



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1432/A
KSH:kmg:jf

2

DOA:.....Wong - PECFA revenue bonding

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

D-NOTE

*Don't
for cat*

1 AN ACT *Don't for cat*; relating to: the budget.

Analysis by the Legislative Reference Bureau

ENVIRONMENT

HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEANUP

Under current law, the department of commerce (department) administers a program to reimburse owners of certain petroleum product storage tanks for a portion of the costs of cleaning up discharges from those tanks. This program is commonly known as PECFA.

This bill authorizes the department to issue revenue obligations, to be paid from revenues deposited in the petroleum inspection fund, to fund the PECFA program. No more than \$150,000,000 in revenue obligations may be issued under the bill. The building commission may pledge any portion of revenues received from the proceeds of the obligations or the petroleum inspection fund to secure revenue obligations issued under this bill. The building commission may issue the revenue obligations when it reasonably appears to the building commission that the obligations can be fully paid on a timely basis from the petroleum inspection fund. The bill provides a so-called "moral obligation pledge" which applies if the legislature reduces the rate of the petroleum inspection fee. If the rate is reduced and there are insufficient funds in the petroleum inspection fund to pay the principal and interest on the revenue obligations, the legislature expresses its expectation and aspiration that it would make an appropriation from the general fund sufficient to pay the principal and interest on the obligations.

STATE GOVERNMENT**STATE FINANCE**

Under current law, the state may issue “revenue obligations” for certain specified purposes. In general, a revenue obligation is an obligation that is: 1) incurred to purchase, acquire, lease, construct, improve, operate or manage a revenue-producing enterprise; and 2) repayable solely from, and secured solely by, the property or income from the revenue-producing enterprise.

This bill broadens the definition of revenue obligation to allow revenue bonding in situations which would not meet the current law definition of revenue obligation. Under the bill, revenue obligations consist of two different types: enterprise obligations and special fund obligations. The first type of revenue obligation, called an enterprise obligation, includes all obligations authorized under current law; i.e., obligations that are incurred to purchase, acquire, lease, construct, improve, operate or manage a revenue-producing enterprise and are repayable solely from, and secured solely by, the property or income from that revenue-producing enterprise.

The second type of revenue obligation, a special fund obligation, is created by the bill. Special fund obligations are an undertaking by the state to repay a certain amount of borrowed money that is payable exclusively from a special fund consisting of fees, penalties or excise taxes.

The bill uses this second type of revenue obligation in order to authorize not more than \$150,000,000 of revenue obligation bonding for the PECFA program. See ENVIRONMENT, HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEANUP. These revenue obligations are to be repaid from, and are secured by, the petroleum inspection fund. If, however, the legislature reduces the rate of the petroleum inspection fee and the fees in the fund prove insufficient to pay the principal and interest on the revenue obligations, the bill expresses the legislature’s expectation and aspiration that it would make an appropriation from the general fund sufficient to pay the principal and interest on the obligations.

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

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

- 1 **SECTION 1.** 18.51 of the statutes is amended to read:
- 2 **18.51 Provisions applicable.** The following sections apply to this
- 3 subchapter, except that all references to “public debt” or “debt” are deemed shall be
- 4 read to refer to a “revenue obligation” and all references to “evidences of
- 5 indebtedness” shall be read to refer to “evidences of revenue obligations”: ss. 18.02,
- 6 18.03, 18.06 (8), 18.07, 18.10 (1), (2), (4) to (9) and (11) and 18.17.

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

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

4 **SECTION 3.** 18.52 (5) (intro.) of the statutes is renumbered 18.52 (5) and
5 amended to read:

6 18.52 **(5)** “Revenue obligation” means ~~every undertaking by the state to repay~~
7 ~~a certain amount of borrowed money which is:~~ an enterprise obligation or a special
8 fund obligation.

9 **SECTION 4.** 18.52 (5) (a) of the statutes is renumbered 18.52 (2m) (a) and
10 amended to read:

11 18.52 **(2m)** (a) Created for the purpose of purchasing, acquiring, leasing,
12 constructing, extending, expanding, adding to, improving, conducting, controlling,
13 operating or managing a revenue-producing enterprise or program;.

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

16 18.52 **(2m)** (b) Payable solely from and secured solely by the property or income
17 or both of the enterprise or program; ~~and.~~

18 **SECTION 6.** 18.52 (5) (c) of the statutes is renumbered 18.52 (2m) (c).

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

20 18.52 **(7)** “Special fund obligation” means every undertaking by the state to
21 repay a certain amount of borrowed money which is all of the following:

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

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

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

1 18.52 (8) "Special fund program" means a state program with respect to which
2 the legislature has determined that financing with special fund obligations is
3 appropriate and will serve a public purpose.

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

6 18.53 (3) (intro.) The commission shall authorize money to be borrowed and
7 evidences of revenue obligation to be issued therefor up to the amounts specified by
8 the legislature to purchase, acquire, lease, construct, extend, expand, add to,
9 improve, conduct, control, operate or manage such revenue-producing enterprises
10 or programs as are specified by the legislature as the funds are required. The
11 requirements for funds shall be established by the state department or agency head
12 carrying out program responsibilities for which the revenue obligations have been
13 authorized by the legislature, but shall not exceed the following:

14 **SECTION 10.** 18.53 (3) (a) and (b) of the statutes are created to read:

15 18.53 (3) (a) In the case of enterprise obligations, the amounts specified by the
16 legislature to purchase, acquire, lease, construct, extend, expand, add to, improve,
17 conduct, control, operate or manage such revenue-producing enterprises or
18 programs as are specified by the legislature.

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

21 **SECTION 11.** 18.56 (1) of the statutes is renumbered 18.56 and amended to read:

22 **18.56 Revenue bonds obligations.** The commission may authorize, for any
23 of the purposes described in s. 18.53 (3), the issuance of ~~revenue obligation bonds~~
24 revenue obligations. The ~~bonds obligations~~ shall mature at any time not exceeding
25 50 years from the date thereof as the commission shall determine. The ~~bonds~~

revenue

1 revenue revenue obligations shall be payable only out of the redemption fund provided under
 2 sub. s. 18.561 (5) or 18.562 (2) and each bond revenue obligation shall contain on its
 3 face a statement to that effect. ~~Any such bonds~~ A revenue obligation may contain a
 4 provision authorizing redemption, in whole or in part, at stipulated prices, at the
 5 option of the commission and shall provide the method of redeeming the bonds
 6 obligations. ~~The state and a contracting party may provide in any contract for~~
 7 ~~purchasing or acquiring a revenue producing enterprise or program, that payment~~
 8 ~~shall be made in such bonds.~~ plain

9 **SECTION 12.** 18.56 (2) to (6) of the statutes are renumbered 18.561 (2) to (6) and
 10 amended to read:

11 18.561 (2) SECURITY INTEREST OF ENTERPRISE OBLIGATION HOLDERS. There shall
 12 be a mortgage lien upon or security interest in the income and property of each
 13 revenue-producing enterprise or program to the holders of the related bonds
 14 enterprise obligations and to the holders of the coupons of the bonds enterprise
 15 obligations. The note or other instrument evidencing the security interest of a
 16 bondholder ~~holder of an enterprise obligation~~ in a loan made or purchased with
 17 revenue obligation bonds enterprise obligations shall constitute a statutory lien on
 18 the ~~revenue obligations~~ loan. No physical delivery, recordation or other action is
 19 required to perfect the security interest. The revenue-producing enterprise or
 20 program shall remain subject to the lien until provision for payment in full of the
 21 principal and interest of the bonds enterprise obligations has been made. Any holder
 22 of such bonds obligations or attached coupons may either at law or in equity protect
 23 and enforce the lien and compel performance of all duties required by this section.
 24 If there is any default in the payment of the principal or interest of any of such bonds
 25 obligations, any court having jurisdiction of the action may appoint a receiver to

holder of an enterprise obligation constitutes

revenue-producing enterprise

enterprise

enterprise

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

administer the revenue-producing enterprise or program on behalf of the state and the ~~bondholders~~ holders of the obligations, with power to charge and collect rates sufficient to provide for the payment of the operating expenses and also to pay any ~~bonds~~ or enterprise obligations outstanding against the revenue-producing enterprise or program, and to apply the income and revenues thereof in conformity with this subchapter and the authorizing resolution, or the court may declare the whole amount of the ~~bonds~~ enterprise obligations due and payable, if such relief is requested, and may order and direct the sale of the revenue-producing enterprise or program. Under any sale so ordered, the purchaser shall be vested with an indeterminate permit to maintain and operate the revenue-producing enterprise or program. The legislature may provide for additions, extensions and improvements to a revenue-producing enterprise or program to be financed by additional issues of ~~bonds~~ enterprise obligations as provided by this section. Such additional issues of ~~bonds~~ obligations shall be subordinate to all prior related issues of ~~bonds~~ obligations which may have been made under this section, unless the legislature, in the statute authorizing the initial issue of ~~bonds~~ obligations, permits the issue of additional ~~bonds~~ obligations on a parity therewith.

enterprise

(3) DEDICATION OF REVENUES.

18
19
20
21
22
23
24
25

As accurately as possible in advance, the commission and the state department or agency carrying out program responsibilities for which ~~bonds~~ enterprise obligations are to be issued shall determine, and the commission shall fix in the authorizing resolution for such ~~bonds~~ obligations: the proportion of the revenues of the revenue-producing enterprise or program which shall be necessary for the reasonable and proper operation and maintenance thereof; the proportion of the revenues which shall be set aside as a proper and adequate replacement and reserve fund; and the proportion of the

1 revenues which shall be set aside and applied to the payment of the principal and
2 interest of the ~~bonds~~ enterprise obligations, and shall provide that the revenues be
3 set aside in separate funds. At any time after one year's operation, the state
4 department or agency and the commission may recompute the proportion of the
5 revenues which shall be assignable under this subsection based upon the experience
6 of operation or upon the basis of further financing.

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

19 (5) REDEMPTION FUND. The proportion which shall be set aside for the payment
20 of the principal and interest of ~~such bonds~~ on the enterprise obligations shall from
21 month to month as they accrue and are received, be set apart and paid into a separate
22 fund in the treasury or in an account maintained by a trustee under sub. (9) (j) to be
23 identified as "the ... redemption fund". Each redemption fund shall be expended, and
24 all moneys from time to time on hand therein are irrevocably appropriated, in sums
25 sufficient, only for the payment of principal and interest on the ~~revenue~~ enterprise

1 obligations giving rise to it and premium, if any, due upon refunding of any such
2 obligations. Moneys in the redemption funds may be commingled only for the
3 purpose of investment with other public funds, but they shall be invested only in
4 investment instruments permitted in s. 25.17 (3) (dr). All such investments shall be
5 the exclusive property of the fund and all earnings on or income from such
6 investments shall be credited to the fund.

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

10 **SECTION 13.** 18.56 (7) and (8) of the statutes are renumbered 18.561 (7) and (8).

11 **SECTION 14.** 18.56 (9) (intro.) of the statutes is renumbered 18.561 (9) (intro.)
12 and amended to read:

13 18.561 (9) AUTHORIZING RESOLUTION. (intro.) The commission may provide in
14 the authorizing resolution for ~~bonds~~ enterprise obligations or by subsequent action
15 all things necessary to carry into effect this section. Any authorizing resolution shall
16 constitute a contract with the holder of any ~~bonds~~ obligations issued pursuant to such
17 resolution. Any authorizing resolution may contain such provisions or covenants,
18 without limiting the generality of the power to adopt the resolution, as is deemed
19 necessary or desirable for the security of ~~bondholders~~ the holders of obligations or the
20 marketability of the ~~bonds~~ enterprise obligations, including but not limited to
21 provisions as to:

22 **SECTION 15.** 18.56 (9) (a) to (j) of the statutes are renumbered 18.561 (9) (a) to
23 (j).

24 **SECTION 16.** 18.56 (10) of the statutes is renumbered 18.561 (10) and amended
25 to read:

1 18.561 (10) SINKING FUND. The authorizing resolution may set apart ~~bonds~~
2 ~~enterprise obligations~~ the par value of which are equal to the principal amount of any
3 secured obligation or charge subject to which a revenue-producing enterprise or
4 program is to be purchased or acquired, and shall set aside in a sinking fund from
5 the income of the revenue-producing enterprise or program, a sum sufficient to
6 comply with the requirements of the instrument creating the security, ~~or if~~. If the
7 instrument does not make any provision ~~therefor~~ for a sinking fund, the resolution
8 shall fix and determine the amount ~~which that~~ shall be set aside into ~~such~~ the sinking
9 fund from month to month for interest on the secured obligation or charge, and a
10 fixed amount or proportion not exceeding a stated sum, which shall be not less than
11 one percent of the principal, to be set aside into the fund to pay the principal of the
12 secured obligation or charge. Any balance in the fund after satisfying the secured
13 obligations or charge, shall be transferred to the redemption fund. ~~Bonds~~ Enterprise
14 obligations set aside for the secured obligation or charge may, from time to time, be
15 issued to an amount sufficient with the amount then in the sinking fund, to pay and
16 retire the secured obligation or charge or any portion thereof. ~~The bonds~~ enterprise
17 obligation may be issued in exchange for or satisfaction of the secured obligation or
18 charge, or may be sold in the manner provided in this subchapter, and the proceeds
19 applied in payment of the same at maturity or before maturity by agreement with
20 the holder. The commission and the owners of any revenue-producing enterprise or
21 program acquired or purchased may, upon such terms and conditions as are
22 satisfactory, contract that ~~bonds~~ obligations to provide for the discharge of the
23 secured obligation or charge, or for the whole purchase price shall be deposited with
24 a trustee or depository and released from the deposit from time to time on such terms

enterprise

1 and conditions as are necessary to secure the payment of the secured obligation or
2 charge.

