

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1580/1dn  
RAC&KSH:jlg:hmh

Tuesday, January 5, 1999

For your review, we are attaching a similar version of the drafter's note that accompanied 1997 Senate Bill 533:

1. Effective date. I did not add a specific effective date and, as a result, the bill will take effect on the day after publication. Under the bill, the commission could then direct the payment of any unpaid funds to the escrow account for the period for which the federal government was not meeting its contractual obligations (going back to the January 31, 1998, date, as long as the utilities hadn't already paid the funds to the federal government by the time the bill takes effect.)

2. Segregated fund. Because of constitutional issues requiring the expenditure of state funds only by appropriations, I required the escrowed moneys to be deposited in a newly created state segregated fund and created an appropriation for the commission to pay the federal government from this fund when the federal government starts meeting its obligations under the contracts. Although it may not be constitutionally required to run this money through a state fund and a state appropriation because it is arguably not state money, this was a relatively easy way to accomplish your intent. By having the moneys deposited in a state segregated fund, it makes it clear who has what responsibilities with respect to the funds and how the funds should be accounted for. If you object to having the money deposited in a segregated fund in the state treasury, please let me know and we can discuss possible alternatives.

3. Investment of the funds. Once the funds are deposited in the newly created state segregated fund, the investment board would have control over the investment of the funds. I added language to the bill which allows the investment board to invest the funds of the nuclear waste escrow fund only in investments appropriate for an escrow fund, such as interest-bearing accounts at federally insured banking institutions or short-term direct obligations of the U. S. government. Let me know if this investment authority provision is in any way inconsistent with your intent.

4. Trigger for the payment of the escrowed funds. I did not use the Minnesota language for triggering the payment of the escrowed funds to the secretary of energy: "a showing by the secretary [of the federal department of energy] that a federal repository for the long-term storage and permanent disposal of spent nuclear fuel and high-level radioactive waste is operating and currently accepting such materials". Instead, I used more general language: "a showing by the secretary of the federal department of energy that the federal department of energy is meeting its obligations under contracts entered into under 42 USC 10222".

5. PSC review. I have a call in to Susan Stratton of the PSC regarding the bill. I would like to ask her a couple of questions regarding the utilities in this state that have entered into contracts under 42 USC 10222 and regarding the process that I set up in this bill. Apparently, the contracts themselves contain provisions governing default and remedies in case of a breach of contract. I would like to make sure that the escrow approach taken in the bill is consistent with the language governing defaults in the contract. If, as a result of these discussions, changes are necessary to the bill, I will contact you to discuss them and redraft the proposal or draft an amendment to it, as appropriate.

Please do not hesitate to call me if you have any questions on the draft or if any part of it is inconsistent with your intent.

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