read:

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

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

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

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

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

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

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

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

20 **SECTION 67.** 101.143 (3) (cs) of the statutes is created to read:

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

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

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

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

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

15 **SECTION 68.** 101.143 (3) (cw) of the statutes is created to read:

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

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

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

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

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

11 **SECTION 69.** 101.143 (3) (d) of the statutes is amended to read:

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

22 **SECTION 70.** 101.143 (3) (g) (intro.> and 1. of the statutes are consolidated,
23 renumbered 101.143 (3) (g) and amended to read:

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

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

9 **SECTION 71.** 101.143 (3) (g) 2. of the statutes is repealed.

10 **SECTION 72.** 101.143 (4) (b) (intro.) of the statutes is amended to read:

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

15 **SECTION 73.** 101.143 (4) (b) 16. of the statutes is created to read:

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

20 **SECTION 74.** 101.143 (4) (c) (intro.) of the statutes is amended to read:

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

24 **SECTION 75.** 101.143 (4) (c) 8. of the statutes is renumbered 101.143 (4) (c) 8.
25 (intro.) and amended to read:

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

4 **SECTION 76.** 101.143 (4) (c) 8. a. to f. of the statutes are created to read:

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

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

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

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

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

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

22 **SECTION 77.** 101.143 (4) (c) 10. of the statutes is created to read:

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

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

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

4 **SECTION 79.** 101.143 (4) (c) 12. of the statutes is created to read:

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

9 **SECTION 80.** 101.143 (4) (cm) of the statutes is renumbered 101.143 (4) (cm) 1.
10 and amended to read:

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

23 **SECTION 81.** 101.143 (4) (cm) 2. of the statutes is created to read:

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

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

3 **SECTION 82.** 101.143 (4) (d) 2. (intro.) of the statutes is amended to read:

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

12 **SECTION 83.** 101.143 (4) (dg) of the statutes is created to read:

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

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

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

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

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

3 **SECTION 84.** 101.143 (4) (di) of the statutes is created to read:

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

11 **SECTION 85.** 101.143 (4) (dm) 2. a. of the statutes is amended to read:

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

14 **SECTION 86.** 101.143 (4) (dm) 2. c. of the statutes is amended to read:

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

18 **SECTION 87.** 101.143 (4) (ei) 2. of the statutes is repealed and recreated to read:

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

23 **SECTION 88.** 101.143 (9m) of the statutes is created to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 **SECTION 89.** 101.143 (11) of the statutes is created to read:

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

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

17 1. The date on which the record of the site investigation was received.

18 2. The environmental risk factors, as defined by the department of commerce
19 by rule, identified at the site.

20 3. The year in which the approval under sub. (3) (c) 4. is expected to be issued.

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

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

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

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

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

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

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

14 **SECTION 90.** 101.144 (1) (ae) of the statutes is created to read:

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

16 **SECTION 91.** 101.144 (1) (aq) of the statutes is created to read:

17 101.144 (1) (aq) Except as provided under sub. (3g), "high risk site" means the
18 site of a discharge of a petroleum product from a petroleum storage tank if the
19 discharge has resulted in a concentration of contaminants that exceeds an
20 enforcement standard in soil that has a hydraulic conductivity of 1x10" centimeters
21 per second or if at least one of the following applies:

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

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

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

6 4. An enforcement standard is exceeded in bedrock.

7 **SECTION 92.** 101.144 (2) (b) 1. of the statutes is amended to read:

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

11 **SECTION 93.** 101.144 (2) (b) 2. of the statutes is amended to read:

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

15 **SECTION 94.** 101.144 (3g) of the statutes is created to read:

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

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

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

14 **SECTION 95.** 101.144 (3m) (a) 3. of the statutes is amended to read:

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

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

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

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

4 **SECTION 97. Nonstatutory provisions.**

5 (1) **FINANCIAL MANAGEMENT.** No later than the first day of the 6th month
6 beginning after the effective date of this subsection, the department of commerce
7 shall do all of the following:

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

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

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

19 (2) **RULE MAKING.**

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

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

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

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

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

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

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

8 (f) The department of natural resources shall submit in proposed form any
9 changes in its rules necessary to conform to the rules under section 101.143 (2) (h),
10 (i) and (j) of the statutes, as created by this act, to the legislature under section 227.19
11 of the statutes no later than June 1, 2000.

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

17 (4) **REPORT CONCERNING FEDERAL FUNDING.** The secretary of administration shall
18 report to the joint committee on finance on how federal funds related to leaking
19 underground storage tanks should be allocated between the department of
20 commerce and the department of natural resources. The secretary shall submit the
21 report for review by the committee at its 4th quarterly meeting in 1999.

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

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

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

14 **SECTION 98. Appropriation changes; commerce.**

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

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

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

3 **SECTION 99. Initial applicability.**

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

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

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

14 **SECTION 100. Effective dates.** This act takes effect on the day after
15 publication, except as follows:

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

19 (2) **RISK BASED ANALYSIS AND REIMBURSEMENT CHANGES.** The treatment of section
20 101.143 (2e) (c), (3) (cn), (cp), (cs) and (g) and (4) (c) 11. of the statutes and SECTION
21 99 of this act take effect on November 1, 1999.

22 (END)