3 **SECTION 17.** 18.561 (title) of the statutes is created to read:

4 **18.561 (title) Enterprise obligations.**

5 **SECTION 18.** 18.561 (1) of the statutes is created to read:

6 18.561 (1) PAYMENT WITH REVENUE OBLIGATIONS. The state and a contracting
7 party may provide, in any contract for purchasing or acquiring a revenue-producing
8 enterprise or program, that payment shall be made in revenue obligations.

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

10 18.561 (7) (title) PAYMENT FOR SERVICES.

11 **SECTION 20.** 18.561 (8) (title) of the statutes is created to read:

12 18.561 (8) (title) RATES FOR SERVICES.

13 **SECTION 21.** 18.562 of the statutes is created to read:

14 **18.562 Special fund obligations. (1) SECURITY INTEREST IN SPECIAL FUND.** A
15 holder of special fund obligations shall have a security interest in the special fund
16 out of which the special fund obligations will be repaid. No physical delivery,
17 recordation or other action is required to perfect the security interest. A holder of
18 special fund obligations may either at law or in equity protect and enforce the
19 security interest and compel performance of all duties required by this section.

20 **(2) REDEMPTION FUND.** The authorizing resolution shall specify the proportion
21 of special fund program revenues which are to be deposited in the special fund that
22 is set aside for the payment of the principal and interest of the special fund
23 obligations. These revenues shall be paid into a separate fund in the treasury or in
24 an account maintained by a trustee to be identified as “the ... redemption fund”. Each
25 redemption fund shall be expended, and all moneys from time to time on hand

1 therein are irrevocably appropriated, in sums sufficient, only for the payment of
 2 principal and interest on the special fund obligations giving rise to it and premium,
 3 if any, due upon refunding of any such obligations. Moneys in the redemption funds
 4 may be commingled only for the purpose of investment with other public funds, but
 5 they shall be invested only in investment instruments permitted in s. 25.17 (3) (dr).
 6 All such investments shall be the exclusive property of the fund and all earnings on
 7 or income from such investments shall be credited to the fund.

8 (3) 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 holder 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 holders of the obligations or the
 15 marketability of the obligations, *including provisions as to:*

16 SECTION 22. 18.57 (title) of the statutes is repealed and recreated to read:

17 18.57 (title) **Funds established for revenue obligations.**

18 SECTION 23. 18.57 (1) of the statutes is amended to read:

19 18.57 (1) A separate and distinct fund shall be established in the state treasury
 20 or in an account maintained by a trustee under s. ~~18.56~~ 18.561 (9) (j) with respect to
 21 each revenue-producing enterprise or program the income from which is to be
 22 applied to the payment of any revenue enterprise obligation ~~or with respect to any~~
 23 special fund that is created by the imposition of fees, penalties or excise taxes and
 24 is applied to the payment of special fund obligations. ^{score} All moneys resulting from the
 25 issuance of evidences of revenue obligation shall be credited to the appropriate fund

Insert 11-15 ✓

insert 11-22

1 or applied for refunding or note renewal purposes, except that moneys which
2 represent premium or accrued interest received on the issuance of evidences shall
3 be credited to the appropriate redemption fund.

4 **SECTION 24.** 18.57 (4) of the statutes is renumbered 18.57 (4) (intro.) and
5 amended to read:

6 18.57 (4) (intro.) If, after all outstanding related revenue obligations have been
7 paid or payment provided for, moneys remain in any such a fund, they created under
8 sub. (1), all of the following shall occur:

9 (a) If the fund created under sub. (1) is in an account maintained by a trustee
10 under s. 18.561 (9) (j) or 18.562 (2), the moneys shall be paid over to the treasury and
11 the

(3)(c) ✓

12 (c) The fund created under sub. (1) shall be closed.

13 **SECTION 25.** 18.58 (1) of the statutes is amended to read:

14 18.58 (1) MANAGEMENT OF FUNDS AND RECORDS. All funds established under this
15 subchapter which are deposited in the state treasury shall be managed as provided
16 by law for other state funds, subject to any contract rights vested in holders of
17 evidences of revenue obligation secured by such fund. The department of
18 administration shall maintain full and correct records of each fund. The legislative
19 audit bureau shall audit each fund as of January 1 of each year reconciling all
20 transactions and showing the fair market value of all property on hand. All records
21 and audits shall be public documents. All funds established under this subchapter
22 which are deposited with a trustee under s. ~~18.56~~ 18.561 (9) (j) or 18.562 (2) shall be
23 managed in accordance with resolutions authorizing the issuance of revenue
24 obligations, agreements between the commission and the trustee and any contract
25 rights vested in holders of evidence of revenue obligations secured by such fund.

(3)(c) ✓

1 **SECTION 26.** 18.60 (5) of the statutes is renumbered 18.60 (5) (intro.) and
2 amended to read:

3 18.60 (5) (intro.) All of the following provisions ~~of s. 18.56~~ that are not
4 inconsistent with the express provisions of this section shall apply to refunding
5 bonds, except that the maximum permissible term shall be 50 years from the date
6 of original issue of the oldest note or bond issue being refunded.:

7 **SECTION 27.** 18.60 (5) (a) to (c) of the statutes are created to read:

8 18.60 (5) (a) Section 18.56.

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

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

11 **SECTION 28.** 20.143 (3) (s) of the statutes is created to read:

12 20.143 (3) (s) *Petroleum inspection fund — revenue obligation proceeds.* As a
13 continuing appropriation, all proceeds from revenue obligations that are issued
14 under subch. II or IV of ch. 18, authorized under s. 101.143 (9m) and deposited in a
15 fund in the state treasury created under s. 18.57 (1), to provide for reserves and for
16 expenses of issuance and management of the revenue obligations, and the remainder
17 to be transferred to the petroleum inspection fund for the purposes of the petroleum
18 storage remedial action program under s. 101.143. Estimated disbursements under
19 this paragraph shall not be included in the schedule under s. 20.005.

20 **SECTION 29.** 20.143 (3) (t) of the statutes is created to read:

21 20.143 (3) (t) *Petroleum inspection fund — revenue obligation repayment.* From
22 the petroleum inspection fund, a sum sufficient to repay the fund in the state
23 treasury created under s. 18.57 (1) the amount needed to retire revenue obligations
24 issued under subch. II or IV of ch. 18, as authorized under s. 101.143 (9m).

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

1 **SECTION 30.** 20.143 (3) (u) of the statutes is created to read:

2 20.143 (3) (u) *Revenue obligation principal and interest repayment —*
3 *petroleum inspection fund.* From the fund in the state treasury created under s.
4 18.57 (1), all moneys received by the fund for the purpose of the retirement of revenue
5 obligations, providing for reserves and for operations relating to the management
6 and retirement of revenue obligations issued under subch. II or IV of ch. 18, as
7 authorized under s. 101.143 (9m). All moneys received by the fund are irrevocably
8 appropriated in accordance with subch. II of ch. 18 and further established in
9 resolutions authorizing the issuance of the revenue obligations and setting forth the
10 distribution of funds to be received thereafter. Estimated disbursements under this
11 paragraph shall not be included in the schedule under s. 20.005.

12 **SECTION 31.** 25.47 of the statutes is renumbered 25.47 (intro.) and amended
13 to read:

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

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

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

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

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

20 **SECTION 32.** 25.47 (5) of the statutes is created to read:

21 25.47 (5) The moneys transferred from the appropriation account under s.
22 20.143 (3) (s).

23 **SECTION 33.** 45.79 (9) (a) of the statutes is amended to read:

1 45.79 (9) (a) All moneys received from any source for repayment of loans,
2 mortgages or mortgage loan notes funded with proceeds of revenue obligations
3 issued under sub. (6) (c) shall be deposited into one or more separate nonlapsible
4 trust funds in the state treasury or with a trustee as provided in s. ~~18.56~~ 18.561 (9)

(no change)
5 (j) The board may pledge revenues received by the funds to secure revenue
6 obligations issued under sub. (6) (c) and shall have all other powers necessary and
7 convenient to distribute the proceeds of the revenue obligations and loan repayments
8 in accordance with subch. II of ch. 18. Unrestricted balances in the funds may be used
9 to fund additional loans issued under sub. (6) (c) and pay the balances owing on loans
10 after the assumptions of the loans or the closings of the sales of residences under sub.
11 (10) (c).

12 **SECTION 34.** 84.59 (2) of the statutes is amended to read:

13 84.59 (2) The department may, under s. ~~18.56~~ 18.561 (5) and (9) (j), deposit in
14 a separate and distinct fund outside the state treasury, in an account maintained by
15 a trustee, revenues derived under s. 341.25. The revenues deposited are the trustee's
16 revenues in accordance with the agreement between this state and the trustee or in
17 accordance with the resolution pledging the revenues to the repayment of revenue
18 obligations issued under this section.

19 **SECTION 35.** 85.52 (5) (c) of the statutes is amended to read:

20 85.52 (5) (c) The department of administration may, under s. ~~18.56~~ 18.561 (5)
21 and (9) (j), deposit in a separate and distinct fund in the state treasury or in an
22 account maintained by a trustee outside the state treasury, any portion of the
23 revenues derived under s. 25.405 (2). The revenues deposited with a trustee outside
24 the state treasury are the trustee's revenues in accordance with the agreement

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

3 **SECTION 36.** 101.143 (9m) of the statutes is created to read:

4 101.143 (9m) REVENUE OBLIGATIONS. (a) The petroleum inspection fee under
5 s. 168.12, in conjunction with the petroleum storage remedial action program under
6 this section, is a special fund program, as defined in s. 18.52 (8). The fund under par.
7 (c) is a segregated fund created by the imposition of fees, penalties or excise taxes.

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

13 (c) The department of administration may, under s. 18.562, deposit in a
14 separate and distinct fund in the state treasury or in an account maintained by a
15 trustee outside the state treasury, any portion of the revenues derived under s. 25.47.
16 The revenues deposited with a trustee outside the state treasury are the trustee's
17 revenues in accordance with the agreement between this state and the trustee or in
18 accordance with the resolution pledging the revenues to the repayment of revenue
19 obligations issued under this subsection.

20 (d) The department may pledge any portion of the revenues received or to be
21 received in the fund established in par. (c) or the petroleum inspection fund to secure
22 revenue obligations issued under this subsection.

23 (e) The department shall have all other powers necessary and convenient to
24 distribute the pledged revenues and to distribute the proceeds of the revenue

(3)(c) ✓

1 obligations in accordance with subch. II of ch. 18 or in accordance with subch. IV of
2 ch. 18 if designated a higher education bond.

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

7 (g) Revenue obligations may be contracted by the building commission when
8 it reasonably appears to the building commission that all obligations incurred under
9 this subsection can be fully paid on a timely basis from moneys received or
10 anticipated to be received. Revenue obligations issued under this subsection may not
11 exceed \$150,000,000 in principal amount, excluding obligations issued to fund or
12 refund outstanding revenue obligation notes.

13 (h) Unless otherwise expressly provided in resolutions authorizing the
14 issuance of revenue obligations or in other agreements with the holders of revenue
15 obligations, each issue of revenue obligations under this subsection shall be on a
16 parity with every other revenue obligation issued under this subsection and in
17 accordance with subch. II of ch. 18, if designated a higher education bond, in
18 accordance with subch. IV of ch. 18.

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

25 **SECTION 37.** 281.59 (4) (b) of the statutes is amended to read:

1 281.59 (4) (b) The department of administration may, under s. ~~18.56~~ 18.561 (5)
2 and (9) (j), deposit in a separate and distinct fund in the state treasury or in an
3 account maintained by a trustee outside the state treasury, any portion of the
4 revenues derived under s. 25.43 (1). The revenues deposited with a trustee outside
5 the state treasury are the trustee's revenues in accordance with the agreement
6 between this state and the trustee or in accordance with the resolution pledging the
7 revenues to the repayment of revenue obligations issued under this subsection.

8

(END)

Insert 11-15

- (a) Establishment of reserve or other funds.
- (b) Issuance of additional ~~bonds~~ obligations.
- (c) Deposit of the proceeds of the sale of the ~~bonds~~ or revenues of the ~~revenue producing enterprise or program~~ in trust, including the appointment of depositories or trustees.

Special fund

Eds & WFOs: This text is from s. 18.56(a)(h) to (j).

(end insert)

Insert 11-22^c

plain
↓
⊙

A separate and distinct fund shall be established in the state treasury or in an account maintained by a trustee under
s. 18.562 (3) (c)[✓]

End insert

D-NOTE:

This "12" makes some minor changes
suggested by Reed ~~Christall~~ Groethe.

KSJ

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

LRB-1432/2dn
KSH:kmg:jf

January 28, 1999

This "/2" makes some minor changes suggested by Reed Groethe.

K. Scott Hubli
Administrative Services Manager
Phone: (608) 266-0135
E-mail: Scott.Hubli@legis.state.wi.us

FOLEY & LARDNER
ATTORNEYS AT LAW
FIRSTAR CENTER
777 EAST WISCONSIN AVENUE
MILWAUKEE, WISCONSIN 53202-5367
TELEPHONE (414) 271-2400
FACSIMILE (414) 297-4900

FACSIMILE TRANSMISSION

Total # of Pages 21 (including this page)

TO:	PHONE:	FAX #:
Rick Champagne	(608) 266-9930	(608) 264-8522

<p>From: Reed Groethe Sender's Direct Dial: (414) 297-5764 Date: January 29, 1999 Client/Matter No: 015438\0101 User ID No: 0271</p>
--

MESSAGE:

Here are our suggested changes to the bill. Of course, please call if you have trouble reading what is sent or if you would like to discuss any of the provisions.

If there are any problems with this transmission or if you have not received all of the pages, please call (414) 297-5444.

Operator:	Time Sent:	Return Original To:
		Reed Groethe

CONFIDENTIALITY NOTICE: THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS INTENDED ONLY FOR THE PERSONAL AND CONFIDENTIAL USE OF THE DESIGNATED RECIPIENTS NAMED ABOVE. THIS MESSAGE MAY BE AN ATTORNEY-CLIENT COMMUNICATION, AND AS SUCH IS PRIVILEGED AND CONFIDENTIAL. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT OR ANY AGENT RESPONSIBLE FOR DELIVERING IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT YOU HAVE RECEIVED THIS DOCUMENT IN ERROR, AND THAT ANY REVIEW, DISSEMINATION, DISTRIBUTION OR COPYING OF THIS MESSAGE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US BY MAIL. THANK YOU.

Rider 1

The special fund shall remain subject to the lien until provision for payment in full of the principal and interest of the special fund obligations has been made, as provided in the authorizing resolution.

Rider 2

(2) The commission and the state department or agency carrying out the special fund program responsibilities shall determine, and the commission shall fix in the authorizing resolution for such obligations, the conditions under which money in the special fund shall be set aside and applied to the payment of the principal and interest of the obligations, deposited in funds established under the authorizing resolution or made available for other purposes.

Rider 3

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

Rider 4

, including but not limited to provisions as to:

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

Rider 5

The legislature finds and determines that a nexus exists between the petroleum storage remedial action program and the petroleum inspection fund in that a fee imposed on users of petroleum are used to remedy environmental damage occasioned by petroleum storage. [This could be a nonstatutory provision instead.]

1999 - 2000 LEGISLATURE

LRB-1432/1
KSH:kmg:jf

DOA:.....Wong - PECFA revenue bonding

FOR 1999-01 BUDGET -- NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to: the budget.**

Analysis by the Legislative Reference Bureau**ENVIRONMENT****HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEANUP**

Under current law, the department of commerce (department) administers a program to reimburse owners of certain petroleum product storage tanks for a portion of the costs of cleaning up discharges from those tanks. This program is commonly known as PECFA.

This bill authorizes the department to issue revenue obligations, to be paid from revenues deposited in the petroleum inspection fund, to fund the PECFA program. No more than \$150,000,000 in revenue obligations may be issued under the bill. The building commission may pledge any portion of revenues received from the proceeds of the obligations or the petroleum inspection fund to secure revenue obligations issued under this bill. The building commission may issue the revenue obligations when it reasonably appears to the building commission that the obligations can be fully paid on a timely basis from the petroleum inspection fund. The bill provides a so-called "moral obligation pledge" which applies if the legislature reduces the rate of the petroleum inspection fee. If the rate is reduced and there are insufficient funds in the petroleum inspection fund to pay the principal and interest on the revenue obligations, the legislature expresses its expectation and aspiration that it would make an appropriation from the general fund sufficient to pay the principal and interest on the obligations.

1999 - 2000 Legislature

- 2 -

LRB-1432/1
KSH:kmg:jf**STATE GOVERNMENT****STATE FINANCE**

Under current law, the state may issue "revenue obligations" for certain specified purposes. In general, a revenue obligation is an obligation that is: 1) incurred to purchase, acquire, lease, construct, improve, operate or manage a revenue-producing enterprise; and 2) repayable solely from, and secured solely by, the property or income from the revenue-producing enterprise.

This bill broadens the definition of revenue obligation to allow revenue bonding in situations which would not meet the current law definition of revenue obligation. Under the bill, revenue obligations consist of two different types: enterprise obligations and special fund obligations. The first type of revenue obligation, called an enterprise obligation, includes all obligations authorized under current law; i.e., obligations that are incurred to purchase, acquire, lease, construct, improve, operate or manage a revenue-producing enterprise and are repayable solely from, and secured solely by, the property or income from that revenue-producing enterprise.

The second type of revenue obligation, a special fund obligation, is created by the bill. Special fund obligations are an undertaking by the state to repay a certain amount of borrowed money that is payable exclusively from a special fund consisting of fees, penalties or excise taxes.

The bill uses this second type of revenue obligation in order to authorize not more than \$150,000,000 of revenue obligation bonding for the PECFA program. See ENVIRONMENT, HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEANUP. These revenue obligations are to be repaid from, and are secured by, the petroleum inspection fund. If, however, the legislature reduces the rate of the petroleum inspection fee and the fees in the fund prove insufficient to pay the principal and interest on the revenue obligations, the bill expresses the legislature's expectation and aspiration that it would make an appropriation from the general fund sufficient to pay the principal and interest on the obligations.

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

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

1 **SECTION 1.** 18.51 of the statutes is amended to read:

2 **18.51 Provisions applicable.** The following sections apply to this
3 subchapter, except that all references to "public debt" or "debt" are deemed shall be
4 read to refer to a "revenue obligation" and all references to "evidences of

5 indebtedness" shall be read to refer to "evidences of revenue obligations": ss. 18.02,
6 18.03, 18.06 (8), 18.07, 18.10 (1), (2), (4) to (9) and (11) and 18.17.

Note: These may be situations where it would be desirable to bolster the enterprise revenues with special fund revenues; provisions need not be mutually exclusive.

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

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

SECTION 3. ~~18.52~~ (5) (intro.) of the statutes is renumbered 18.52 (5) and amended to read:

18.52 (5) "Revenue obligation" means ~~every undertaking by the state to repay a certain amount of borrowed money which is:~~ an enterprise obligation or a special fund obligation.

SECTION 4. 18.52 (5) (a) of the statutes is renumbered 18.52 (2m) (a) and amended to read:

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

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

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

SECTION 6. 18.52 (5) (c) of the statutes is renumbered 18.52 (2m) (c).

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

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

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

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

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

1999 - 2000 Legislature

- 4 -

LRB-1432/1
KSH:kmg:jf
SECTION 8

of purpose

1 18.52 (8) "Special fund program" means a state program with respect to which
2 the legislature has determined that financing with special fund obligations is
3 appropriate and will serve a public purpose.

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

6 18.53 (3) (intro.) The commission shall authorize money to be borrowed and
7 evidences of revenue obligation to be issued therefor ~~up to the amounts specified by~~
8 ~~the legislature to purchase, acquire, lease, construct, extend, expand, add to,~~
9 ~~improve, conduct, control, operate or manage such revenue-producing enterprises~~
10 ~~or programs as are specified by the legislature as the funds are required.~~ The
11 requirements for funds shall be established by the state department or agency head
12 carrying out program responsibilities for which the revenue obligations have been
13 authorized by the legislature, but shall not exceed the following:

14 SECTION 10. 18.53 (3) (a) and (b) of the statutes are created to read:

15 18.53 (3) (a) In the case of enterprise obligations, the amounts specified by the
16 legislature to purchase, acquire, lease, construct, extend, expand, add to, improve,
17 conduct, control, operate or manage such revenue-producing enterprises or
18 programs as are specified by the legislature.

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

21 SECTION 11. 18.56 (1) of the statutes is renumbered 18.56 and amended to read:

22 18.56 Revenue bonds obligations. The commission may authorize, for any
23 of the purposes described in s. 18.53 (3), the issuance of ~~revenue obligation bonds~~
24 revenue obligations. The ~~bonds obligations~~ shall mature at any time not exceeding
25 50 years from the date thereof as the commission shall determine. The ~~bonds~~

1999 - 2000 Legislature

- 5 -

LRB-1432/1
KSH:kmg:jf
SECTION 11

Global change for subchapter II =
"holder" to "owner"

1 revenue obligations shall be payable only out of the redemption fund provided under
 2 sub. s. 18.561 (5) or 18.562 (2) and each bond revenue obligation shall contain on its
 3 face a statement to that effect. ~~Any such bonds~~ A revenue obligation may contain a
 4 provision authorizing redemption, in whole or in part, at stipulated prices, at the
 5 option of the commission and shall provide the method of redeeming the bonds
 6 obligations. ~~The state and a contracting party may provide in any contract for~~
 7 ~~purchasing or acquiring a revenue producing enterprise or program, that payment~~
 8 ~~shall be made in such bonds.~~

9 SECTION 12. 18.56 (2) to (6) of the statutes are renumbered 18.561 (2) to (6) and
 10 amended to read:

11 18.561 (2) SECURITY INTEREST OF ENTERPRISE OBLIGATION HOLDERS. There shall
 12 be a mortgage lien ~~upon or security interest in the~~ income and property of each
 13 revenue-producing enterprise or program for the benefit of the holders of the related bonds
 14 enterprise obligations ~~and to the holders of the coupons of the bonds enterprise~~

15 obligations. The note or other instrument evidencing the security interest of a
 16 ~~bondholder~~ holder of an enterprise obligation in a loan made or purchased with
 17 ~~revenue obligation bonds~~ enterprise obligations shall constitute a statutory lien on
 18 the ~~revenue obligations~~ loan. No physical delivery, recordation or other action is
 19 required to perfect the security interest. income and property of The revenue-producing enterprise or

20 program shall remain subject to the lien until provision for payment in full of the
 21 principal and interest of the ~~bonds~~ enterprise obligations has been made. as provided in the authorizing resolution Any holder

22 of such ~~bonds~~ obligations ~~or attached coupons~~ may either at law or in equity protect
 23 and enforce the lien and compel performance of all duties required by this section.

24 If there is any default in the payment of the principal or interest of any of such ~~bonds~~
 25 obligations, any court having jurisdiction of the action may appoint a receiver to

What is the legislative history of this sentence?

1999 - 2000 Legislature

- 6 -

LRB-1432/1
KSH:kmg:jf
SECTION 12

1 administer the revenue-producing enterprise or program on behalf of the state and
2 the ~~bondholders~~ holders of the obligations, with power to charge and collect rates
3 sufficient to provide for the payment of the operating expenses and also to pay any
4 ~~bonds~~ or enterprise obligations outstanding against the revenue-producing
5 enterprise or program, and to apply the income and revenues thereof in conformity
6 with this subchapter and the authorizing resolution, or the court may declare the
7 whole amount of the ~~bonds~~ enterprise obligations due and payable, if such relief is
8 requested, and may order and direct the sale of the revenue-producing enterprise
9 or program. Under any sale so ordered, the purchaser shall be vested with an
10 indeterminate permit to maintain and operate the revenue-producing enterprise or
11 program. The legislature may provide for additions, extensions and improvements
12 to a revenue-producing enterprise or program to be financed by additional issues of
13 ~~bonds~~ enterprise obligations as provided by this section. Such additional issues of
14 ~~bonds~~ obligations shall be subordinate to all prior related issues of ~~bonds~~ obligations
15 which may have been made under this section, unless the legislature, in the statute
16 authorizing the initial issue of ~~bonds~~ obligations, permits the issue of additional
17 ~~bonds~~ obligations on a parity therewith.

18 (3) DEDICATION OF REVENUES. As accurately as possible in advance, the
19 commission and the state department or agency carrying out program
20 responsibilities for which ~~bonds~~ enterprise obligations are to be issued shall
21 determine, and the commission shall fix in the authorizing resolution for such ~~bonds~~
22 obligations: the proportion of the revenues of the revenue-producing enterprise or
23 program which shall be necessary for the reasonable and proper operation and
24 maintenance thereof; the proportion of the revenues which shall be set aside as a
25 proper and adequate replacement and reserve fund; and the proportion of the

1 revenues which shall be set aside and applied to the payment of the principal and
 2 interest of the ~~bonds~~ enterprise obligations, and shall provide that the revenues be
 3 set aside in separate funds. At any time after one year's operation, the state
 4 department or agency and the commission may recompute the proportion of the
 5 revenues which shall be assignable under this subsection based upon the experience
 6 of operation or upon the basis of further financing.

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

19 (5) REDEMPTION FUND. The proportion which shall be set aside for the payment
 20 of the principal and interest ~~of such bonds on the~~ enterprise obligations shall from
 21 month to month as they accrue and are received, be set apart and paid into a separate
 22 fund in the treasury or in an account maintained by a trustee under sub. (9) (j) to be
 23 identified as "the ... redemption fund". Each redemption fund shall be expended, and
 24 all moneys from time to time on hand therein are irrevocably appropriated, in sums
 25 sufficient, only for the payment of principal and interest on the ~~revenue~~ enterprise

See § 18.53(3)(a)

1999 - 2000 Legislature

- 8 -

LRB-1432/1
KSH:kmg:jf
SECTION 12

1 obligations giving rise to it and premium, if any, due upon redemption ~~refunding~~ of any such
 2 obligations. Moneys in the redemption funds may be commingled only for the
 3 purpose of investment with other public funds, but they shall be invested only in
 4 investment instruments permitted in s. 25.17 (3) (dr). All such investments shall be
 5 the exclusive property of the fund and all earnings on or income from such
 6 investments shall be credited to the fund.

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

10 SECTION 13. 18.56 (7) and (8) of the statutes are renumbered 18.561 (7) and (8).

11 SECTION 14. 18.56 (9) (intro.) of the statutes is renumbered 18.561 (9) (intro.)
 12 and amended to read:

13 18.561 (9) AUTHORIZING RESOLUTION. (intro.) The commission may provide in
 14 the authorizing resolution for ~~bonds~~ enterprise obligations or by subsequent action
 15 all things necessary to carry into effect this section. Any authorizing resolution shall
 16 constitute a contract with the holder of any ~~bonds~~ obligations issued pursuant to the ~~such~~
 17 resolution. Any authorizing resolution may contain such provisions or covenants,
 18 without limiting the generality of the power to adopt the resolution, as are ~~is~~ deemed
 19 necessary or desirable for the security of ~~bondholders~~ the holders of obligations or the
 20 marketability of the ~~bonds~~ enterprise obligations, including ~~but not limited to~~
 21 provisions as to:

22 SECTION 15. 18.56 (9) (a) to (j) of the statutes are renumbered 18.561 (9) (a) to
 23 (j). Add (k): Defeasance of the obligations.

24 SECTION 16. 18.56 (10) of the statutes is renumbered 18.561 (10) and amended
 25 to read:

1999 - 2000 Legislature

- 9 -

LRB-1432/1
KSH:kmg:jf
SECTION 16

1 18.561 (10) SINKING FUND. The authorizing resolution may set apart ~~bonds~~
2 ~~enterprise obligations~~ the par value of which are equal to the principal amount of any
3 secured obligation or charge subject to which a revenue-producing enterprise or
4 program is to be purchased or acquired, and shall set aside in a sinking fund from
5 the income of the revenue-producing enterprise or program, a sum sufficient to
6 comply with the requirements of the instrument creating the security ^{interest} ~~or if~~. If the
7 instrument does not make any provision ~~therefor~~ for a sinking fund, the resolution
8 shall fix and determine the amount ~~which that~~ shall be set aside into ~~such~~ the sinking
9 fund from month to month for interest on the secured obligation or charge, and a
10 fixed amount or proportion not exceeding a stated sum, which shall be not less than
11 one percent of the principal, to be set aside into the fund to pay the principal of the
12 secured obligation or charge. Any balance in the fund after satisfying the secured
13 obligations or charge, shall be transferred to the redemption fund. Bonds Enterprise
14 obligations set aside for the secured obligation or charge may, from time to time, be
15 issued to an amount sufficient with the amount then in the sinking fund, to pay and
16 retire the secured obligation or charge or any portion thereof. The ~~bonds~~ enterprise
17 obligation may be issued in exchange for or satisfaction of the secured obligation or
18 charge, or may be sold in the manner provided in this subchapter, and the proceeds
19 applied in payment of the same at maturity or before maturity by agreement with
20 owner of the secured obligation or charge. ~~the holder~~ The commission and the owners of any revenue-producing enterprise or
21 program acquired or purchased may, upon such terms and conditions as are
22 satisfactory, contract that ~~bonds~~ obligations to provide for the discharge of the
23 secured obligation or charge, or for the whole purchase price shall be deposited with
24 a trustee or depository and released from the deposit from time to time on such terms

1 and conditions as are necessary to secure the payment of the secured obligation or
2 charge.

3 SECTION 17. 18.561 (title) of the statutes is created to read:

4 18.561 (title) Enterprise obligations.

5 SECTION 18. 18.561 (1) of the statutes is created to read:

6 18.561 (1) PAYMENT WITH REVENUE OBLIGATIONS. The state and a contracting
7 party may provide, in any contract for purchasing or acquiring a revenue-producing
8 enterprise or program, that payment shall be made in revenue obligations.

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

10 18.561 (7) (title) PAYMENT FOR SERVICES.

11 SECTION 20. 18.561 (8) (title) of the statutes is created to read:

12 18.561 (8) (title) RATES FOR SERVICES.

13 SECTION 21. 18.562 of the statutes is created to read:

14 18.562 Special fund obligations. (1) SECURITY INTEREST IN SPECIAL FUND. A

15 holder of special fund obligations shall have a security interest in the special fund
16 related to that arise after the legislative authorization of the special fund program.
17 out of which the special fund obligations will be repaid. No physical delivery, insert Rider 1
18 recordation or other action is required to perfect the security interest. A holder of

19 special fund obligations may either at law or in equity protect and enforce the insert Rider 2
20 security interest and compel performance of all duties required by this section. A

21 (2) REDEMPTION FUND. The authorizing resolution shall specify the proportion

22 of special fund program revenues which are to be deposited in the special fund that

23 is set aside for the payment of the principal and interest of the special fund
24 obligations. These revenues shall be paid into a separate fund in the treasury or in

25 an account maintained by a trustee to be identified as "the ... redemption fund". Each

redemption fund shall be expended, and all moneys from time to time on hand

for the benefit of the owners of the special fund obligations,

There shall be

the amounts in

related to

that arise after the legislative authorization of the special fund program.

insert Rider 1

insert Rider 2

3

authorizing resolution shall specify the proportion

of special fund program revenues which are to be deposited in the special fund that

is set aside for the payment of the principal and interest of the special fund obligations. These revenues shall be paid into a separate fund in the treasury or in

under s. 18.562(5)(e)

an account maintained by a trustee to be identified as "the ... redemption fund". Each redemption fund shall be expended, and all moneys from time to time on hand

1 therein are irrevocably appropriated, in sums sufficient, only for the payment of
 2 principal and interest ~~on the special fund obligations~~ giving rise to it and premium,
 3 if any, due upon ~~refunding~~ redemption of any such obligations. Moneys in the redemption funds
 4 may be commingled only for the purpose of investment with other public funds, but
 5 they shall be invested only in investment instruments permitted in s. 25.17 (3) (dr).
 6 All such investments shall be the exclusive property of the fund and all earnings on
 7 or income from such investments shall be credited to the fund. insert Rider 3

8 ⁵ (3) 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 ~~holder~~ owners ← make plural 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 holders of the obligations or the
 15 marketability of the obligations. insert Rider 4

16 SECTION 22. 18.57 (title) of the statutes is repealed and recreated to read:

17 18.57 (title) **Funds established for revenue obligations.**

18 SECTION 23. 18.57 (1) of the statutes is amended to read:

19 18.57 (1) A separate and distinct fund shall be established in the state treasury
 20 or in an account maintained by a trustee under s. ~~18.56~~ 18.561 (9) ~~(j)~~ (e) with respect to
 21 each revenue-producing enterprise or program the income from which is to be
 22 applied to the payment of any ~~revenue~~ monies enterprise obligation or with respect to any
 23 special fund that is created by the imposition of fees, penalties or excise taxes and
 24 is applied to the payment of special fund obligations. All moneys resulting from the
 25 issuance of evidences of revenue obligation shall be credited to the appropriate fund

1 or applied for refunding or note renewal purposes, except that moneys which
2 represent premium or accrued interest received on the issuance of evidences shall
3 be credited to the appropriate redemption fund.

4 SECTION 24. 18.57 (4) of the statutes is renumbered 18.57 (4) (intro.) and
5 amended to read:

6 18.57 (4) (intro.) If, after all outstanding related revenue obligations have been
7 paid or payment provided for, moneys remain in ~~any such a fund, they created under~~
8 sub. (1), all of the following shall occur:

9 (a) If the fund created under sub. (1) is in an account maintained by a trustee
10 under s. 18.561 (9) (j) or 18.562 (2) ^{(5)(e)} the moneys shall be paid over to the treasury and
11 the, *Should this be (b) ?* ✓

12 (c) The fund created under sub. (1) shall be closed.

13 SECTION 25. 18.58 (1) of the statutes is amended to read:

14 18.58 (1) MANAGEMENT OF FUNDS AND RECORDS. All funds established under this
15 subchapter which are deposited in the state treasury shall be managed as provided
16 by law for other state funds, subject to any contract rights vested in holders of
17 evidences of revenue obligation secured by such fund. The department of
18 administration shall maintain full and correct records of each fund. The legislative
19 audit bureau shall audit each fund as of January 1 of each year reconciling all
20 transactions and showing the fair market value of all property on hand. All records
21 and audits shall be public documents. All funds established under this subchapter
22 which are deposited with a trustee under s. ~~18.56~~ 18.561 (9) (j) or 18.562 (2) ^{(5)(e)} shall be
23 managed in accordance with resolutions authorizing the issuance of revenue
24 obligations, agreements between the commission and the trustee and any contract
25 rights vested in holders of evidence of revenue obligations secured by such fund. ✓

1 **SECTION 26.** 18.60 (5) of the statutes is renumbered 18.60 (5) (intro.) and
2 amended to read:

3 18.60 (5) (intro.) All of the following provisions ~~of s. 18.56~~ that are not
4 inconsistent with the express provisions of this section shall apply to refunding
5 bonds, except that the maximum permissible term shall be 50 years from the date
6 of original issue of the oldest note or bond issue being refunded;

7 **SECTION 27.** 18.60 (5) (a) to (c) of the statutes are created to read:

8 18.60 (5) (a) Section 18.56.

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

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

11 **SECTION 28.** 20.143 (3) (s) of the statutes is created to read:

12 20.143 (3) (s) *Petroleum inspection fund — revenue obligation proceeds.* As a
13 continuing appropriation, all proceeds from revenue obligations that are issued
14 under subch. II or IV of ch. 18, authorized under s. 101.143 (9m) and deposited in a
15 fund in the state treasury created under s. 18.57 (1), to provide for reserves and for
16 expenses of issuance and management of the revenue obligations, and the remainder
17 to be transferred to the petroleum inspection fund for the purposes of the petroleum
18 storage remedial action program under s. 101.143. Estimated disbursements under
19 this paragraph shall not be included in the schedule under s. 20.005.

20 **SECTION 29.** 20.143 (3) (t) of the statutes is created to read:

21 20.143 (3) (t) *Petroleum inspection fund — revenue obligation repayment.* From
22 the petroleum inspection fund, a sum sufficient to repay the fund in the state
23 treasury created under s. 18.57 (1) the amount needed to retire revenue obligations
24 issued under subch. II or IV of ch. 18, as authorized under s. 101.143 (9m).

----NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 30. 20.143 (3) (u) of the statutes is created to read:

20.143 (3) (u) *Revenue obligation principal and interest repayment — petroleum inspection fund.* From the fund in the state treasury created under s. 18.57 (1), all moneys received by the fund for the purpose of the retirement of revenue obligations, providing for reserves and for operations relating to the management and retirement of revenue obligations issued under subch. II or IV of ch. 18, as authorized under s. 101.143 (9m). All moneys received by the fund are irrevocably appropriated in accordance with subch. II of ch. 18 and further established in resolutions authorizing the issuance of the revenue obligations and setting forth the distribution of funds to be received thereafter. Estimated disbursements under this paragraph shall not be included in the schedule under s. 20.005.

SECTION 31. 25.47 of the statutes is renumbered 25.47 (intro.) and amended to read:

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

- (1) ~~The fees imposed under s. 168.12 (1), the.~~
- (2) ~~The payments under s. 101.143 (4) (h) 1m., the~~
- (3) ~~The payments under s. 101.143 (5) (a) and the.~~
- (4) ~~The net recoveries under s. 101.143 (5) (c).~~

SECTION 32. 25.47 (5) of the statutes is created to read:

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

SECTION 33. 45.79 (9) (a) of the statutes is amended to read:

1 45.79 (9) (a) All moneys received from any source for repayment of loans,
 2 mortgages or mortgage loan notes funded with proceeds of revenue obligations
 3 issued under sub. (6) (c) shall be deposited into one or more separate nonlapsible
 4 trust funds in the state treasury or with a trustee as provided in s. ~~18.56~~ 18.561 (9)
 5 (i) ~~The board may pledge revenues received by the funds to secure revenue~~
 6 obligations issued under sub. (6) (c) and shall have all other powers necessary and
 7 convenient to distribute the proceeds of the revenue obligations and loan repayments
 8 in accordance with subch. II of ch. 18. Unrestricted balances in the funds may be used
 9 to fund additional loans issued under sub. (6) (c) and pay the balances owing on loans,
 10 after the assumptions of the loans or the closings of the sales of residences under sub.
 11 (10) (c).

12 SECTION 34. 84.59 (2) of the statutes is amended to read: or 18.562(3) and (5) p.

13 84.59 (2) The department may, under s. ~~18.56~~ 18.561 (5) and (9) (i) deposit in
 14 a separate and distinct fund outside the state treasury, in an account maintained by
 15 a trustee, revenues derived under s. 341.25. The revenues deposited are the trustee's
 16 revenues in accordance with the agreement between this state and the trustee or in
 17 accordance with the resolution pledging the revenues to the repayment of revenue
 18 obligations issued under this section.

19 SECTION 35. 85.52 (5) (c) of the statutes is amended to read:

20 85.52 (5) (c) The department of administration may, under s. ~~18.56~~ 18.561 (5)
 21 and (9) (i) deposit in a separate and distinct fund in the state treasury or in an
 22 account maintained by a trustee outside the state treasury, any portion of the
 23 revenues derived under s. 25.405 (2). The revenues deposited with a trustee outside
 24 the state treasury are the trustee's revenues in accordance with the agreement

1 between this state and the trustee or in accordance with the resolution pledging the
2 revenues to the repayment of revenue obligations issued under this subsection. (7) and

3 SECTION 36. 101.143 (9m) of the statutes is created to read:
4 101.143 (9m) REVENUE OBLIGATIONS. (a) ~~The petroleum inspection fee under~~ For the purposes of s. 18.52(8),
5 ~~s. 168.12. in conjunction with the petroleum storage remedial action program under~~ the petroleum storage remedial action program is a special fund
6 ~~this section, is a special fund program, as defined in s. 18.52 (8). The fund under par~~ program and the petroleum inspection fund is a special fund

7 (c) is a segregated fund created by the imposition of fees, penalties or excise taxes. Insert Title 5

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

13 ~~(c) The department of administration may, under s. 18.562, deposit in a~~
14 ~~separate and distinct fund in the state treasury or in an account maintained by a~~
15 ~~trustee outside the state treasury, any portion of the revenues derived under s. 25.47.~~
16 ~~The revenues deposited with a trustee outside the state treasury are the trustee's~~
17 ~~revenues in accordance with the agreement between this state and the trustee or in~~
18 ~~accordance with the resolution pledging the revenues to the repayment of revenue~~
19 ~~obligations issued under this subsection.~~
20 ~~(d) The department may pledge any portion of the revenues received or to be~~
21 ~~received in the fund established in par. (c) or the petroleum inspection fund to secure~~
22 ~~revenue obligations issued under this subsection.~~

23 (e) The department shall have all other powers necessary and convenient to
24 distribute the special fund pledged revenues and to distribute the proceeds of the revenue

1 obligations in accordance with subch. II of ch. 18 ^{and} in accordance with subch. IV of
 2 ch. 18 if designated a higher education bond,)

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

7 (g) Revenue obligations may be contracted by the building commission when
 8 it reasonably appears to the building commission that all obligations incurred under
 9 this subsection can be fully paid on a timely basis from moneys received or
 10 anticipated to be received. Revenue obligations issued under this subsection may not
 11 exceed \$150,000,000 in principal amount, excluding obligations issued to fund or
 12 refund outstanding revenue obligation notes, to pay issuance expenses,
 13 to make deposits to reserve funds, or to pay ~~accrued~~ accrued or

capitalized interest.

14 (h) Unless otherwise expressly provided in resolutions authorizing the
 15 issuance of revenue obligations or in other agreements with the holders of revenue
 16 obligations, each issue of revenue obligations under this subsection shall be on a
 17 parity with every other revenue obligation issued under this subsection and in
 18 accordance with subch. II of ch. 18, ^{and} if designated a higher education bond, in
 19 accordance with subch. IV of ch. 18.

The legislature retains the right to reduce the rate of the petro. inspec'n fee.

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

SECTION 37. 28P.59 (4) (b) of the statutes is amended to read:

1 ~~281.59~~ **(4) (b) The department of administration may, under s. ~~18.56~~ 18.561 (5)**
 2 **and (9) (j) or 18.562 (3) and (5)(e) deposit in a separate and distinct fund in the state treasury or in an**
 3 **account maintained by a trustee outside the state treasury, any portion of the**
 4 **revenues derived under s. 25.43 (1). The revenues deposited with a trustee outside**
 5 **the state treasury are the trustee's revenues in accordance with the agreement**
 6 **between this state and the trustee or in accordance with the resolution pledging the**
 7 **revenues to the repayment of revenue obligations issued under this subsection.**

8 (END)

Note: In light of the "gross pledge" of the petro. inspec'n fund, shouldn't the other appropriations of the petro. inspec'n fee (e.g., 26.370 (bq), (br), (dw), (mu), (ms) and (mw)) be made conditional?

Per

Dave Ryan

(4/4) 238-9929 (H)

297-5761

(0)

18.561(2) - State

2nd sentence from

current law;

Hubli, Scott

From: Groethe, Reed [reed.groethe@foleylaw.com]
Sent: Saturday, January 30, 1999 4:14 PM
To: Champagne, Rick
Cc: Hubli, Scott; Wolff, Michael
Subject: FW: LRB--1432/1 (PECFA Revenue Bonding)

I'm not sure what happened, but it appears my message got sent when I was doing some of the final formatting. Here's what I intended to send.

I also meant to say that I'm sending a copy to Scott because I'm only guessing at Rick's e-mail address. If I got the address wrong, I'd appreciate it if you would forward the message to him.

-----Original Message-----

From: Groethe, Reed
Sent: Saturday, January 30, 1999 4:08 PM
To: 'rick.champagne@legis.state.wi.us'
Cc: 'Hubli, K. Scott'; 'Wolff, Michael'
Subject: LRB--1432/1 (PECFA Revenue Bonding)

Rick: Michael Wolff, from the Capital Finance Office, called me with a few small comments on the material I sent you on Friday.

* Page 5, line 19-an article got dropped from the inserted language. ✓
It should read: "income and property of the"

* Page 17, line 12-please change the inserted language so that "to pay issuance expenses" becomes "to pay issuance or administrative expenses". Also, Michael advises that LRB-1014/1 (regarding the transportation revenue bonds) similarly adds to the base amount of borrowing but does so by adding a separate sentence. The PECFA bonding bill could be conformed to the other bill by-

(a) ending the sentence after "\$150,000,000 in principal amount" in line 11, ✓

(b) striking the next three words ("excluding obligations issued"), and ✓

(c) inserting the following language: "In addition to the foregoing limit on principal amount, the building commission may contract revenue obligations under this section as the building commission determines is desirable". ✓

* Page 17, line 12-change "revenue obligation notes" to "revenue obligations" ✓

* Page 16, line 7-the language inserted by way of Rider 5 has a subject and predicate that do not agree. The problem could be corrected by changing "a fee" to "fees". ✓

Hubli, Scott

From: Schmiedicke, David
Sent: Saturday, January 30, 1999 10:23 AM
To: Champagne, Rick; Hubli, Scott
Cc: Wong, Manyee; Hoadley, Frank; Wolff, Michael
Subject: PECFA Revenue Bonding -- LRB 1432/2

Importance: High

Please modify s. 20.143 (3)(v) -- the existing PECFA claims appropriation -- to allow use of this appropriation to repay principal of revenue obligations. Frank H. suggests the following language -- "amounts to reduce principal of revenue obligations pursuant to s. 101.143 (9)(m)".

In addition, do we need another appropriation that allows expenditure of the revenue bond proceeds deposited in the Petroleum Inspection Fund under s. 20.143 (3)(s)?

Thanks very much.

David P. Schmiedicke
Wisconsin Department of Administration
Voice -- (608) 266-1040
FAX -- (608) 267-0372
E-Mail -- david.schmiedicke@doa.state.wi.us

3(V)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1432/2dn
KSH:jlg:hmh

Sunday, January 31, 1999

Please review the draft carefully to make sure that it is consistent with your intent. In particular, please consider the following:

1. Please look carefully at the first sentence of s. 18.562 (1). The suggested language had a number of problems. First, what is the "legislative authorization" of the special fund program? Is this intended to grant the security interest before the bill has been signed by the governor and become effective. I assumed you meant simply the creation of the special program. Also, what does the the phrase "the amounts in the special fund related to the special fund obligations that arise [after the creation of the program]" mean? How would a court go about determining which portions of the fund are "related" to the special fund obligations that "arise" after the program's creation? I assumed that by "arise" you meant "issue". Please review the language carefully. It sounds like what you are trying to say is that the owners of the obligations only have a security interest in moneys put into the fund after the became a special fund. Given the fungible nature of money, I'm not sure how a court would determine this. Does it may any practical difference given the moral obligation pledge? The language that was in the "/1" seemed to less ambiguous and I'm not sure the change makes much of a practical difference.

2. The comments added in references to s. 18.562 (5) (e) to a number of current law revenue bond programs (county veteran's mortgage loan programs, certain transportation programs, etc). These would all be enterprise programs (I assume), so I didn't think the addition of the reference to the special fund obligation redemption funds seemed appropriate. As a result, I left them out. If your intent is to allow some of these other programs to operate under the special fund obligation provisions of ch. 18, rather than the enterprise obligation provisions, let me know and I will look at this further.

3. I did not add the sentence — "The legislature retains the right to reduce the rate of the petroleum inspection fee." This did not seem necessary. The legislature always retains the right to modify legislation it enacts — attempts by the legislature to limit the power of a subsequent legislature to modify its actions have been found unconstitutional. If there is a reason why this needs to be added.

4. I substituted "including" for the redundant phrase "including, but not limited to," This is standard legislative drafting style and deviations from this style may imply that other lists are intended to be exclusive, when this is not the case. Your comments

and this drafting note will remain a part of the permanent drafting file in case anyone should question the plain meaning of the word "including".

5. Reed Groethe's comments asked: "In light of the "gross pledge" of the petroleum inspection fund, shouldn't the other appropriations of the petroleum inspection fee be made conditional? Please let me now how you would like this done, i.e., prohibit payments from all of the other appropriations unless there is a certain level of surplus? Have someone make quarterly determinations of whether there is enough money to expend moneys from the other appropriations? Please let me know how you would like to proceed with respect to this point.

6. I made the change from "holders" to "owners" throughout subchapter II of chapter 18. Please review these changes carefully. In a couple cases I was unsure how the change should be made. It did not seem to make sense to refer to "owners of evidences of revenue obligations". Moreover, in some places the references were "to holders of notes and bonds". I changed these to "owners of revenue obligations". In particular, please see the changes in s. 18.61 (2) and (3) (a). Are these changes OK?

7. Please review the changes made to s. 101.143 (9m) (a). The language differs slightly from the suggested language. The suggested language began the first sentence with the language "for purposes of s. 18.52 (7) and (8)". This didn't seem accurate in that it is really for purposes of all of subch. II of ch. 18. Please make sure my rephrased version is consistent with your intent.

8. Please review the new s. 20.143 (3) (vb) to make sure that it is consistent with your intent. The intent of the appropriation is to avoid needing to adjust the amounts in the schedule under s. 20.143 (3) (v) to include the revenue bond proceeds.

Please let me know if you have any questions on the draft or if any portion of it is inconsistent with your intent.

K. Scott Hubli
Administrative Services Manager
Phone: (608) 266-0135
E-mail: Scott.Hubli@legis.state.wi.us

Hubli, Scott

From: Schmiedicke, David
Sent: Monday, February 01, 1999 8:37 AM
To: Hubli, Scott
Cc: Wolff, Michael; Wong, Manyee
Subject: FW: PECFA Draft

Importance: High

Scott: The PECFA bonding number should be \$450,000,000. Thanks.

David P. Schmiedicke
Wisconsin Department of Administration
Voice -- (608) 266-1040
FAX -- (608) 267-0372
E-Mail -- david.schmiedicke@doa.state.wi.us

-----Original Message-----

From: Wolff, Michael
Sent: Monday, February 01, 1999 8:21 AM
To: Schmiedicke, David; Wong, Manyee
Subject: PECFA Draft

Dave and Manyee -- when is the number for bonding limits in LRB 1432 going to change? Have you told Scott H to do it?

↑
KJG

3

DOA:.....Wong - PECFA revenue bonding

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

TODAY

D-NOTE

do not
gen cat.

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

ENVIRONMENT

HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEANUP

Under current law, the department of commerce (department) administers a program to reimburse owners of certain petroleum product storage tanks for a portion of the costs of cleaning up discharges from those tanks. This program is commonly known as PECFA.

This bill authorizes the department to issue revenue obligations, to be paid from revenues deposited in the petroleum inspection fund, to fund the PECFA program. No more than \$150,000,000 in revenue obligations may be issued under the bill. The building commission may pledge any portion of revenues received from the proceeds of the obligations or the petroleum inspection fund to secure revenue obligations issued under this bill. The building commission may issue the revenue obligations when it reasonably appears to the building commission that the obligations can be fully paid on a timely basis from the petroleum inspection fund. The bill provides a so-called "moral obligation pledge" which applies if the legislature reduces the rate of the petroleum inspection fee. If the rate is reduced and there are insufficient funds in the petroleum inspection fund to pay the principal and interest on the revenue obligations, the legislature expresses its expectation and aspiration that it would make an appropriation from the general fund sufficient to pay the principal and interest on the obligations.

the payment of claims
under

STATE GOVERNMENT

STATE FINANCE

Stat

Under current law, the state may issue "revenue obligations" for certain specified purposes. In general, a revenue obligation is an obligation that is: 1) incurred to purchase, acquire, lease, construct, improve, operate or manage a revenue-producing enterprise; and 2) repayable solely from, and secured solely by, the property or income from the revenue-producing enterprise.

This bill broadens the definition of revenue obligation to allow revenue bonding in situations which would not meet the current law definition of revenue obligation. Under the bill, revenue obligations consist of two different types: enterprise obligations and special fund obligations. The first type of revenue obligation, called an enterprise obligation, includes all obligations authorized under current law; i.e., obligations that are incurred to purchase, acquire, lease, construct, improve, operate or manage a revenue-producing enterprise and are repayable solely from, and secured solely by, the property or income from that revenue-producing enterprise.

✓
insert
ANL

The second type of revenue obligation, a special fund obligation, is created by the bill. Special fund obligations are an undertaking by the state to repay a certain amount of borrowed money that is payable exclusively from a special fund consisting of fees, penalties or excise taxes.

The bill uses this second type of revenue obligation in order to authorize not more than \$150,000,000 of revenue obligation bonding for the PECFA program. See ENVIRONMENT, HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEANUP. These revenue obligations are to be repaid from, and are secured by, the petroleum inspection fund. If, however, the legislature reduces the rate of the petroleum inspection fee and the fees in the fund prove insufficient to pay the principal and interest on the revenue obligations, the bill expresses the legislature's expectation and aspiration that it would make an appropriation from the general fund sufficient to pay the principal and interest on the obligations.

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

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

- 1 SECTION 1. 18.51 of the statutes is amended to read:
- 2 **18.51 Provisions applicable.** The following sections apply to this
- 3 subchapter, except that all references to "public debt" or "debt" ~~are deemed shall be~~
- 4 read to refer to a "revenue obligation" and all references to "evidences of
- 5 indebtedness" shall be read to refer to "evidences of revenue obligations": ss. 18.02,
- 6 18.03, 18.06 (8), 18.07, 18.10 (1), (2), (4) to (9) and (11) and 18.17.

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

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

4 **SECTION 3.** 18.52 (5) (intro.) of the statutes is renumbered 18.52 (5) and
5 amended to read:

6 18.52 (5) “Revenue obligation” means ~~every undertaking by the state to repay~~
7 ~~a certain amount of borrowed money which is:~~ an enterprise obligation or a special
8 fund obligation.

9 **SECTION 4.** 18.52 (5) (a) of the statutes is renumbered 18.52 (2m) (a) and
10 amended to read:

11 18.52 (2m) (a) Created for the purpose of purchasing, acquiring, leasing,
12 constructing, extending, expanding, adding to, improving, conducting, controlling,
13 operating or managing a revenue-producing enterprise or program;

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

16 18.52 (2m) (b) Payable ~~solely~~[✓] from and secured ~~solely~~[✓] by the property or income
17 or both of the enterprise or program; ~~and~~.

18 **SECTION 6.** 18.52 (5) (c) of the statutes is renumbered 18.52 (2m) (c).

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

20 18.52 (7) “Special fund obligation” means every undertaking by the state to
21 repay a certain amount of borrowed money which is all of the following:

22 (a) Payable ~~solely~~[✓] from a special fund consisting of fees, penalties or excise
23 taxes.

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

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

or purpose ✓

1 18.52 (8) "Special fund program" means a state program with respect to which
2 the legislature has determined that financing with special fund obligations is
3 appropriate and will serve a public purpose.

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

6 18.53 (3) (intro.) The commission shall authorize money to be borrowed and
7 evidences of revenue obligation to be issued therefor up to the amounts specified by
8 the legislature to purchase, acquire, lease, construct, extend, expand, add to,
9 improve, conduct, control, operate or manage such revenue-producing enterprises
10 or programs as are specified by the legislature as the funds are required. The
11 requirements for funds shall be established by the state department or agency head
12 carrying out program responsibilities for which the revenue obligations have been
13 authorized by the legislature, but shall not exceed the following:

14 **SECTION 10.** 18.53 (3) (a) and (b) of the statutes are created to read:

15 18.53 (3) (a) In the case of enterprise obligations, the amounts specified by the
16 legislature to purchase, acquire, lease, construct, extend, expand, add to, improve,
17 conduct, control, operate or manage such revenue-producing enterprises or
18 programs as are specified by the legislature.

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

21 **SECTION 11.** 18.56 (1) of the statutes is renumbered 18.56 and amended to read:

22 **18.56 Revenue bonds obligations.** The commission may authorize, for any
23 of the purposes described in s. 18.53 (3), the issuance of ~~revenue obligation bonds~~
24 revenue obligations. The ~~bonds~~ revenue obligations shall mature at any time not
25 exceeding 50 years from the date thereof as the commission shall determine. The

3

the income and property of the

1 ~~bonds revenue obligations~~ shall be payable only out of the redemption fund provided
 2 under sub. s. 18.561 (5) or 18.562 (5) and each ~~bond revenue obligation~~ shall contain
 3 on its face a statement to that effect. ~~Any such bonds~~ A revenue obligation may
 4 contain a provision authorizing redemption, in whole or in part, at stipulated prices,
 5 at the option of the commission and shall provide the method of redeeming the ~~bonds~~.
 6 ~~The state and a contracting party may provide in any contract for purchasing or~~
 7 ~~acquiring a revenue-producing enterprise or program, that payment shall be made~~
 8 ~~in such bonds revenue obligations.~~

9 SECTION 12. 18.56 (2) to (6) of the statutes are renumbered 18.561 (2) to (6) and
 10 amended to read:

OWNERS OF § ENTERPRISE OBLIGATIONS

11 18.561 (2) SECURITY INTEREST OF ENTERPRISE OBLIGATION HOLDERS. There shall
 12 be a mortgage lien upon or security interest in the income and property of each
 13 revenue-producing enterprise or program ~~to~~ the holders of the related ~~bonds~~
 14 ~~enterprise obligations~~ and to the holders of the coupons of the ~~bonds~~ enterprise

enterprise obligations

15 ~~obligations~~ The note or other instrument evidencing the security interest of a
 16 bondholder in a loan made or purchased with revenue obligation bonds shall
 17 constitute ~~holder of an enterprise obligation~~ constitutes a statutory lien on the

18 revenue obligations plain ~~revenue-producing enterprise~~. No physical delivery,
 19 recordation or other action is required to perfect the security interest. The
 20 revenue-producing enterprise or program shall remain subject to the lien until
 21 provision for payment in full of the principal and interest of the ~~bonds~~ enterprise

22 obligations has been made. Any holder of such bonds ~~enterprise obligations~~ or
 23 ~~attached coupons~~ may either at law or in equity protect and enforce the lien and
 24 compel performance of all duties required by this section. If there is any default in
 25 the payment of the principal or interest of any of such ~~bonds~~ enterprise obligations,

as provided in the authorizing resolution

for the benefit of

owners

owners ✓

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

20 (3) DEDICATION OF REVENUES. As accurately as possible in advance, the
21 commission and the state department or agency carrying out program
22 responsibilities for which ~~bonds~~ enterprise obligations are to be issued shall
23 determine, and the commission shall fix in the authorizing resolution for such ~~bonds~~
24 enterprise obligations: the proportion of the revenues of the revenue-producing
25 enterprise or program which shall be necessary for the reasonable and proper

1 operation and maintenance thereof; the proportion of the revenues which shall be set
2 aside as a proper and adequate replacement and reserve fund; and the proportion of
3 the revenues which shall be set aside and applied to the payment of the principal and
4 interest of the ~~bonds~~ enterprise obligations, and shall provide that the revenues be
5 set aside in separate funds. At any time after one year's operation, the state
6 department or agency and the commission may recompute the proportion of the
7 revenues which shall be assignable under this subsection based upon the experience
8 of operation or upon the basis of further financing.

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

21 (5) REDEMPTION FUND. The proportion which shall be set aside for the payment
22 of the principal and interest ~~of such bonds~~ on the enterprise obligations shall from
23 month to month as they accrue and are received, be set apart and paid into a separate
24 fund in the treasury or in an account maintained by a trustee under sub. (9) (j) to be
25 identified as "the ... redemption fund". Each redemption fund shall be expended, and

redemption

1 all moneys from time to time on hand therein are irrevocably appropriated, in sums
2 sufficient, only for the payment of principal and interest on the revenue enterprise
3 obligations giving rise to it and premium, if any, due upon ~~refunding~~ of any such
4 obligations. Moneys in the redemption funds may be commingled only for the
5 purpose of investment with other public funds, but they shall be invested only in
6 investment instruments permitted in s. 25.17 (3) (dr). All such investments shall be
7 the exclusive property of the fund and all earnings on or income from such
8 investments shall be credited to the fund.

owners

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

12 SECTION 13. 18.56 (7) and (8) of the statutes are renumbered 18.561 (7) and (8).

13 SECTION 14. 18.56 (9) (intro.) of the statutes is renumbered 18.561 (9) (intro.)
14 and amended to read:

owner

15 18.561 (9) AUTHORIZING RESOLUTION. (intro.) The commission may provide in
16 the authorizing resolution for ~~bonds~~ enterprise obligations or by subsequent action
17 all things necessary to carry into effect this section. Any authorizing resolution shall
18 constitute a contract with the ~~holder~~ of any ~~bonds~~ enterprise obligations issued

In the
20

19 pursuant to ~~such~~ resolution. Any authorizing resolution may contain such
20 provisions or covenants, without limiting the generality of the power to adopt the
21 resolution, as ~~is~~ are deemed necessary or desirable for the security of ~~bondholders~~ the
22 owners ~~holders~~ of enterprise obligations or the marketability of the ~~bonds~~ enterprise
23 obligations, including ~~but not limited to~~ provisions as to:

24 SECTION 15. 18.56 (9) (a) to (j) of the statutes are renumbered 18.561 (9) (a) to
25 (j).

1 SECTION 16. 18.56 (10) of the statutes is renumbered 18.561 (10) and amended
2 to read:

3 18.561 (10) SINKING FUND. The authorizing resolution may set apart ~~bonds~~
4 enterprise obligations the par value of which are equal to the principal amount of any
5 secured obligation or charge subject to which a revenue-producing enterprise or
6 program is to be purchased or acquired, and shall set aside in a sinking fund from
7 the income of the revenue-producing enterprise or program, a sum sufficient to
8 comply with the requirements of the instrument creating the security, ~~or if~~ If the

✓
interest

9 instrument does not make any provision ~~therefor~~ for a sinking fund, the resolution
10 shall fix and determine the amount ~~which~~ that shall be set aside into ~~such~~ the sinking
11 fund from month to month for interest on the secured obligation or charge, and a
12 fixed amount or proportion not exceeding a stated sum, which shall be not less than
13 one percent of the principal, to be set aside into the fund to pay the principal of the
14 secured obligation or charge. Any balance in the fund after satisfying the secured

15

15 obligations or charge, ~~shall~~ ^{strike comma} be transferred to the redemption fund. ~~Bonds~~ Enterprise
16 obligations set aside for the secured obligation or charge may, from time to time, be
17 issued to an amount sufficient with the amount then in the sinking fund, to pay and
18 retire the secured obligation or charge or any portion thereof. The ~~bonds~~ enterprise
19 obligation may be issued in exchange for or satisfaction of the secured obligation or
20 charge, or may be sold in the manner provided in this subchapter, and the proceeds
21 applied in payment of the same at maturity or before maturity by agreement with

22 the ~~holder~~. The commission and the owners of any revenue-producing enterprise or
23 program acquired or purchased may, upon such terms and conditions as are
24 satisfactory, contract that ~~bonds~~ enterprise obligations to provide for the discharge
25 of the secured obligation or charge, or for the whole purchase price shall be deposited

owner of the secured obligation or charged ✓

1 with a trustee or depository and released from the deposit from time to time on such
2 terms and conditions as are necessary to secure the payment of the secured
3 obligation or charge.

4 **SECTION 17.** 18.561 (title) of the statutes is created to read:

5 **18.561 (title) Enterprise obligations.**

6 **SECTION 18.** 18.561 (1) of the statutes is created to read:

7 **18.561 (1) PAYMENT WITH REVENUE OBLIGATIONS.** The state and a contracting
8 party may provide, in any contract for purchasing or acquiring a revenue-producing
9 enterprise or program, that payment shall be made in revenue obligations.

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

11 **18.561 (7) (title) PAYMENT FOR SERVICES.**

12 **SECTION 20.** 18.561 (8) (title) of the statutes is created to read:

13 **18.561 (8) (title) RATES FOR SERVICES.**

14 **SECTION 21.** 18.562 of the statutes is created to read:

15 **18.562 Special fund obligations. (1) SECURITY INTEREST IN SPECIAL FUND.** A
16 holder of special fund obligations shall have a security interest in the special fund
17 out of which the special fund obligations will be repaid. No physical delivery,
18 recordation or other action is required to perfect the security interest. A holder of
19 special fund obligations may either at law or in equity protect and enforce the
20 security interest and compel performance of all duties required by this section.

21 **(2) REDEMPTION FUND.** The authorizing resolution shall specify the proportion
22 of special fund program revenues which are to be deposited in the special fund that
23 is set aside for the payment of the principal and interest of the special fund
24 obligations. These revenues shall be paid into a separate fund in the treasury or in
25 an account maintained by a trustee to be identified as "the ... redemption fund". Each

Insert 10-13 ✓

Insert 11-8 ✓

1 redemption fund shall be expended, and all moneys from time to time on hand
 2 therein are irrevocably appropriated, in sums sufficient, only for the payment of
 3 principal and interest on the special fund obligations giving rise to it and premium,
 4 if any, due upon refunding of any such obligations. Moneys in the redemption funds
 5 may be commingled only for the purpose of investment with other public funds, but
 6 they shall be invested only in investment instruments permitted in s. 25.17 (3) (dr).
 7 All such investments shall be the exclusive property of the fund and all earnings on
 8 or income from such investments shall be credited to the fund.

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

- 17 (a) Establishment of reserve or other funds.
- 18 (b) Issuance of additional obligations.
- 19 (c) Deposit of the proceeds of the sale of the obligations or revenues of the
 20 special fund in trust, including the appointment of depositories or trustees.

owners ✓

21 SECTION 22. 18.57 (title) of the statutes is repealed and recreated to read:

22 18.57 (title) **Funds established for revenue obligations.**

23 SECTION 23. 18.57 (1) of the statutes is amended to read:

24 18.57 (1) A separate and distinct fund shall be established in the state treasury
 25 or in an account maintained by a trustee under s. 18.56 18.561 (9) (j) with respect to

Insert 11-16 ✓

Insert 11-20 ✓

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

11 SECTION 24. 18.57 (4) of the statutes is renumbered 18.57 (4) (intro.) and
 12 amended to read:

13 18.57 (4) (intro.) If, after all outstanding related revenue obligations have been
 14 paid or payment provided for, moneys remain in any such a fund, they created under
 15 sub. (1), all of the following shall occur:

16 (a) If the fund created under sub. (1) is in an account maintained by a trustee
 17 under s. 18.561 (9) (j) or 18.562 (3) (d), the moneys shall be paid over to the treasury
 18 and the

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

20 SECTION 25. 18.58 (1) of the statutes is amended to read:

21 18.58 (1) MANAGEMENT OF FUNDS AND RECORDS. All funds established under this
 22 subchapter which are deposited in the state treasury shall be managed as provided
 23 by law for other state funds, subject to any contract rights vested in holders of
 24 evidences of revenue obligation secured by such fund. The department of
 25 administration shall maintain full and correct records of each fund. The legislative

(5)(d)

(e)

(b)

(5)(e)

owners

Insert 13-7 ✓

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

8 SECTION 26. 18.60 (5) of the statutes is renumbered 18.60 (5) (intro.) and
 9 amended to read:

10 18.60 (5) (intro.) All of the following provisions ~~of s. 18.56~~ that are not
 11 inconsistent with the express provisions of this section shall apply to refunding
 12 bonds, except that the maximum permissible term shall be 50 years from the date
 13 of original issue of the oldest note or bond issue being refunded;

14 SECTION 27. 18.60 (5) (a) to (c) of the statutes are created to read:

15 18.60 (5) (a) Section 18.56.

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

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

18 SECTION 28. 20.143 (3) (s) of the statutes is created to read:

19 20.143 (3) (s) *Petroleum inspection fund — revenue obligation proceeds.* As a
 20 continuing appropriation, all proceeds from revenue obligations that are issued
 21 under subch. II or IV of ch. 18, authorized under s. 101.143 (9m) and deposited in a
 22 fund in the state treasury created under s. 18.57 (1), to provide for reserves and for
 23 expenses of issuance and management of the revenue obligations, and the remainder
 24 to be transferred to the petroleum inspection fund for the purposes of the petroleum

Insert 13-17 ✓

1 storage remedial action program under s. 101.143. Estimated disbursements under
2 this paragraph shall not be included in the schedule under s. 20.005.

3 SECTION 29. 20.143 (3) (t) of the statutes is created to read:

4 20.143 (3) (t) *Petroleum inspection fund—revenue obligation repayment.* From
5 the petroleum inspection fund, a sum sufficient to repay the fund in the state
6 treasury created under s. 18.57 (1) the amount needed to retire revenue obligations
7 issued under subch. II or IV of ch. 18, as authorized under s. 101.143 (9m).

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

8 SECTION 30. 20.143 (3) (u) of the statutes is created to read:

ital
debt service

9 20.143 (3) (u) *Revenue obligation ~~principal and interest repayment~~ —*
10 *petroleum inspection fund.* From the fund in the state treasury created under s.
11 18.57 (1), all moneys received by the fund for the purpose of the retirement of revenue
12 obligations, providing for reserves and for operations relating to the management
13 and retirement of revenue obligations issued under subch. II or IV of ch. 18, as
14 authorized under s. 101.143 (9m). All moneys received by the fund are irrevocably
15 appropriated in accordance with subch. II of ch. 18 and further established in
16 resolutions authorizing the issuance of the revenue obligations and setting forth the
17 distribution of funds to be received thereafter. Estimated disbursements under this
18 paragraph shall not be included in the schedule under s. 20.005. ✓

19 SECTION 31. 25.47 of the statutes is renumbered 25.47 (intro.) and amended
20 to read:

21 **25.47 Petroleum inspection fund.** (intro.) There is established a separate
22 nonlapsible trust fund designated as the petroleum inspection fund, to consist of the:

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

insert 14-18 ✓

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

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

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

4 **SECTION 32.** 25.47 (5) of the statutes is created to read:

5 25.47 (5) The moneys transferred from the appropriation account under s.
6 20.143 (3) (s).

7 **SECTION 33.** 45.79 (9) (a) of the statutes is amended to read:

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

19 **SECTION 34.** 84.59 (2) of the statutes is amended to read:

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

1 SECTION 35. 85.52 (5) (c) of the statutes is amended to read:

2 85.52 (5) (c) The department of administration may, under s. ~~18.56~~ 18.561 (5)
3 and (9) (j), deposit in a separate and distinct fund in the state treasury or in an
4 account maintained by a trustee outside the state treasury, any portion of the
5 revenues derived under s. 25.405 (2). The revenues deposited with a trustee outside
6 the state treasury are the trustee's revenues in accordance with the agreement
7 between this state and the trustee or in accordance with the resolution pledging the
8 revenues to the repayment of revenue obligations issued under this subsection.

9 SECTION 36. 101.143 (9m) of the statutes is created to read:

10 101.143 (9m) REVENUE OBLIGATIONS. (a) The petroleum inspection fee under
11 s. 168.12, in conjunction with the petroleum storage remedial action program under
12 this section, is a special fund program, as defined in s. 18.52 (8). The fund under par.
13 (c) is a segregated fund created by the imposition of fees, penalties or excise taxes.

14 (b) Deposits, appropriations or transfers to the petroleum inspection fund for
15 the purposes of the petroleum storage remedial action program may be funded with
16 the proceeds of revenue obligations issued subject to and in accordance with subch.
17 II of ch. 18 ^{and,} in accordance with subch. IV of ch. 18 if designated a higher education
18 bond,

19 (c) ~~The department of administration may, under s. 18.562 (3) (c), deposit in a
20 separate and distinct fund in the state treasury or in an account maintained by a
21 trustee outside the state treasury, any portion of the revenues derived under s. 25.47.
22 The revenues deposited with a trustee outside the state treasury are the trustee's
23 revenues in accordance with the agreement between this state and the trustee or in
24 accordance with the resolution pledging the revenues to the repayment of revenue
25 obligations issued under this subsection.~~

Insert 16-13 ✓

1 (d) The department may pledge any portion of the revenues received or to be
2 received in the fund established in par. (c) or the petroleum inspection fund to secure
3 revenue obligations issued under this subsection.

4 (e) The department shall have all other powers necessary and convenient to
5 distribute the ~~pledged~~ revenues and to distribute the proceeds of the revenue
6 obligations in accordance with subch. II of ch. 18^{or} in accordance with subch. IV of
7 ch. 18 if designated a higher education bond, Special fund

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

12 (g) Revenue obligations may be contracted by the building commission when
13 it reasonably appears to the building commission that all obligations incurred under
14 this subsection can be fully paid on a timely basis from moneys received or
15 anticipated to be received. Revenue obligations issued under this subsection may not
16 exceed \$150,000,000 in principal amount, ~~excluding obligations issued to fund or~~
17 ~~refund outstanding revenue obligation notes~~ Insert 17 - 17

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

24 (i) Recognizing its moral obligation to do so, the legislature expresses its
25 expectation and aspiration that, if the legislature reduces the rate of the petroleum

1 inspection fee and if the funds in the petroleum inspection fund are insufficient to
2 pay the principal and interest on the revenue obligations issued under subch. II or
3 IV of ch. 18 pursuant to this subsection, the legislature shall make an appropriation
4 from the general fund sufficient to pay the principal and interest on the obligations.

5 **SECTION 37.** 281.59 (4) (b) of the statutes is amended to read:

6 281.59 (4) (b) The department of administration may, under s. ~~18.56~~ 18.561 (5)
7 and (9) (j), deposit in a separate and distinct fund in the state treasury or in an
8 account maintained by a trustee outside the state treasury, any portion of the
9 revenues derived under s. 25.43 (1). The revenues deposited with a trustee outside
10 the state treasury are the trustee's revenues in accordance with the agreement
11 between this state and the trustee or in accordance with the resolution pledging the
12 revenues to the repayment of revenue obligations issued under this subsection.

13 (END)

D-note
↓

1 **INSERT ANL:**

ADP
P The definition of enterprise obligation under the bill is broader than the current law definition of revenue obligation in that it eliminates the requirement that bond be repayable *solely* from, and be *solely* secured by, property or income from the revenue-producing enterprise.

2 **INSERT 10-13:**

3 SECTION 1. 18.561 (9) (k) ^X of the statutes is created to read:
4 18.561 (9) (k) Defeasance of the obligations.

5 **INSERT 11-8:**

6 **18.562 Special fund obligations.** (1) [✓] SECURITY INTEREST IN SPECIAL FUND.
7 There is a security interest, for the benefit of the [✓]owners of the special fund
8 obligations, in the amounts in the special fund that are related to the special fund
9 obligations issued after the creation of the special fund program. No physical
10 delivery, recordation or other action is required to perfect the security interest. The

1 special fund shall remain subject to the security interest until provision for payment
2 in full of the principal and interest of the special fund obligations has been made, as
3 provided in the authorizing resolution. An owner of special fund obligations may
4 either at law or in equity protect and enforce the security interest and compel
5 performance of all duties required by this section.

6 (2) [✓]USE OF SPECIAL FUND MONEYS. The commission [✓]and the state agency carrying
7 out the special fund program responsibilities shall jointly determine, and the
8 commission shall fix in the authorizing resolution for the obligations, the conditions
9 under which money in the special fund shall be set aside and applied to the payment
10 of the principal and interest of the obligations, deposited in funds established under
11 the authorizing resolution or made available for other purposes.

12 (3) REDEMPTION FUND. The special fund revenues that are to be set aside for the
13 payment of the principal and interest of the special fund obligations shall be paid into
14 a separate fund in the treasury or in an account maintained by a trustee under s.
15 ^{Sub.} ~~18.502~~ (5) (e) to be identified as "the ... redemption fund". [✓] Each redemption fund
16 shall be expended, and all moneys from time to time on hand therein are irrevocably
17 appropriated, in sums sufficient, only for the payment of principal and interest on
18 the special fund obligations giving rise to it and premium, if any, due upon
19 redemption of any such obligations. Moneys in the redemption funds may be
20 commingled [✓] only for the purpose of investment with other public funds, but they
21 shall be invested only in investment instruments permitted in s. 25.17 (3) (dr). [✓] All
22 such investments shall be the exclusive property of the fund and all earnings on or
23 income from such investments shall be credited to the fund.

1 (4) SURPLUS. If any surplus is accumulated in any of the redemption funds,
2 subject to ~~a~~ contract rights vested in the owners of special fund obligations security
3 thereby, it shall be paid over to the treasure.

4 **INSERT 11-16:**

5 (a) Employment of consultants.

6 (b) Records and accounts.

7 **INSERT 11-20:**

8 (f) Defeasance of the obligations.

9 **INSERT 13-7:**

10 **SECTION 2.** 18.60 (1)^X of the statutes is amended to read:

11 18.60 (1) The commission may authorize, for any one or more of the purposes
12 described in s. 18.53 (1), the issuance of revenue-obligation refunding bonds.
13 Refunding bonds may be issued, subject to any contract rights vested in ~~holders~~^X
14 owners of bonds or notes being refinanced, to refinance more than one issue of bonds

1 or notes notwithstanding that the bonds or notes may have been issued at different
2 times for different purposes and may be secured by the property or income of more
3 than one enterprise or program or may be public debt or building-corporation
4 indebtedness. The principal amount of refunding bonds shall not exceed the sum of:
5 the principal amount of the bonds or notes being refinanced; applicable redemption
6 premiums; unpaid interest on the bonds or notes to the date of delivery or exchange
7 of the refunding bonds; in the event the proceeds are to be deposited in trust as
8 provided in sub. (3), interest to accrue on the bonds or notes from the date of delivery
9 to the date of maturity or to the redemption date selected by the commission,
10 whichever is earlier; and the expenses incurred in the issuance of the refunding
11 bonds and the payment of the bonds or notes. A determination by the commission
12 that a refinancing is advantageous or that any of the amounts provided in the
13 preceding sentence should be included in the refinancing shall be conclusive.

History: 1977 c. 29.

14 **SECTION 3.** 18.60 (2)^X of the statutes is amended to read:

15 18.60 (2) If the commission determines to exchange refunding bonds, they may
16 be exchanged privately for and in payment and discharge of any of the outstanding
17 bonds or notes being refinanced. Refunding bonds may be exchanged for a like or
18 greater principal amount of the bonds or notes being exchanged therefor except that
19 the principal amount of the refunding bonds may exceed the principal amount of the
20 bonds or notes being exchanged therefor only to the extent determined by the
21 commission to be necessary or advisable to pay redemption premiums and unpaid
22 interest to the date of exchange not otherwise provided for. The ~~holders~~^{owners} of
23 the bonds or notes being refunded who elect to exchange need not pay accrued
24 interest on the refunding bonds if and to the extent that interest is accrued and

1 unpaid on the bonds or notes being refunded and to be surrendered. If any of the
 2 bonds or notes to be refinanced are to be called for redemption, the commission shall
 3 determine which redemption dates shall be used, if more than one date is applicable
 4 and shall, prior to the issuance of the refunding bonds, provide for notice of
 5 redemption to be given in the manner and at the times required by the proceedings
 6 authorizing the outstanding bonds or notes.

History: 1977 c. 29.

7 **INSERT 13-17:**

8 **SECTION 4.** 18.61 (2) ^X of the statutes is amended to read:

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

History: 1977 c. 29; 1979 c. 32 s. 92 (5); 1979 c. 107; 1981 c. 39 ^X; 1983 a. 228 s. 16; 1993 a. 301.

18 **SECTION 5.** 18.61 (3) (a) ^X of the statutes is amended to read:

19 18.61 (3) (a) If the state fails to pay any revenue obligation in accordance with
 20 its terms, and default continues for a period of 30 days or if the state fails or refuses
 21 to comply with this subchapter or defaults in any agreement made with the holders

1 owner of any issue of revenue obligations, the ~~holders~~[✓]owners of 25% in aggregate
 2 principal amount of the revenue obligations of the issue then outstanding by
 3 instrument recorded in the office of the register of deeds of Dane county and approved
 4 or acknowledged in the same manner as a deed to be recorded may appoint a trustee
 5 to represent the holders owners of the ~~notes or bonds~~[✓] revenue obligations for the
 6 purposes specifically provided in the instrument.

7 History: 1977 c. 29; 1979 c. 32 s. 92 (5); 1979 c. 107; 1981 c. 336; 1983 a. 228 ~~✓~~^X; 1993 a. 301.

7 **SECTION 6.** 18.61 (3) (b) (intro.) of the statutes is amended to read:

8 18.61 (3) (b) (intro.) The trustee may, and upon written request of the holders
 9 owners of 25% in aggregate principal amount of the revenue obligations of the issue
 10 then outstanding shall, in the trustee's own name:

11 History: 1977 c. 29; 1979 c. 32 s. 92 (5); 1979 c. 107; 1981 c. 336; 1983 a. 228 s. 16; 1993 a. 301.

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

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

18 History: 1977 c. 29; 1979 c. 32 s. 92 (5); 1979 c. 107; 1981 c. 336; 1983 a. 228 s. 16; 1993 a. 301.

18 **SECTION 8.** 18.61 (3) (b) 3. of the statutes is amended to read:

19 18.61 (3) (b) 3. By action, require the state to account as if it were the trustee
 20 of an express trust for the holders[✓]owners of the revenue obligations;

21 History: 1977 c. 29; 1979 c. 32 s. 92 (5); 1979 c. 107; 1981 c. 336; 1983 a. 228 s. 16; 1993 a. 301.

21 **SECTION 9.** 18.61 (3) (b) 4. of the statutes is amended to read:

22 18.61 (3) (b) 4. By action, enjoin any acts or things which may be unlawful or
 23 in violation of the rights of the holders[✓]owners of the revenue obligations; and

History: 1977 c. 29; 1979 c. 32 s. 92 (5); 1979 c. 107; 1981 c. 336; 1983 a. 228 s. 16; 1993 a. 301.

1 **SECTION 10.** 18.61 (3) (c) ^X of the statutes is amended to read:

2 18.61 (3) (c) The trustee shall have all of the powers necessary or appropriate
3 for the exercise of any functions specifically set forth in this subchapter or incident
4 to the general representation of the holders [✓] owners of revenue obligations in the
5 enforcement and protection of their rights.

6 History: 1977 c. 29; 1979 c. 32 s. 92 (5); 1979 c. 107; 1981 c. 336; 1983 a. 228 s. 16; 1993 a. 301.

6 **SECTION 11.** 18.61 (4) of the statutes is amended to read:

7 18.61 (4) Any public officer or public employe, as defined in s. 939.22 (30), and
8 the surety on the person's official bond, or any other person participating in any
9 direct or indirect impairment of any fund established under this subchapter, shall
10 be liable in any action brought by the attorney general in the name of the state, or
11 by any taxpayer of the state, or by the holder ~~of any evidence~~ [✓] owner of revenue
12 obligation payable in whole or in part, directly or indirectly, out of such fund, to
13 restore to the fund all diversions from the fund.

History: 1977 c. 29; 1979 c. 32 s. 92 (5); 1979 c. 107; 1981 c. 336; 1983 a. 228 s. 16; 1993 a. 301.

14 **INSERT 14-18:**

15 **SECTION 12.** 20.143 (3) (v) ^X of the statutes is amended to read:

16 20.143 (3) (v) *Petroleum storage environmental remedial action; awards.*
17 Biennially, from the petroleum inspection fund, the amounts in the schedule to pay
18 awards under s. 101.143 ~~and~~, legal costs incurred under s. 101.143 (7m) and amounts
19 to reduce principal of revenue obligations issued pursuant to s. 101.143 (9m). [✓]

History: 1979 c. 361; 1981 c. 20, 21, 349; 1983 a. 27, 83, 192, 381; 1985 a. 29 ss. 169 to 204, 3202 (14); 1985 a. 120, 332, 334; 1987 a. 27, 109, 317, 318, 399, 403; 1989 a. 31, 185, 237, 317, 325, 335, 336, 342, 359; 1991 a. 39, 259, 261, 269, 315; 1993 a. 5, 16, 75, 110, 232, 437; 1995 a. 27 ss. 483, 505 to 517, 608s, 609g, 609j, 964, 965, 977, 987, 988, 990 to 993, 1080b, 1085b, 1086b, 9116 (5); 1995 a. 116, 119, 216 [✓]; 1997 a. 9, 27, 35, 215, 237, 252, 310; s. 13.93 (2) (c).

20 **SECTION 13.** 20.143 (3) (vb) [✓] of the statutes is created to read:

1 20.143 (3) (vb) *Petroleum storage environmental remedial action revenue*
 2 *bonding; awards.* From the petroleum inspection fund, a sum sufficient not to exceed
 3 the net proceeds of special fund obligations issued pursuant to s. 101.143 (9m) to pay
 4 awards under s. 101.143 and legal costs incurred under s. 101.143 (7m). Estimated
 5 disbursements under this paragraph shall not be included in the schedule under s.
 6 20.005.

~~****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.~~

7 **INSERT 16-13:**

8 ~~NO~~ (a) The petroleum storage remedial action program is a special fund program,
 9 as defined in s. 18.52 (8), and the petroleum inspection fund is a special fund, as
 10 defined under s. 18.52 (7). The petroleum inspection fund is a segregated fund
 11 created by the imposition of fees, penalties or excise taxes. The legislature finds and
 12 determines that a nexus exists between the petroleum storage remedial action
 13 program and the petroleum inspection fund in that fees imposed on users of
 14 petroleum are used to remedy environmental damage caused by petroleum storage.

15 **INSERT 17-17:**

16 ~~NO~~ In addition to this limit on principal amount, the building commission may
 17 contract revenue obligations under this subsection as the building commission

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

99-1432/2dn

KSH: ↑:...

JJ

Please review the draft carefully to make sure that it is consistent with your intent. In particular, please consider the following:

1. Please look carefully at the first sentence of s. 18.562 (1).[✓] The suggested language had a number of problems. First, what is the “legislative authorization” of the special fund program? Is this intended to grant the security interest before the bill has been signed by the governor and become effective. I assumed you meant simply the creation of the special program. Also, what does the the phrase “the amounts in the special fund related to the special fund obligations that arise [after the creation of the program]” mean? How would a court go about determining which portions of the fund are “related” to the special fund obligations that “arise” after the program’s creation? I assumed that by “arise” you meant “issue”. Please review the language carefully. It sounds like what you are trying to say is that the owners of the obligations only have a security interest in moneys put into the fund after the became a special fund. Given the fungible nature of money, I’m not sure how a court would determine this. Does it may any practical difference given the moral obligation pledge? The language that was in the “/1” seemed to less ambiguous and I’m not sure the change makes much of a practical difference.

2. The comments added in references to s. 18.562 (5) (e)[✓] to a number of current law revenue bond programs (county veteran’s mortgage loan programs, certain transportation programs, etc). These would all be enterprise programs (I assume), so I didn’t think the addition of the reference to the special fund obligation redemption funds seemed appropriate. As a result, I left them out. If your intent is to allow some of these other programs to operate under the special fund obligation provisions of ch. 18, rather than the enterprise obligation provisions, let me know and I will look at this further.

3. I did not add the sentence — “The legislature retains the right to reduce the rate of the petroleum inspection fee.” This did not seem necessary. The legislature always retains the right to modify legislation it enacts — attempts by the legislature to limit the power of a subsequent legislature to modify its actions have been found unconstitutional. If there is a reason why this needs to be added.

4. I substituted “including” for the redundant phrase “including, but not limited to,” This is standard legislative drafting style and deviations from this style may imply that other lists are intended to be exclusive, when this is not the case. Your comments

and this drafting note will remain a part of the permanent drafting file in case anyone should question the plain meaning of the word "including".

5. Reed Groethe's comments asked: "In light of the "gross pledge" of the petroleum inspection fund, shouldn't the other appropriations of the petroleum inspection fee be made conditional? Please let me now how you would like this done, i.e., prohibit payments from all of the other appropriations unless there is a certain level of surplus? Have someone make quarterly determinations of whether there is enough money to expend moneys from the other appropriations? Please let me know how you would like to proceed with respect to this point.

6. I made the change from "holders" to "owners" throughout subchapter II of chapter 18. Please review these changes carefully. In a couple cases I was unsure how the change should be made. It did not seem to make sense to refer to "owners of evidences of revenue obligations". Moreover, in some places the references were "to holders of notes and bonds". I changed these to "owners of revenue obligations". In particular, please see the changes in s. 18.61 (2) and (3) (a).[✓] Are these changes OK?

7. Please review the changes made to ^{s.}101.143 (9m) (a).[✓] The language differs slightly from the suggested language. The suggested language began the first sentence with the language "for purposes of s. 18.52 (7) and (8)". This didn't seem accurate in that it is really for purposes of all of subch. II of ch. 18. Please make sure my rephrased version is consistent with your intent.

8. Please review the new s. 20.143 (3) (vb).[✓] to make sure that it is consistent with your intent. The intent of the appropriation is to avoid needing to adjust the amounts in the schedule under s. 20.143 (3) (v) to include the revenue bond proceeds.

Please let me know if you have any questions on the draft or if any portion of it is inconsistent with your intent.

K. Scott Hubli
Administrative Services Manager
Phone: (608) 266-0135
E-mail: Scott.Hubli@legis.state.wi.us